



# Debates

WEEKLY HANSARD  
SEVENTH ASSEMBLY

Legislative Assembly for the ACT

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**Wednesday, 30 June 2010**

Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009.....	2845
Litter (Shopping Trolleys) Amendment Bill 2010.....	2882
Questions without notice:	
Government—taxes and charges .....	2889
Gaming machines—legislation.....	2891
Visitors.....	2892
Questions without notice:	
Childcare—places.....	2892
Sport—golf courses .....	2896
Budget—welfare services.....	2899
ACT Ambulance Service—concessions.....	2900
Childcare—places.....	2901
Health—autism spectrum disorder .....	2902
Environment—green buildings.....	2904
Children—grandparent and kinship carers .....	2906
Supplementary answer to question without notice:	
ACT Ambulance service—concessions .....	2907
Leave of absence.....	2908
Litter (Shopping Trolleys) Amendment Bill 2010.....	2908
Environment—urban street trees .....	2909
Community legal centres .....	2932
Taxation—change of use .....	2942
Executive business—precedence .....	2972
Appropriation Bill 2010-2011.....	2972
Adjournment:	
Cancer Council fun run.....	3018
CEO sleep-out.....	3018
Reserve Forces Day .....	3020
Schedules of amendments:	
Schedule 1: Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009 .....	3022
Schedule 2: Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009 .....	3028

**Wednesday, 30 June 2010**

**MR SPEAKER** (Mr Rattenbury) took the chair at 10 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009**  
**Detail stage**

Clause 1.

Debate resumed from 5 May 2010.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (10.02): I think members are aware of the government's concern that this legislation is being unnecessarily rushed. There has not been an appropriate level of consultation in relation to this particular bill.

As members are aware, in each of the last two days advice has been received, respectively, from the ACT Chief Police Officer who had not, until I contacted him, been invited to review or to express a view on the workability of the legislation which we are currently debating.

**Mr Seselja**: Why didn't you give it to him?

**Mr Hanson**: Why didn't you pass it to him?

**MR STANHOPE**: The government did, actually.

**Mr Corbell**: When did you seek the advice of the Chief Police Officer, Jeremy?

**Mr Hanson**: I tried to but I—

**Mr Corbell**: Last week? When did you introduce the bill? In December. A bit of an oversight, that.

**Mr Seselja**: What, the Chief Police Officer doesn't go on the website? He wouldn't have looked at it?

**Mr Corbell**: A bit of an oversight, that.

**Mr Seselja**: Why didn't you refer it, Simon?

**MR SPEAKER**: Thank you, members!

**Mr Corbell**: It's not my bill. It's his bill.

**Mr Hanson:** Do you think we should be involved in—

**MR SPEAKER:** Order! Let us hear from Mr Stanhope. Mr Corbell, Mr Hanson, thank you! Let us hear from Stanhope.

**Mr Corbell:** When did you approach me so you could get a briefing from the Chief Police Officer? You did not. You never have.

**Mr Hanson:** You are playing politics with road safety.

**Mr Corbell:** You never have.

**Mr Seselja:** Why don't you tell those in the gallery why you are opposing this, Jon, why you are delaying it?

**MR SPEAKER:** Order, members!

**MR STANHOPE:** Thank you—

**MR SPEAKER:** Order! Mr Stanhope, sorry, one minute. Stop the clocks, thank you. Members, let us not start in this tone today. I want to hear from Mr Stanhope. Other members will have a chance to intervene shortly.

**MR STANHOPE:** Thank you, Mr Speaker. There have been a number of interjections in relation to the non-approach or engagement by the Liberal Party or the Greens, the proponents of this bill, with the ACT Chief Police Officer. The ACT government did engage with ACT Policing in relation to this issue broadly. We issued an exposure draft and a discussion paper, and one of the submitters to that process was ACT Policing, along with 24 people who took the time and the opportunity to engage with the government through a consultation process in relation to this legislation. And there is a submission in relation to the broad issues that need to be had regard to in relation to this legislation.

Having said that, Mr Hanson, of course, is now rushing to make up time. It was as a result of my referral of a request to the Chief Police Officer last week that—and I have, indeed, Mr Hanson's request to the Chief Police Officer here; it was issued last Friday, that is, after I had written to the Chief Police Officer—

**Mr Seselja:** That was denied.

**MR STANHOPE:** No, it was not denied. It was not denied at all. That is simply not true.

**Mr Seselja:** He didn't get back to him. He didn't speak to him, did he?

**MR STANHOPE:** Mr Seselja has just now verbed the Chief Police Officer. He has insisted the Chief Police Officer denied—

**Mrs Dunne:** No.

**Mr Hanson:** No. He said he wanted to. He was consulting with the minister.

**Mr Coe:** You're the master of criticising the police officers.

**MR SPEAKER:** Order!

**MR STANHOPE:** In fact, we need to correct these mistruths, these untruths. The Leader of the Opposition has now claimed, here publicly, that the Chief Police Officer refused to respond to Mr Hanson. I have the correspondence here. He did no such thing. This was last Friday, in the context of a bill to be debated today, that Mr Hanson latterly and blatantly thought, "I've been embarrassed now. Perhaps I had better find out what ACT Policing think."

Then we go to the second issue in relation to the ACT government's response to this bill today and that is advice received last night from the ACT human rights commissioner. In the context of this debate and the time available, I just need to make these two points. We do now have available to us specific advice in relation to this particular bill which we are debating today—one piece of advice from the ACT Chief Police Officer, one piece of advice from the ACT human rights commissioner. The Chief Police Officer asserted, on the basis of the material provided to him, a number or range of concerns, the most fundamental being—and I will read it:

The Hanson Bill does not incorporate formal laboratory testing of an oral fluid sample as part of the analysis process, which is seen by ACT Policing to be a critical requirement for sound and successful prosecutions. Limiting a prosecution so it is based solely on the results obtained from an oral fluid test conducted at the police station, without the added layer and certainty of a laboratory test, and without the further option of an independent test, creates a precarious situation for both police and prosecutors and has the potential to lead to failed prosecutions.

As a result of this advice, we know now Mr Hanson, protesting how outrageous it was that I had received or released the advice, of course, has now acted on it and sought to actually deal with deficiencies that have been revealed by the Chief Police Officer. Maybe he has. Who knows? I do not know. We certainly have not had an opportunity to have those amendments appropriately tested in the context of the legislative package as a whole. A raft of amendments were circulated yesterday, then withdrawn and then another set circulated by Mr Hanson, trying to deal belatedly and in a panic-stricken and driven way by revelations that he had not consulted and that others had consulted, namely, me on his behalf. He said, "There are some issues with this legislation."

The second point that I make in the broad is in relation to the human rights commissioner's advice. Of course, we have had assertions over these last couple of weeks from both Mr Hanson and Ms Bresnan that they are completely and perfectly satisfied that there are no human rights implications. They are on the record, each of them, as saying that: "It is a good bill. Human rights issues have been dealt with."

The ACT's statutory human rights commissioner does not think so. Our statutory human rights commissioner, one of Australia's leading experts in human rights, does

not believe so. She believes there is a range of human rights engaged by this legislation and she believes that in the context of the way in which—

**Mr Seselja:** She doesn't support the concept, Jon.

**Mr Hanson:** She didn't support yours either, Jon.

**Mr Seselja:** She has got a fundamental difference of opinion. She does not support the concept. Do you support the concept or not?

**MR STANHOPE:** Absolutely. That is why we have not completed it. As we strive to ensure that the legislation, when passed, be it this legislation which we expect it to be—

**Mr Seselja:** You are running away. So is Victoria.

**MR STANHOPE:** It was passed there before their human rights act was enacted. If you actually—

**Mr Seselja:** They haven't looked to repeal it, have they?

**MR STANHOPE:** No, they have not. But that is an issue for them.

I hear Ms Bresnan most particularly. Mr Hanson does not pretend that he is concerned about breaching the Human Rights Act or about human rights implications. The Greens have traditionally taken a slightly more moral and appropriate attitude to human rights—the great defenders of human rights and of compatibility statements and of appropriate scrutiny. Indeed, if we look at the record in relation to attitudes which the Greens have taken, the demands they have made of this government in relation to compatibility statements, every piece of ACT government legislation is accompanied by a signed statement by the Attorney-General—a commitment, a declaration based on advice from the department of justice—that the legislation is human rights compatible.

Here we have, in the context of legislation considered, say, in the last year or two, a piece of legislation that interacts with human rights, raises the human rights concerns to a greater degree than any other piece of legislation I can remember that has been debated in the last year or so. It has not been referred for inquiry by the scrutiny of bills committee. It has not been the subject of consultation. It is not supported by the human rights commissioner. It is not accompanied by a compatibility statement.

Yet the Greens, most particularly, who are concerned for assurances that all legislation is human rights compatible—indeed, the Greens consistently call on the Attorney-General to provide detailed statements of reasons in relation to human rights—are prepared today to crash through a piece of legislation that the human rights commissioner quite unequivocally raises concerns about. If taken in its current form before the Supreme Court on appeal, it would be found not to be consistent with the Human Rights Act. It would be incompatible and it would actually impinge on the human rights of people that are subjected to or affected by the bill.

In that context and in the time frame, this mad scurry and the shambles that this particular process in relation to this bill has fallen into, the only appropriate position that can be taken today by anybody concerned about developing and delivering good legislation—legislation on this subject that we could be satisfied with or that we could guarantee will work and that is, to the extent possible, human rights compliant consistent with our Human Rights Act—is for an appropriate period and process of review and of scrutiny.

The government's position in relation to this is that this debate should not proceed today and should be adjourned. And who could object to this? Who could object to the legislation being referred to the justice committee and to the Attorney-General for the preparation of a compatibility statement? I move that the bill currently under consideration be referred to the justice committee for inquiry and report and to the Attorney-General for the development of a compatibility study.

**MR SPEAKER:** Mr Stanhope, you cannot move that motion until the debate has been adjourned, and you cannot adjourn the debate because you have just spoken.

Motion (by **Mr Hargreaves**) proposed:

That the debate be adjourned.

The Assembly voted—

Ayes 5

Noes 8

Mr Barr	Mr Stanhope	Ms Bresnan	Ms Le Couteur
Ms Burch		Mrs Dunne	Mr Rattenbury
Mr Corbell		Mr Hanson	Mr Seselja
Mr Hargreaves		Ms Hunter	Mr Smyth

Question so resolved in the negative.

**MR HANSON** (Molonglo) (10.15): Before I start my speech I would like to acknowledge the presence of Alison Ryan and Rusty Woodward in the chamber today. As many of you may be aware, Alison's daughter, Amy, was killed in a traffic accident that involved a drug driver in 2008, and at that time Amy was 15. I would like to make the point that Alison Ryan has been a major motivator for me personally in making sure that we introduced this legislation in the ACT. I commend her for the hard work that she has done in advocating for this legislation. I acknowledge the support that she has given me in what has been a very difficult political process to make sure that we got here today. This is quite an emotional moment for Alison, I know, and it is very difficult for any decent person in the Assembly today not to be touched by what we are going to achieve with the support of the Greens. I would like to thank them also for this today.

It is quite clear from the disgraceful act of Jon Stanhope in seeking to amend this legislation again that he is philosophically opposed to introducing this legislation in the ACT. In 2005-06 he voted against the legislation. He described it as red-necked. At every opportunity since he has either voted against the legislation or voted to

adjourn it. This is a process that has been going on for over five years in the ACT. Whilst every other jurisdiction in Australia has successfully implemented a regime of roadside random drug testing, the ACT has failed to do so. At every step the Chief Minister, Jon Stanhope, has opposed its introduction. He has come up with excuses and reasons for not doing so, initially based on his philosophical opposition to the bill, describing it as red-neck. At every step he has sought to interfere with the political process, to distract, to oppose, simply because he does not want this legislation introduced.

We are at a point now where we are going to be debating the legislation in detail and we will pass this legislation today. It has not been assisted by the government. I make it very clear that I have sought to do this in a cooperative sense. I think that the Greens would support the fact that I have done so. I have willingly accepted, discussed and negotiated a number of amendments with them and we have come to a successful resolution.

I have asked the Chief Minister to follow the same process. He has refused to do so. I asked him in December, when I tabled the bill. I then wrote to him in February. At every step of the way I have kept the door open for that negotiation or consultation. I would have welcomed his amendments. He has chosen to go down another route—that is, to play this out politically by putting political point scoring ahead of road safety. As we have seen in the last 24 or 48 hours, he has chosen to put his own point scoring ahead of the independence of the office of the Chief Police Officer. The point is that when my legislation was tabled his government should have sought advice from its departments. It should then have come forward with that advice and suggested amendments to me.

It is quite extraordinary that the government, and particularly Mr Stanhope, are criticising me for not having sat down and had discussions with their departments on the formation of Liberal policy. If that is the new way that he expects policy and legislation to be developed within the ACT—that is, that each department, including the Chief Police Officer, now work equally for the opposition and for the Greens as they do for the government—then he needs to make that very clear. We would certainly welcome that. We would welcome equal access to the Chief Police Officer; we would welcome equal access to his departmental heads.

As the Chief Police Officer knows, and as every other departmental head knows—and as Mr Stanhope knows—that is not the way a parliamentary democracy works. Mr Stanhope knows that. When he said last week that I should have engaged and consulted with the Chief Police Officer he knew that that was disingenuous. When, indeed, I did try and do that, following Mr Stanhope's suggestion, the Chief Police Officer wrote back and said, "I am now consulting with my minister on my ability to do so." Quite rightly, that process is not applicable.

However, I have had detailed negotiations with the Australian Federal Police Association. I will read the comments that they have made. They obviously represent the AFPA in the territory:

The Australian Federal Police Association (AFPA) welcomes the Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009 introduced

into the Legislative Assembly by the ACT Liberal Party. The AFPA understands that the Bill has the support of the ACT Greens and is due to be passed into legislation this week.

The AFPA has called on the ACT legislators to introduce random roadside drug testing as a road safety initiative for the Territory. The AFPA is pleased that such legislation is now imminent.

The AFPA National President, Jon Hunt-Sharman stated today:

“Random roadside drug testing legislation will provide AFP police officers greater scope to test and subsequently prevent drug-affected drivers from driving on Canberra’s roads. This will make ACT roads safer for all Canberrans”.

Introduction of this bill constitutes a significant win in allowing AFP police officers access to greater tools in their fight to keep the community safe from drug offenders whilst balancing the rights of individuals.

Throughout the process of drafting this Bill, the AFPA has been pleased with the constructive nature of consultation by the ACT Liberal Party. A number of recent amendments to the draft Bill, to be introduced by the ACT Liberal Party, are a direct result of successful consultation with the AFPA. The AFPA also supports the amendments recently introduced by the ACT Greens to improve on the draft legislation.

Mr Hunt-Sharman said:

“The AFPA applauds the measures introduced in this Bill, those measures will aid our members in exercising their duties to the community as professional police officers. This Bill will save lives by getting drug affected drivers off the streets of Canberra.”

I make this point very clear, Mr Speaker: I am confident that, with the amendments, the bill will also address the issues raised recently in the media by the ACT Chief Police Officer based on an earlier version of the bill.

It is difficult in opposition to engage with government departments. The government knows this. The way that consultation is done is often through community organisations and those that represent professional bodies, such as the police force. This is absolutely supporting the Liberal Party’s bill, our amendments and the Greens’ amendments. I thank the AFPA also for the constructive processes that they have followed. Obviously it is a disappointment to me that the Chief Minister has decided to take such an adversarial approach.

Obviously we will go through the amendments in detail as we consider the bill, but I make the point that this has been successfully implemented in every other jurisdiction in Australia. The ACT is now the last jurisdiction. Any concerns that have been raised by the Chief Minister or others have been dealt with successfully in every other jurisdiction in Australia and have been for some time. Although this has been a difficult process, it did not need have been. We are here today, finally, to implement this legislation. But I would say, as a point, that we should have been here much sooner. We could have been if the Chief Minister had decided to be constructive and engage in the process rather than fight this since 2005.

**MS BRESNAN** (Brindabella) (10.25): Before we get to the detail stage I would like to draw out a number of points which obviously have been discussed this morning in the chamber and other forums. Firstly, I go to the advice from the human rights commissioner which was circulated this morning. There are a couple of key points that need to be made and I will go through them briefly.

The advice lists a number of human rights engaged by this bill. The ACT Human Rights Act is clear that no right is absolute and that a limitation will be allowed where it can be justified. The heart of the advice from the commissioner and of other correspondence we have received goes to the evidence that drugs impair driving. There is discrepancy over whether the evidence is strong enough that drugs do impair driving.

Using the human rights framework set out by section 28 of our Human Rights Act, we need to look at the strength of the evidence to see if it warrants a limitation on a person's human rights. This is the critical point. Limitations on human rights must be shown to be justified by reference to evidence. The Greens are across this evidence and we know that there are two key things. The first is that drugs do impair driving, and there is strong evidence which shows that. In relation to THC, the accident research centre at Monash University performed a review of recent research and found in relation to THC that detriments associated with cannabis include increased braking time, increased lateral deviation, increased number of obstacles hit, increased speed variability and impaired secondary task performance.

In relation to ecstasy, the Australian Drug Foundation reported in their 2007 paper "Drugs and driving in Australia" that MDMA ecstasy use impairs specific cognitive performance, has a moderate negative impact on vehicle control and a decreased sense of risk taking. Further, MDMA use was associated with impaired ability to maintain a lateral position of the vehicle in traffic. With regard to amphetamine this was associated with:

drifting out of the lane of travel, weaving, speeding, drifting off the road and high-speed collisions. These driving behaviours are consistent with some of the usual side effects of amphetamine use, such as increased risk-taking, motor restlessness, aggression, disorientation and lack of coordination ...

The second key issue is that the evidence is not advanced enough to show at what level of concentration each specific drug impairs driving to the same extent that we know 0.05 blood alcohol concentration impacts on driving. From a human rights perspective, the Greens have made the decision to support this bill on the basis of the information I have just outlined. We know that a driver on the road who has one of three drugs in their body is more likely to be involved in a crash. We believe the evidence does warrant the intrusion on human rights and that, as a result, the bill is consistent with section 28 of the Human Rights Act and the act as a whole.

I know that we will be going through each of the amendments in detail, but I will briefly outline the four main issues which go to our amendments. They all relate to the principles which we outlined in the submission to the government's bill and which I mentioned during the in-principle debate on this bill. The first is changing the prescribed level to a presence and non-presence test. We believe that this legislation

should reflect the current state of the technology, which is currently only able to detect presence and non-presence of an active quantity of a substance in an oral fluid. We believe that this is simpler to implement and removes any element of confusion about measuring prescribed levels of substances where no technology exists.

The other is removal of the drug impaired assessment test. In making an assessment of the effectiveness of this legislation we consulted with a range of relevant groups, a number of whom relayed legitimate concerns about the subjective nature of drug impairment tests. The ACT Greens believe that it is unreasonable for an individual who has already been subject to screening tests for either alcohol or drugs to then be compelled to undergo a video-taped impairment test. We do not believe that it is appropriate or effective for police to administer this type of test in an effort to continue to detain people who have already demonstrated that they do not have an active presence of a prescribed substance in their oral fluid. To this end I will later move a series of amendments that remove the provisions for drug impairment assessment tests in the legislation.

The other point is broadening the definition to allow for future inclusion of other drugs for regulation. To emphasise that this legislation is truly a road safety measure and not another drug enforcement strategy, the legislation needs to make it clear that this is about substances that impair driving, not simply illicit drugs. While we recognise that current roadside testing technology is only sufficient to pick up the drugs specified in the legislation—that is, THC, MDMA and methamphetamines—we need to make a provision for detecting legal over-the-counter or prescription medication when the technology allows.

The amendments which I will move later remove specific reference to the word “illicit” and allow for the minister responsible to prescribe additional substances by regulation. The ACT Greens would encourage the minister responsible to include additional substances that impair driving, legal or otherwise, once the technology to detect them becomes available.

My final point is in relation to civil liberties restrictions on the use of evidence and search powers. Our first principle is that drug driving should be criminalised only as a traffic offence. The ACT Greens believe that deterring the act of driving under the influence should be the sole goal of this legislation. We commend Mr Hanson on the manner in which this bill treats driving under the influence of drugs as a traffic offence.

A principle that the ACT Greens submitted was that a random drug test should not be used as a sole basis for justifying the search of a person or conveyance. We believe that the usage of oral fluid analysis in the context of random roadside tests should not be the sole basis of an invasive search. We believe that this unnecessarily conflates road safety with drug policy and sends a conflicting message to the community about why this measure is being implemented. The message must be clear and simple: driving under the influence of prescribed substances is dangerous.

The amendment I will move later clarifies that an officer cannot form a suspicion based solely on the results of a random roadside test. I should emphasise, in light of the comments by the Chief Minister, that this does not preclude a police officer

utilising their existing powers of search if there are other factors that the officer can consider. In practical terms, this will mean that ACT police officers will need to make a judgement about whether or not to search a car under the current powers without solely referring to the results of an oral fluid test. Simply put, if the officer believes the car is suspicious before administering the test they will be able to search the car under their existing powers under the Crimes Act.

To this end we have specified in our amendments that a positive screening test alone is not reasonable grounds for suspicion under the Crimes Act. We believe that this is an important civil liberties provision. Additionally, our amendments limit the use of evidence gathered through the administration of roadside testing solely to offences under this act and reinforce that the government should be administering this test as a road safety measure.

Clause 1 agreed to.

Clauses 2 and 3, by leave, taken together and agreed to.

Clause 4.

**MS BRESNAN** (Brindabella) (10.33), by leave: I move amendments Nos 1 and 2 circulated in my name together [*see schedule 1 at page 3022*].

As I mentioned earlier, amendment 1 refers to changing from the prescribed level 2 presence and non-presence test. It also removes the drug impairment test which, as I outlined, is a subjective measure. This amendment, which changes offences from driving “while impaired by drug or blood drug concentration exceeded” to “with prescribed drug in oral fluid or blood” does two things. It removes reference to a drug impairment test, which the ACT Greens feel is unnecessarily subjective, and it allows police to reasonably detain an individual who had otherwise passed a drug test.

Additionally, it replaces the prescribed levels with a simpler presence test for drugs. This better reflects the current level of technology and alleviates concerns that the government and the AFP may have had with the operation of roadside testing as a prescribed concentration basis. This section deals with listing offences under the Crimes Act. As I said, amendment 2 removes the offence of refusing to undergo a drug assessment test. I have already spoken about that earlier.

**MR HANSON** (Molonglo) (10.34): The Liberals will be supporting this amendment. We have had a significant amount of debate about this both with the Greens and also in the community. The explanation of drugs and using a concentration level for drugs is mirrored in the Victorian legislation. That is where we drew it from. It has been successfully implemented there and used for about five years.

However, I am comfortable that the amendment that has been put forward by the Greens is eminently workable. I do agree with the fact that it does, in many ways, simplify the bill and make it easier to understand. It makes sure that there can be absolutely no confusion about what we are talking about here, which is that for a prescribed drug, any presence of a prescribed drug in your system is the offence rather than trying to determine a safe or unsafe concentration, which has proved problematic.

We will be supporting both the amendments put forward, the second one being about the offence being essentially impaired. That is difficult to assess. I accept that. The level of impairment is one that is difficult to assess. Again, what this amendment does is simply make the presence the offence. So we will be supporting these amendments.

Amendments agreed to.

Clause 4, as amended, agreed to.

Clause 5.

**MS BRESNAN** (Brindabella) (10.36), by leave: I move amendments Nos 3 and 4 circulated in my name together [*see schedule 1 at page 3022*].

Amendments 3 and 4 refer to the prescribed level in relation to presence and non-presence tests. They also relate to the analysis of these tests. Speaking to amendment 3, this specifies the requirements for roadside testing screen advices to change prescribed concentrations to a simpler presence test, as I have already discussed. It reflects the current state of testing technology, provides for simpler legislation and, I think, removes ambiguities which were in the original bill.

**MR HANSON** (Molonglo) (10.38): The Liberals will be supporting these amendments. As outlined by Ms Bresnan, this really refers to the discussion earlier around the removal of the concentration in the way that the bill was framed. We have the amendment that now refers simply to the presence of a quantity of a prescribed drug. We will be supporting the amendment.

**Mr Stanhope**: A big backflip, mate.

**MR SPEAKER**: The question is that Ms Bresnan's—

**Mr Hanson**: I am happy to engage on it; very happy to.

**MR SPEAKER**: Order!

**Mr Stanhope**: Adopting the government's proposal; a big backflip.

**MR SPEAKER**: Mr Stanhope, do you wish to seek the call?

**Mr Stanhope**: After arguing viciously against it, you now agree.

**Mr Hanson**: You should have engaged.

**Mr Seselja**: You don't support the legislation at all, do you, Jon?

**Mrs Dunne**: You are just a sore loser, Jon.

**MR SPEAKER**: Order, members! The next person who intervenes—

*Mr Stanhope interjecting—*

**MR SPEAKER:** Order, Mr Stanhope! You are now warned for intervening after I tried to gain order.

Amendments agreed to.

Clause 5, as amended, agreed to.

Clause 6 agreed to.

Clause 7.

**MS BRESNAN** (Brindabella) (10.39), by leave: I move amendments Nos 5 to 7 circulated in my name together [*see schedule 1 at page 3022*].

Amendment 5 changes the prescribed concentration to a presence test as the part of the act. This permits an officer to detain a person for the purposes of administering an oral fluid analysis. It removes reference to illicit drugs and replaces it with the broader “prescribed drug”. This allows for future inclusion of legal prescription drugs. It is an issue which I discussed earlier.

Amendment 6 removes the definition again of a prescribed concentration. It is made redundant when we move to a presence test. Amendment 7 removes the word “illicit” from the definition of “prescribing illicit drug” for the reasons that I outlined for amendment 5.

**MR HANSON** (Molonglo) (10.40): Mr Speaker, the Canberra Liberals, the opposition, will be supporting these amendments for the reasons explained by Ms Bresnan. They relate again to the definition of “concentration”, which is being removed, and the definition of whether a drug is illicit or not. It is simply now a matter of whether the drug is prescribed. This does allow for prescription drugs to be introduced into this legislation either by amendment or through regulation by the minister at a later date.

Amendments agreed to.

**MR HANSON** (Molonglo) (10.41), by leave: I move amendments Nos 1 and 2 circulated in my name together [*see schedule 2 at page 3028*].

Mr Speaker, amendment 1 relates to the addition of another drug that can be tested under this legislation, that being ecstasy. I will not try and pronounce the technical name. I think we would be here all day. MDMA is the acronym. The addition of ecstasy is based on the fact that this is consistent with legislation that has been introduced elsewhere, although in Victoria it was not initially part of the legislation. It has been incorporated, as has been done in other jurisdictions. I note that this is consistent with the government’s arguments that ecstasy should be included as well as CPO on advice I have received from the AFPA.

Amendment 2 to clause 7 relates to the way that a person's sample is treated by the police. It just makes the way that that sample is treated and the way it is placed in containers and labelled by the police more rigorous.

**MS BRESNAN** (Brindabella) (10.42): We support these amendments. With the first, as Mr Hanson has already outlined, including MDMA is standard practice for other states. It also has been raised in issues brought forward by particular groups. I think it is important that that is included. In addition, after cannabis it is the most widely taken drug.

The second amendment makes an alteration to the manner in which an oral fluid sample is taken to a laboratory. It is related to amendment 3, which we will be discussing later. Together they ensure that part of the sample collected for analysis is set aside for the use of a person who was tested. The sample can be made available to that person upon request. This allows for independent testing.

I think this is actually an important issue. It does go towards addressing some of the concerns that were raised by the Human Rights Commission. I think it provides redress for people to be able to analyse that sample. I think it also goes to the issue of false positive tests, which did occur in Victoria. I think this is an important amendment which does provide some mitigation if that occurs. As I said, it provides people who may be tested with the ability to challenge a case if that is what they would want to do.

Amendments agreed to.

Clause 7, as amended, agreed to.

Proposed new clause 7A.

**MR HANSON** (Molonglo) (10.44): I move amendment No 3 circulated in my name, which inserts a new clause 7A [*see schedule 2 at page 3028*].

Mr Speaker, this clause relates to the way that oral swabs are tested. What has been shown in other jurisdictions is that on occasion the swab or the sample that is taken on the roadside with the equipment does not always prove 100 per cent positive. It requires a laboratory test to guarantee that a positive test taken on the side of the road which shows positive is, indeed, positive.

Essentially, it ensures that the testing regime is rigorous. This amendment also allows for a sample to be made available to the person who is tested. The sample is divided into two. One is tested and the other sample is then kept for the person that is tested to gain a sample of that to get independently tested should they wish to appeal their conviction.

It makes it a more rigorous testing regime. This covers and addresses a couple issues, one raised by the Human Rights Commissioner and also by the CTO. It is consistent with legislation in other jurisdictions. It will ensure that successful appeals cannot be made against convictions where now the swab has been tested by laboratory.

**MS BRESNAN** (Brindabella) (10.45): We will be supporting this amendment. As Mr Hanson has already outlined, it improves the process for laboratory analysis. I think that again it goes to addressing some of the concerns which have been raised by particular groups and primarily by the police. Mr Hanson has done some consultation with the AFPA and I believe that this is one of the issues they have raised. They believe that the amendment that he has brought forward addresses all the concerns they have put forward.

Proposed new clause 7A agreed to.

Clause 8.

**MS BRESNAN** (Brindabella) (10.46): We will be opposing this clause.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (10.46): I take this opportunity to table the submissions that were received to the government's discussion paper on drug driving, although they are now essentially irrelevant. I table the following papers:

Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill  
2009—Consultation process—Submissions (27).

For the sake of completeness, the consultation period ended last week and the papers have just been compiled and provided to my office. They are for the information of members and perhaps for future reading on the issue that members might like to indulge in.

The submissions I have just tabled were received to the government's exposure draft and discussion paper from ACT Policing; the Human Rights Discrimination Commission; Alcohol and Drug Foundation of the ACT; Social Research and Evaluation Pty Ltd; Families and Friends to Drug Law Reform; the Tuggeranong Community Council; Motorcycle Riders Association; a number of individuals—I will not name them; the Alcohol, Tobacco and Other Drug Association; a second submission from Social Research and Evaluations; the Mental Health Community Coalition of the ACT; Civil Liberties Australia; and a number of other individuals whom I will not name. Their submissions have been tabled but their names have been removed to protect their privacy.

I table those for the information of members as we debate this bill today, acknowledging that I will not have time to read them. As members opposite have already concluded their position or their views on this matter, I guess that is probably irrelevant to them.

**MRS DUNNE** (Ginninderra) (10.48): I will follow the Chief Minister's lead to speak a little more generally about the bill and also reflect on something that he said in question time yesterday. The Chief Minister read what he purported to be the report of

the scrutiny of bills committee in relation to this bill, but he only read the first paragraph. I hope that in curtailing what he read he was not attempting to mislead the Assembly about the content of the report.

I need to put it in context. What the scrutiny of bills committee does is look at every bill that comes before this place, amongst other things. But in relation to bills it looks at every bill. It looks at them in terms of the scrutiny of bills committee's terms of reference and then it makes comment on them.

The Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill was reported on in the 18th report of the scrutiny of bills committee. The Chief Minister yesterday read out the first paragraph.

It is true to say, Mr Speaker, that the scrutiny of bills committee did not have a great deal to say about the bill but that is because, when looking at the bill in the context of the scrutiny of bills committee's terms of reference, there was not much to say. Because we already have a random roadside breath alcohol testing regime, we have already had a discussion in the context of the human rights implications.

What the scrutiny of bills committee actually said is that we are cognisant of the fact that there is already a random breath testing system for alcohol and that this bill would have the same implications as it would the random roadside alcohol testing. It drew attention to some issues which were addressed by Mr Hanson. He wrote back to the committee to thank the committee for their comments and to draw the committee's attention to the fact that he had picked up the issues that had been raised by the scrutiny of bills committee.

I want to remind members what the terms of reference for the scrutiny of bills committee are. We are the Standing Committee on Justice and Community Safety performing the duties of the scrutiny of bills and subordinate legislation committee. We have a remit to:

... consider whether any instrument of a legislative nature made under any Act which is subject to a disallowance and/or disapproval by the Assembly ...

That is the first thing we have to do. The committee also has to:

... consider whether the explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical and stylistic standards expected of the Committee;

The committee also has to consider in relation to bills:

... whether the clauses of bills introduced into the Assembly:

- (i) unduly trespass on personal rights and liberties;
- (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
- (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;

- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny;

That is what we have to do as a committee. The committee that I chair, which is ably advised by experts in the field, is unstinting. The advisers are unstinting. If the scrutiny of bills committee and the adviser comes up with only half a page of comment on this bill, it is because none of these issues in our terms of reference were engaged. That is what it means. It does not mean, as implied by the Chief Minister yesterday, that we were not doing our job in any way.

This scrutiny of bills committee, which consists of myself, Ms Hunter and Mr Hargreaves—one member of every party in this place—looks at every bill irrespective of its origin, irrespective of the person or the party of the person who puts it forward. It looks at it through the prism of those terms of reference which are published at the front of every report.

The implication yesterday was that because the scrutiny of bills committee have only dedicated a half a page to this bill, the committee and its advisers had stinted, had been lax in their work. What it means is that the scrutiny of bills committee and its adviser had looked at the bill and decided that this bill did not engage in any material or substantial way the terms of reference that we are given by this Assembly.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (10.53): I thank Mrs Dunne for providing us with that insight into the operations of the scrutiny of bills committee. Mrs Dunne is right: I did read only the first paragraph and then the time for my answer to the question ended. But I would have required only another 20 or 30 seconds and I could, of course, have read the entire scrutiny report. As Mrs Dunne has just said, in fact, there are three sentences in the scrutiny report.

The point I was making, Mrs Dunne—and I will repeat it; I believe the point is moot—is that the scrutiny of bills committee asks the question, as Mrs Dunne has just outlined:

Report under section 38 of the *Human Rights Act 2004*  
Do any clauses of the Bill “unduly trespass on personal rights and liberties”?

In the response to that question that is posed—that is, the question the committee posed to itself—the committee responded in these words:

The current scheme of the Act for random testing in relation to alcohol consumption engages various human rights and particular provisions of the Human Rights Act, such as the right to privacy and the right to liberty.

On the question posed to the human rights commissioner through the discussion paper—do any clauses of the bill unduly trespass on personal rights and liberties, in

the context of personal rights being human rights—the human rights commissioner provided a 12-page submission in which she outlined in detail how those personal rights were engaged by this particular piece of legislation.

That was the point I was making, Mrs Dunne. The scrutiny of bills committee dealt with the question of human rights, civil liberties and personal rights in one sentence, acknowledging that, yes, this legislation engages the right to privacy and the right to liberty. The human rights commissioner went on to say that the way in which this legislation engages the right to privacy in relation to the randomness of breath testing leads her to the conclusion, as the statutory human rights commissioner for the territory, that, if challenged in the Supreme Court, the Supreme Court will find that the legislation is incompatible with human rights on the basis of privacy.

I would have thought, Mrs Dunne, that it is reasonable to assume, expect or suppose that the scrutiny of bills committee might have given us a view on whether or not those personal rights and liberties were engaged through this legislation in a way that actually impacted on those rights and liberties, rather than concluding as it does, “You can take comfort from the fact that the scrutiny of bills committee has decided that, yes, this legislation will engage the right to privacy and the right to liberty.”

That is the point I was making, Mrs Dunne, and I make it again and I stand by it, particularly when I see both Mr Hanson and Ms Bresnan claiming that they have no concerns about this legislation’s human rights implications or its compatibility. It may be the case—I am prepared to accept this; the government is prepared to accept—that this legislation might be the best, most human rights, civil liberties conscious, sensitive drug testing legislation in the world. It just might be. But anybody in this place who stands up and puts their hand on their heart today, in the context of the way in which it has been cobbled together, and claims that they know that for a fact, is having a lend of us.

That is the government’s point and position in relation to this legislation and this debate today. We have no degree of comfort or certainty about this legislation. We cannot support this today; any thinking legislator should not support this today, and the government will not. I and ACT government officials do not have a degree of understanding of the implications of the amendments or comfort, having regard to the views of specialists in the field, that this legislation is human rights compliant. I do not know if it is. The Attorney-General does not know if it is human rights compliant. The minister with responsibility for its administration does not know that it is human rights compliant or, indeed, that it will work.

The Attorney-General does not know whether it is human rights compliant. The ACT government’s advisers and officials, who have worked on legislation of this ilk and this sort and grappled with its complexities, do not know today, and are not prepared to tell me that they are comfortable, that this legislation is human rights compliant. Yet the assertions that the proponent and Ms Bresnan make is, “Well, we’re not concerned.”

Mr Hanson, most particularly—less so Ms Bresnan—and he did it again on the radio this morning, asserts that the degree and level of his comfort that this legislation is human rights compliant and represents no issues in relation to personal liberties or

civil liberties relates to the scrutiny of bills committee report. He said it again this morning on ABC radio. Mr Hanson asserts that he has no concerns about the human rights implications or impact of this legislation because of this report of the scrutiny committee.

This report of the scrutiny committee is three sentences long. It says, in relation to human rights:

The current scheme of the Act for random testing in relation to alcohol—  
not even drugs—

consumption engages various human rights and particular provisions of the Human Rights Act, such as the right to privacy and the right to liberty.

It is on the basis of that finding of the scrutiny of bills committee that the Liberal Party are publicly declaring that this legislation is human rights compliant. What a long bow to draw that is.

The scrutiny of bills committee declares that the alcohol testing legislation engages the right to privacy and the right to liberty; it does not even talk about this bill. It does not draw any conclusions; it does not discuss the human rights implications. Yet, like Chamberlain returning from Munich, he waves the bit of paper from the scrutiny of bills committee and says, “I have a bit of paper from the scrutiny of bills committee which gives me comfort that this legislation is human rights compliant and does not unduly trespass on personal rights and liberties.” You just cannot say that. You can say it on the basis of some of the conclusions that Ms Bresnan has arrived at, on the basis of an assessment of some of the issues around causality and connection with road safety etcetera and the work that has been done. But do not tell me, as Mr Hanson has been running around telling everybody who cares to listen, that the scrutiny of bills committee has declared that this legislation is human rights compliant. It has done no such thing, and yet that is the basis on which Mr Hanson claims that he has no concerns.

As I said before, it may very well be that this legislation does not unduly impinge on human rights. It may be that the government will concede that this legislation is compatible with our Human Rights Act; that it is a proportionate response to a significant issue. But do not tell me that anybody in this place, in the face, most particularly, of the Human Rights Commission’s concerns, can stand here—particularly when, as a result of the fact that this is private members’ legislation and not government legislation, we have this very convenient little exclusion that private members’ bills do not require a compatibility statement, and of course there is not one; one could have been sought but it was not—and declare absolutely that they know that this legislation is human rights compliant, in the absence of external scrutiny, advice from the department of justice or the involvement of the Attorney-General, who is charged with making those declarations. To rely, in the way that you have, on the scrutiny of bills committee, and then to stand up here and defend it, is just nonsense—and you know that it is nonsense.

**MS BRESNAN** (Brindabella) (11.02): I want to speak to a number of the things that the Chief Minister has said regarding the issues around human rights and the human rights commissioner. I have already outlined this morning, when I spoke earlier on this bill, a number of the issues that have been put forward by the human rights commissioner and some of the points raised. As I said, the critical point that we are looking at is whether the limitation on human rights can be justified by reference to evidence.

As I noted, you can bring up evidence to support any position you want to support, but we believe that the evidence we have looked at shows that taking drugs does impair driving. As I said, this is a road safety initiative, and I note that the human rights commissioner refers to a number of the amendments that the Greens have put forward and which address some of the significant concerns she has raised.

So we have addressed a number of those issues. The amendments we have put forward, as I outlined, have gone to issues and concerns raised by Civil Liberties and Families and Friends for Drug Law Reform. They do not address all of the concerns, obviously, but we have put forward these amendments because we believe they improve human rights aspects of the bill and also civil liberties aspects around the restrictions on the use of evidence for searching cars, having the presence and non-presence test and also removing the drug impairment test, which is an extremely subjective measure. We believe putting all of those forward has addressed those significant human rights issues and concerns with the bill.

The other thing I would note is an implementation issue that will come about as part of the bill. One of the things that the human rights commissioner has stated is:

In my view the limitation on human rights would be more proportionate if this testing was conducted only as an adjunct to random alcohol breath testing which (whilst also limiting rights)—

which she notes—

is an established and well-accepted regime in Australia.

She notes that this is not specifically considered under the bill. But, again, this is an implementation issue and it would be inappropriate to some extent to put this in the bill because it will be very much up to the police about how they conduct these searches and how it is implemented.

I do take issue with some of the things that the Chief Minister said. Of course, we are concerned about human rights aspects and the views which have been put by the commissioner. I reiterate that it would have been helpful if we had had this discussion with the Chief Minister some months ago when the bill was first agreed to in principle. I thought we were engaging in good faith with all parties on this, that we were going to move forward on it and put in place a piece of legislation that we had all engaged on, and that concerns we had would have been raised.

We raised our amendments over a week ago with the Chief Minister. He did say yesterday that he did not receive our amendments. We sent them to his office over a week ago and sought input. We did not receive any input or feedback on them. Even before that time, we had made it quite clear to the Chief Minister's office that we would be putting forward amendments and we were happy to engage with them on those; in fact, we encouraged it. Again, we did not receive any feedback or input from the Chief Minister's office. So I think it was extremely disingenuous and disappointing to hear the commentary from the Chief Minister this morning, given that he has refused to engage in any aspect of this.

Again, I thought we had in-principle agreement on the bill, that we were moving forward on it and that all parties agreed to that. It is disappointing that it has gone down the road that it has.

I think I have made the points I need to make. We believe that some of the points put forward by the human rights commissioner show that the amendments we have put forward address some of those significant human rights and civil liberties concerns with the bill. Mr Hanson, to his credit, has put forward amendments, particularly around people having access to the oral fluid, which provides them with the ability to have their own test done. Also, if there is that issue of false positives, that can be addressed. That is something which improves even on the legislation which has been put forward in Victoria.

**MR HANSON** (Molonglo) (11.07): On the issue of human rights, looking at the advice provided by the human rights commissioner—and I will quote from it:

I have reservations regarding the human rights compatibility of random roadside drug ... testing generally.

What she is making quite clear is that this is a philosophical objection to random roadside drug testing. That is fine; that is her opinion. I do not have a philosophical objection to random roadside drug testing. I think that her advice is predicated on that substantive objection. She has come at it from a point of view where random roadside drug testing may be an invasion of privacy. I believe the bill that has been amended by the Greens' amendments and by my own, and indeed in the original way it was written, substantially addresses as many of those concerns as can be addressed.

The point is that random breath testing, as the human rights commissioner has noted, is, indeed, and probably was when it was introduced, considered a breach of human rights by some people. Random drug testing will continue to be considered a breach of human rights by some people—probably the human rights commissioner, probably Mr Stanhope. But at some stage a decision has to be made, a judgement has to be made, about balancing the priorities between the human rights of an individual to take drugs, or to be tested for taking drugs, and the human rights of road users and their safety.

That is a judgement that this Assembly has to make. It has to make sure that the legislation that is put forward takes every reasonable step to make sure that human rights are not unnecessarily impinged. But at some stage, that judgement has had to be

made. When you look at the Human Rights Act, what it actually addresses and calls for is that the legislation that is put forward should be a proportionate response.

I will look at the discussion paper, *Review of the Road Transport (Alcohol and Drugs) Act 1977* that was released in May 2008. Mr Assistant Speaker Hargreaves, this was probably while you were the minister. It goes to random drug testing and the issue of human rights, and whether you should have random roadside drug testing and how that may impinge on human rights.

The point is that it discusses whether the legislation actually has an important and significant objective. If this legislation was spurious and did not have a very important objective then I think some of the concerns raised may be legitimate. We are not going to test people for things simply because we want to. The point is that the significant objective is about making our roads safer, and you need to balance the human rights of an individual and the privacy concerns of an individual with that important objective.

This is a quote from your document:

Based on the increasing body of research into the impairment effects of drugs on drivers, and the high presence of particular drugs in the bodies of fatally injured drivers ... the risk to road safety posed by drug driving is significant enough to satisfy the proportionality test.

So it is saying: is this a proportionate response? And is random roadside drug testing a proportionate response to the risk that is caused by people using drugs? Your own paper, Mr Assistant Speaker, a government document, says, quite clearly, in its advice to the government, that roadside random drug testing is a proportionate response and therefore it meets the requirements of the Human Rights Act. That is your own document. This document goes further in other areas to talk about the effects of impairment and the fact that people that use drugs do in fact suffer from impairment when they are driving, and it gives strong evidence to that effect.

We could probably argue about the human rights impacts for another five years, if we wished to do so. I know that Jon Stanhope has essentially raised these concerns endlessly about the human rights concerns and he is now coming out with evidence from someone who says they are philosophically opposed, or intimates that they are, by saying that they have reservations regarding the human rights compatibility of random roadside drug testing generally.

The point is, Mr Assistant Speaker: have we, in this legislation, done everything we can to make sure that this is a proportional response to a very important issue? I ask you this question, and it comes down to this: whose human rights here are we concerned about? Are we concerned about the human rights also of Alison Ryan and her daughter?

Let us not forget the implications of not bringing this legislation in. The implication of not having an effective regime of roadside random drug testing is that it will cause accidents. It may cause loss of life. That is the proportional response that we need to consider when we are debating this legislation.

In my very strong view, this legislation is a proportional response. I believe that, through the work I have done with the Greens, it does address all the substantive concerns that can be addressed if we are going to put this proportional response in. I very strongly urge members of the Assembly to consider the consequences if we do not implement this legislation. If they have any questions about those consequences—Mr Stanhope, if you do have a question about the consequences, I suggest that you take the time after this debate has finished to have a conversation with Ms Ryan, sit down with her and discuss the implications of not introducing this legislation. She will tell you quite significant ones about how her human rights have been impinged.

Clause 8 agreed to.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Is it the wish of the Assembly to take clauses 9 and 10 together?

**Mrs Dunne**: Sorry, Mr Assistant Speaker.

**Mr Hanson**: Hang on. Wait a second; we are opposing that.

**Mrs Dunne**: Mr Assistant Speaker, could I ask you to recommit the vote on clause 8 because we were proposing to omit clause 8.

**MR ASSISTANT SPEAKER**: With respect, Mrs Dunne, the vote has actually been concluded. If you wish to do that, I think you need to move a motion to have it recommitted.

Motion (by **Mrs Dunne**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent the vote on clause 8 from being called on again.

**MR ASSISTANT SPEAKER**: I will now recommit the vote on clause 8.

Clause 8 negatived.

Clauses 9 and 10, by leave, taken together.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (11.14): This will be my last intervention in relation to the unhappy—

**Mrs Dunne**: I suppose it will be graceless as usual.

**MR STANHOPE**: No, I am being graceful. This will be my last intervention in relation to the unhappy genesis of this particular bill, but I need to correct the record following Ms Bresnan's last comments about government.

There was a clear understanding, following the agreement in principle, about the process going forward and it is reflected in a press release of Mr Shane Rattenbury. Mr Rattenbury referred to the government having agreed in principle to the bill. In that debate, you will recall that I gave notice that the government's intention was to issue a discussion paper, an exposure draft. It was the government's hope that we would, in future, after due consideration—and we are talking a couple of months—be able to debate the bills cognately.

This corrects the record in the context of the comments made just now by Mr Hanson. The government acted on Mr Rattenbury's words and we have been acting in good faith in expectation that the Greens had agreed that they were prepared to consider two bills together. We proceeded. We invested enormous resources through a discussion paper and through the drafting of a very complex bill which we were still negotiating on. What date was this? This was on 27 May. Mr Rattenbury said following that debate:

The ACT Greens have welcomed the Government's contribution to the debate around how to address policing drivers under the influence of drugs.

"The Greens are pleased that the Government has now issued their drug driving exposure draft," Greens Police spokesperson, Shane Rattenbury MLA said today.

"With the Liberal bill introduced late last year we now have a set of options on the table to consider."

"In the last sitting, the Greens gave in principle support to the Liberal bill, but adjourned the detailed stage, anticipating the Government's consultation leading to an additional bill on the issue."

That consultation only concluded last week. I received the submissions to that consultation last night.

**Mr Hanson:** They've made their judgement, Jon.

**Mr Seselja:** Our legislation is the right one.

**MR ASSISTANT SPEAKER:** Order, members! You have been good so far. Keep it up.

**Mr Seselja:** I think they just didn't buy your credibility on this issue.

**MR ASSISTANT SPEAKER:** You have been very good so far. Do not spoil it.

**MR STANHOPE:** The government acted in good faith on overtures, publicly expressed by the Speaker through a press release on this process. That is what we expected to happen. We believed the Greens. Silly us! We thought that Mr Rattenbury's commitment to consider the government's efforts after due consultation—consultation which concluded last week—meant that the Greens were interested in the consultation, they were interested in the submissions, they were interested in being able to actually consider two bills in a row. It was only Saturday

week ago when I picked up the *Canberra Times* that I read the Greens had decided to go it alone.

**Ms Bresnan:** No.

**MR STANHOPE:** These are the facts, Amanda.

**Ms Bresnan:** We called your office and—

**MR ASSISTANT SPEAKER:** Ms Bresnan, please. I have shouted at them. It will be your turn shortly.

**MR STANHOPE:** We took on face value what Shane Rattenbury had said. We thought there would be a cognate debate and all of our actions have proceeded on that basis. That is what we thought. So there was a misunderstanding. We accepted what we believed we understood the Greens had proposed. And it is there in Shane Rattenbury's press release. To clear up that confusion, Ms Bresnan, that is what we thought. Do not attribute to me notions around non-engagement when we were relying on and responding to a written set of undertakings or commitments by Mr Rattenbury in relation to this issue. That is what we thought was going to happen.

**Ms Bresnan:** You knew perfectly well what was going on.

**MR STANHOPE:** We knew perfectly well? We thought we knew perfectly well. We thought Mr Rattenbury's words were quite clear and explicit, that the Greens would await the outcome. The consultation only concluded last week. That is what we thought, anyway. Let me just say, "Okay, let us accept there was confusion." I will accept that. But just give us the grace and the credit of saying that is what we thought was going to happen.

**MR SESELJA** (Molonglo—Leader of the Opposition) (11.19): I think it is worth saying a couple of words about how Mr Stanhope and the Labor Party have managed to get to this point. We have heard a lot of squealing from Mr Stanhope this week, a lot of jumping up and down and claiming some high moral ground, but fundamentally what this is about is that Jon Stanhope does not agree with not just this legislation but any legislation on this topic.

He does not fundamentally support the idea that we should actually be implementing random roadside drug testing. He said it back in 2005. He called it redneck legislation. And he has now had six months to input to this process. He has had six months, from when Mr Hanson first introduced his legislation, to engage in good faith on this issue. But he has not, because he does not believe in it.

When he got wrong-footed by the fact that the Greens actually do support this legislation and do support this type of legislation, he scrambled around to try to block it. That is what he has been doing. That is what this week has been about. It has been about Mr Stanhope saying, "I am going to try to find a way to scuttle this legislation." Rather than suggesting amendments, rather than suggesting improvements, he has tried to scuttle it.

We heard him on the radio today talking about the human rights aspects and acknowledging that in fact his legislation would not meet the approval of the human rights commissioner; that in fact there is a fundamental disagreement here between the human rights commissioner's views and the policy intent. We believe that our roads should be made safer. We believe that good legislation can do that and that this legislation achieves that. We will, from time to time, have differences of opinion. Mr Stanhope would like to scuttle it. And we saw how uncomfortable he was this morning on radio when he was asked this question about his own legislation and how he was backing away from his position.

Again, we have him arguing that the Human Rights Act fundamentally should mean that we do not have this type of legislation. We fundamentally disagree. We believe in the human rights of all Canberrans who use our roads, who expect that we will do all we can to keep our roads safe, through laws on speeding, laws against drink driving, laws against driving under the influence of drugs—all of these things contribute to making our roads safe—and we do not accept what is now being put by the Chief Minister, effectively, and that is that as a result of human rights principles we should not have roadside drug testing. That is what this is about. He has tried to scuttle it because he does not believe in it.

He should be honest and say it. He should be honest and say he actually does not believe in this type of legislation. No matter what Mr Hanson had put up, Jon Stanhope would have found a problem with it. If he was serious about engagement, he would have asked the Chief Police Officer months ago to look at this. But he did not bother. He waited until the last minute, gave what can only be considered incomplete information to the Chief Police Officer, when Mr Hanson has been engaging with the Australian Federal Police Association right throughout the process to get this legislation through. He has also been engaging with other parliamentary colleagues to get this legislation improved.

What we hear from the Chief Minister time and again is that he fundamentally does not want to see this type of legislation go through. We disagree. But Jon Stanhope should be called for what he is on this, and that is that he does not agree with the principle, he does not philosophically agree with this legislation, and if it was up to him he would use the Human Rights Act as an excuse not to have laws which protect all Canberrans from the dangers associated with people under the influence of drugs driving on our roads.

This is a good piece of legislation, and the hysterical shouting and jumping up and down from the Chief Minister will not change the fact that he believes it is redneck legislation, he believes it is legislation that impinges on people's human rights, and he is not committed. He is not committed to any type of legislation that will actually allow us to implement random roadside drug testing to protect all Canberrans.

I do commend Mr Hanson for his efforts on this, and it is in stark contrast to the Labor Party in this place. ACT Labor are fundamentally opposed to this and, I think, have been shown up to philosophically be opposed to this and are using every excuse in the book. They have had six months, they have had five years, and they have done nothing. Mr Hanson has acted, and this will be a very important step forward when this legislation is passed.

**MR RATTENBURY** (Molonglo) (11.25): I rise to briefly respond to the Chief Minister's quoting of my press release. And it is always important to go back and get the original document, because, whilst the Chief Minister read out most of my press release, he forgot the last paragraph.

**Mrs Dunne:** Selectively quoting again.

**Mr Smyth:** You've been verbally by the Chief Minister?

**MR ASSISTANT SPEAKER:** Order, members! Mr Rattenbury does not need your help.

**MR RATTENBURY:** I appreciate it but I do not need it. The last paragraph says:

... The important thing now is to avoid petty squabbles about whose legislation gets passed and focus on putting in place the best possible legislation to improve safety on Canberra's roads ...

And that is exactly the basis on which Ms Bresnan has made the arguments this morning on behalf of the Greens. That was on 27 May. That was the date that the government released their exposure draft legislation, over a month ago now. What that meant was that on that date we had two pieces of legislation side by side. We were able to sit down and compare them. All we were able to do was look at the government's legislation, which was presented with the full resources of the department behind it—all the research, all the capabilities the department brings to the debate—and ascertain that the two pieces of legislation were almost identical, that the model put forward by the government was not substantially different to the model that Mr Hanson had put forward.

At that point, as the Greens, we were able to make a decision that the legislation was pretty much right to go. There was some work needed to be done on amendments, and that is why we see amendments coming along today. But we knew that there was not a wildly different option on the table, that we had the core of a consensus to move forward on legislation that could work. That reflected the work Mr Hanson had done, the research that his office had done on other jurisdictions, working with parliamentary counsel, and it reflected the work that Mr Stanhope and his department had done to draft up a piece of legislation that they considered good enough to table as a piece of exposure draft legislation. That is the basis on which we are able to move forward today, because we had enough evidence on the table to make a decision to go forward.

Clauses 9 and 10 agreed to.

Clause 11.

**MS BRESNAN** (Brindabella) (11.27), by leave: I move amendments Nos 9 and 10 circulated in my name together [*see schedule 1 at page 3023*].

Amendment 9 removes reference to drug impairment assessments in the part of the act which outlines restrictions on screening tests and breath and oral fluid analysis. I have already outlined the issues around removing the drug impairment test, which we believe is a subjective measure. Amendment 10 again refers to amendment 9 in that it is removing reference to the drug impairment test as part of the act.

**MR HANSON** (Molonglo) (11.28): Again, both amendments relate to assessment for impairment and, as such, we will be supporting them.

Amendments agreed to.

Clause 11, as amended, agreed to.

Clause 12.

**MS BRESNAN** (Brindabella) (11.29): I move amendment No 11 circulated in my name [*see schedule 1 at page 3023*].

Amendment No 11 removes reference to drug impairment assessment tests, again, in the part of the act which outlines restrictions on screening tests and breath and oral fluid analysis.

**MR HANSON** (Molonglo) (11.29): Again, this relates to impairment and the opposition will be supporting the amendment.

Amendment agreed to.

Clause 12, as amended, agreed to.

Clause 13.

**MS BRESNAN** (Brindabella) (11.30): I move amendment No 12 circulated in my name [*see schedule 1 at page 3023*].

Again, this removes the reference to drug impairment tests, which I spoke to earlier.

**MR HANSON** (Molonglo) (11.30): The Canberra Liberals will be supporting this amendment.

Amendment agreed to.

Clause 13, as amended, agreed to.

Clause 14.

**MS BRESNAN** (Brindabella) (11.30): I move amendment No 13 circulated in my name [*see schedule 1 at page 3024*].

This amendment removes reference to drug impairment tests in the part of the act which permits police to take blood samples from people in custody.

**MR HANSON** (Molonglo) (11.30): Again, as this is in relation to impairment, we will be supporting the amendment.

Amendment agreed to.

Clause 14, as amended, agreed to.

Clause 15.

**MS BRESNAN** (Brindabella) (11.31): I move amendment No 14 circulated in my name [*see schedule 1 at page 3024*].

This amendment replaces “concentration of drugs in the blood” with “presence of a prescribed drug in the blood” in the blood sample analysis section.

**MR HANSON** (Molonglo) (11.31): This relates to blood concentrations, as previously discussed, and the Canberra Liberals will be supporting this amendment.

Amendment agreed to.

Clause 15, as amended, agreed to.

Clause 16.

**MS BRESNAN** (Brindabella) (11.32): I move amendment No 15 circulated in my name [*see schedule 1 at page 3024*].

Amendment 15 replaces “concentration of drugs in the blood” with “the presence of a prescribed drug in the blood” in the blood sample analysis section.

**MR HANSON** (Molonglo) (11.32): This again relates to concentration levels and the Canberra Liberals will be supporting this amendment.

Amendment agreed to.

Clause 16, as amended, agreed to.

Clause 17.

**MR HANSON** (Molonglo) (11.33): This clause is something that I put in. I had actually removed a section from my original legislation tabled last year. In consultation with the AFPA and others, some concerns have been raised that this is not related to the random roadside drug-testing aspects but actually relates to testing procedures that follow an accident or when someone has been put into custody or is in hospital. Therefore, the removal of this clause of the bill was actually not required. Having reviewed that and having had discussions with the crossbench, I will be opposing this clause.

**MS BRESNAN** (Brindabella) (11.33): This amendment, as Mr Hanson already outlined, reinserts sections in regard to the treatment of blood samples for evidentiary purposes under the act. At the request of the AFPA, we understand that reinserting these provisions is necessary for the treatment of evidence under the act and was a result of a consultation Mr Hanson had with the police association.

Clause 17 negatived.

Remainder of bill, by leave, taken as a whole.

**MS BRESNAN** (Brindabella) (11.34), by leave: I move amendments Nos 16 to 34 circulated in my name together [*see schedule 1 at page 3024*].

These amendments remove, again, a section referring to assessment of drug impairment tests protecting an officer from liability arising from taking someone into custody. Amendment 17 removes a section referring to assessment of drug impairment tests, and amendment 18 restricts the use of blood or oral samples to the act or for research purposes only. Amendments 19 to 22 change “the offence of driving whilst impaired by drug or fluid concentration exceeded” to “driving with ... drug in oral fluid and blood”.

Amendments 23 to 28 again refer to some of the subsequent sections, and amendment 29 inserts the word “prescribed” before “drug”, for clarity. Amendment 30 puts a restriction on search powers so that police may not form suspicion on the basis of drug testing or drug screening testing only. That is one of the issues I addressed earlier, which were in relation to concerns raised by civil liberties groups. It was, I have to say, an amendment we had already put forward, through our analysis of the bill. The other amendments again refer to the drug impairment tests and the presence tests, which are the issues I have raised earlier through my speech.

**MR HANSON** (Molonglo) (11.36): Mr Assistant Speaker, we will be supporting these amendments. The bulk of them actually deal with the change in testing for a concentration, which now is just simply testing for a prescribed drug in the body. The other relates to definitions throughout the bill.

There are two substantive changes, and I will address those. Amendment 18 prevents now a sample that is taken under this act being used for other purposes. Essentially, that prevents someone having a sample taken and then it being used under another criminal code for a subsequent prosecution. We think that that is reasonable. It is actually in the provisions included in the government’s draft exposure bill, and we have agreed to support that amendment.

The other substantive amendment is related to the search of vehicles. The Canberra Liberals did not actually see the need for this amendment, but we have had extensive discussion with the Greens on this—the point being that this is a road safety bill. We acknowledge that, and we believe that we have got to make sure that the police officers on the ground have got the powers that they need and the freedom to act to form a basis of suspicion to search a vehicle. I am comfortable, with the amendment as it is structured and phrased, that it still provides police with the powers that they

currently have, because what will occur is that a police officer will be able to use a positive test as part of a suspicion to search a vehicle.

I have read very carefully the words from the Chief Police Officer that were released yesterday, and he saw that a positive drug test should form part of a suite of indicators that a police officer assesses when forming their level of suspicion regarding possible drug offences under the Crimes Act. The way that the legislation is written, now that the amendment is in place to say that a positive drug test can form part of that suspicion, I think meets and is in accord with the Chief Police Officer's statements, and it is certainly in accord with discussions I have had with the AFPA.

I will just make the point that, although we did not see a need for this, I am comfortable that the amendment, as it is written—and we have sought real clarification on this—does not limit the powers of the police to conduct searches. They still have the powers they had previously and in many ways in addition now they have the extra level of suspicion that they can use, which is a positive test. So we are comfortable supporting the amendments.

So, as I said in conclusion to the amendments now being taken as a whole, most of them are about issues we have discussed regarding impairment and concentration levels, and there are the other two elements, one that we support and the other we are happy to support, although we do see it as probably unnecessary.

Amendments agreed to.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (11.40): I will not speak for long. I will take the opportunity just before the final vote to acknowledge the work that members have put into this legislation.

It is legislation that each of us in one form or another has sought to achieve. It is unfortunate that the Assembly, I believe, has not covered itself with glory in relation to the way in which this legislation has been constructed—and, indeed, in the way that it has not consulted with the community about or on the content of the legislation. I think that is a pity and there are lessons there for all of us to learn in relation to cooperation on major pieces of legislation.

Having said that, it is an outcome that I hope serves the community well. The government has certainly expressed its commitment to the need to ensure that our roads are as safe as they can be made. We all know intuitively though that the evidence is not perhaps as concrete or as confirmed or as firm as we would normally like in relation to legislation that does have significant impacts on liberties and freedoms.

At the end of the day, you know, we always need to be mindful as legislators when we are enacting criminal legislation, that, as a consequence of the legislation about to be passed, there are criminal implications. People will, as a result of this legislation, lose their liberty. There are people who will be subjected to the criminal law in its full

force, and it behoves legislators always to bear in the back of their mind the consequences for individual citizens who will be confronted by and affected by this legislation.

People will go to jail as a result of the piece of legislation that we are just passing. That is an onerous responsibility each of us has and accepts and needs to be mindful of as we construct criminal legislation—legislation with criminal impacts and effects. People will go to jail as a result of the legislation or the bill that passes today. That is probably right and appropriate in the circumstances, but we do need to be absolutely and utterly sure and ensured that the legislation is appropriately constructed, that the rules of evidence have been given due effect, that issues around proof are as they should be, that there is no gap or glitch within the scheme as created and that people's human rights are not inappropriately or perversely affected as a result of an implication in relation to the legislative scheme that we have debated today—that they are not impacted on adversely as a result of an oversight.

I have to say it is on that basis that the government will not be formally supporting the legislation, although we support the outcome. I just do not have the degree of comfort that allows me to commit the government to this legislation today. It may be that I could have in a few weeks time. Today I do not and will not. Having said that, I do hope that it is successfully implemented. I do hope that there are no issues with it. I do hope that it achieves a tick from the human rights commissioner and from the Department of Justice in relation to its human rights compatibility. I hope, as a result of the legislation that will pass today, that our roads will be safer and that we have taken a good and positive step. Those that drive and put their own lives and the lives of others at risk will be certainly impacted by the legislation—by the scheme.

So my hope and the hope of the government is that we have today produced good legislation that will produce the outcomes that each of us desire and hope for, but I must say, in the context of the advice I have and my own capacity in the very, very limited time available to assess the range of issues that have been put forward and advanced—as a result of the fact that the only consultation that was undertaken on this bill in detail was that undertaken by the government—and in the circumstance that I have not yet even had the time to digest or even read the majority of the submissions, it is very, very difficult, I think, to support the process.

So we support the outcome. I hope it is a good outcome. I hope the legislation works, and I would just signal now—and I would ask for the forbearance of the members in the Assembly in relation to this last comment I make—that, as a result of the legislation passing today, I am advised by my officials that the drink-driving legislation which I tabled last week is no longer potentially or possibly operable, as a result of the impact of these particular changes, and I will have to withdraw it. It is going in the bin, and we will start again. So I am looking for your forbearance in relation to the fact that the government will now have to withdraw its drink-driving reforms of last week, because they are no longer compatible with the scheme that has been accepted today. So I am just foreshadowing now that there will be a delay in the passage of the drink-driving legislation. I just ask for your support and forbearance and cooperation in relation to that.

**MR RATTENBURY** (Molonglo) (11.46): I just want to make a few comments on behalf of the Greens. We are pleased to see the impending passage of this legislation. We think it is an important road safety initiative, and that has, right through the discussion, been our primary focus—to improve safety for people on Canberra’s roads, whether they are drivers or more vulnerable road users such as pedestrians and cyclists.

We need our community to understand that drug driving is unsafe. I think that there is a sense amongst many people that they do not know that. They are not aware of the impediment that taking drugs can be for driving skills. Ms Bresnan touched on some of that evidence this morning when she talked about the research on THC from the Accident Research Centre at Monash University. They noted that, in relation to THC, the detriments associated with cannabis use include increased braking time, increased lateral deviation, increased number of cones hit, increased speed variability and impaired secondary task performance. She also spoke about the impacts of ecstasy and amphetamine. Those differences, those impairments in a driver’s capabilities, literally are or literally can be a matter of life and death, particularly for vulnerable road users—but, frankly, for anybody that is travelling around on our roads.

I note also from the government’s discussion paper, that they have highlighted the impact of drugs on driving ability. I quote from page 7 of that paper, where it says:

Alcohol continues to be the drug found most often in the bodies of fatally and non-fatally injured drivers, followed by cannabis, amphetamines and benzodiazepines, e.g. valium.

It goes on to say:

While the research into the impact of drugs on driving is a relatively new and rapidly expanding field there is increasing evidence to suggest that certain illicit drugs ... impair driving ability and increase risk of collision.

That is the basis on which we have had to move forward here today. I must say I have struggled to understand the government’s position on this one, because I think, to his credit, the Chief Minister is a real advocate for road safety. I think his extensive comments on drink driving, on matters of speed, on looking at the model of zero deaths for the ACT and having that as an aspiration, show some worthy goals, and the Chief Minister’s clear personal commitment to that, I think, is a welcome thing.

I think the government’s shift on its drink-driving campaigns to the message around either drink or drive—it is not whether you can drink and drive but either drink or drive—has been an important evolution in community understanding. And it is in that context that I have struggled to understand the government’s position on this one—whether it is simply politics or whether it is something else. Frankly, at times it has felt like watching a pinball table, the way the government has bounced around on the position that it is taking, right through to the Chief Minister’s contribution on Triple 6 this morning, when he said:

On the basis of her investigations—

referring to the human rights commissioner there—

and other submissions to the government's discussion paper, there is no empirical evidence or data anywhere in the world that links drug use and road safety.

In light of the government's own discussion paper, which I note is extensively referenced, as you would expect, it is comments like that I have really struggled with to be clear what the government is trying to achieve here. Because I cannot imagine—

**Mr Stanhope:** I was quoting the human rights commissioner.

**MR RATTENBURY:** But, Chief Minister, this is what I am struggling with, because your own paper cites the evidence. It makes it clear what the situation is. You have spoken in this place and others about the impact of drugs on a driver's ability to effectively handle and safely handle their vehicle, so I do find it very confusing. I think it does highlight to some extent the role the government is playing in this place on non-government legislation.

We saw it on the Greens' hot-water bill, where Mr Barr came in here and said, "The Greens have got it wrong," despite the fact that the Greens had copied it, essentially, from COAG models. Mr Barr came in here and said, "This is outrageous; the Greens are going ahead; my department has not been involved," yet he was not prepared to bring on a single amendment to correct that, despite the fact that he apparently knew so much better.

The government was not prepared to engage. We have seen a similar outcome here, and it is partly why the Greens have been forced to work with Mr Hanson to move this legislation forward—because the government is not engaged. My office and Ms Bresnan's office have worked very hard to get the best possible outcome on this legislation, to sit down and really do the work, to work collectively with Mr Hanson—and again it is very frustrating in this context, because all three parties in this place—well, at least most of us—have at times said, "This is an important thing to do. We need to improve road safety in Canberra."

I have just cited some of the Chief Minister's comments, and I get confused at times at exactly where the government wants to be on this one. But even matters such as coming in here and halfway through the detail stage tabling the submissions to the consultation process begs questions about motivation. It begs questions about sincerity and it begs questions about integrity.

I would urge the government, on an ongoing basis, to recognise the numbers in this place, to acknowledge that not every piece of good legislation, not every good idea, has to come from the executive benches, that there is space in this parliament for 17 members to make a contribution to the governance of the ACT, because that way we can get the best possible outcomes for this city. Specifically on the drug-driving legislation we are about to pass, it is not a silver bullet for road safety in this city; it is part of a broader process. There are many challenges that we face.

Mr Stanhope has just referred to his new drink-driving legislation. I find it surprising that this is going to cause a significant delay to it, particularly given that we are about to go into a winter recess. I think there will be plenty of time to rework the legislation as required and not see it introduced any later than is currently planned. But it is part of the broader process, and we have much work to do.

I remain deeply frustrated that we still have not moved forward to provide decent night-time public transport in this city, to enable people to get home after a night out. Because the reality is people will go out and drink in this town. People will go out and take drugs. They need to get home safely, yet we cannot, despite all the bluster, find the money to say, "We want to provide a means for people to get home safely at the end of a night on the town."

We need to be realistic about what people are going to do, what young people, particularly, are going to do, because I think all of us in this place have been there. We have all done things when we were younger that we probably sit back now in horror at, thinking we are lucky we did not kill ourselves or some of our mates. We have all done it, and we are lucky that we all survived that process and are still here to tell the tales. We need to be serious about this.

I appreciate the tone of the comments Mr Stanhope has just made about acknowledging the will of the Assembly today, and I hope that the government will move forward and implement this legislation effectively and that the Federal Police will now move along and actually implement this legislation in an effective way. I am sure there will be a bit of work to do to get the exact details right. That is inevitable in the implementation of any legislation. I am hopeful that we do not see further politicking around the implementation of this in order to be able to stand up and say in this place, "See, the Liberals and the Greens got it wrong." I just cannot fathom the thought that that may happen deliberately.

But an important part of this is also going to be education. Again, I come back just briefly to the government's own discussion paper, where it says:

Anecdotally, driving under the influence of drugs is becoming increasingly common, as young people in particular use drugs such as cannabis and methamphetamine rather than risk being caught over the BAC limit.

Certainly, from our own anecdotal understanding, young people are doing this, for two reasons: one, they will not get caught under drink-driving laws but they will still be able to achieve the effect that they are seeking from taking substances; and the second part is that there is some perception amongst young people in the community that drugs do not impair your ability to drive. So we have got a real education job to do here. This legislation is an important part of that. As an Assembly, we have now said taking drugs and driving a vehicle is not a good thing to do. It creates danger on the roads for all of us in this community.

We now need to also make sure we do not just put this legislation out there and suddenly people turn up on the side of the road and get a surprise. We need a serious education campaign which will both provide an understanding for people that they

should not be doing it and will also mean that, if they do take the risk and get caught, then they are fair game, because they have made a conscious choice to risk the lives of others on our roads in the territory—because at the end of the day, this is a road safety initiative. The Greens are pleased to have been able to work with Mr Hanson and the Liberal team to get this sorted—to get strong legislation that we believe will make a difference for road users in the ACT.

**MS BRESNAN** (Brindabella) (11.55): I will be brief because I believe Mr Rattenbury has summed up the key issues from the Greens' perspective on this bill. I will just reiterate what Mr Rattenbury has said about the educative process and program that will need to follow this sort of legislation, as it has in other states.

We know that most drivers, young people in particular, are aware that alcohol does impede their ability to drive. But a lot of people do not know that drugs also impede that ability. That has been brought out through a number of surveys that have been done in Victoria in relation to the programs they have put in place. I think that having that education program will be an extremely important part of it. As Mr Rattenbury said, this is about improving road safety in the ACT. That has been the driving objective behind this for the Greens.

The amendments we put forward were very much in relation to the principles we outlined in the submission we put to the government's discussion paper. As Mr Rattenbury said earlier too, we did allow that consultation process to go ahead and we thought that was an extremely important part of all this, noting that there had been quite a substantive discussion about this a couple of years ago when the idea was first put forward. There was a forum, or a number of different groups made presentations, and I think the issues brought up then were consistent with the issues that came up this time in relation to this bill.

I will also thank Mr Hanson. I think we have had good discussions on this and have gone forward. We may have been coming from different points of view on this particular legislation, but we were able to come to a point of agreement and, I think, improve on the original bill and put forward amendments which went to addressing the issues and the concerns which came forward from a number of groups. As I said earlier, it may not go all the way to addressing all of their concerns, but from the discussions we have had with these groups we do think that we have improved on the bill; in particular, we have improved the civil liberties and human rights aspects.

I will just reiterate what Mr Rattenbury said about the frustration that the Greens have been experiencing in relation to bills on ideas that the Greens have come up with and put forward. Often, they have been on issues where we have had to wait a number of years for legislation to come forward, because we were waiting for COAG or other sorts of processes, and we have got to the point of being sick of waiting and have put forward legislation. Then, all of a sudden, the government has come forward with legislation—or regulations, which the government has the power to do.

It has been a very frustrating process in that, instead of having genuine engagement where everyone agrees that something needs to happen on a particular issue, there seems to be this competition over whose idea it is, which does nothing to serve the people of the ACT. I think this bill has shown that we can work together, even when

we may be coming from different points of view, and we can come up with a workable and sound piece of legislation. I commend this legislation to the Assembly.

**MR HANSON** (Molonglo) (11.59): First, I would like to thank members for their contributions today. I would also like to thank the people one step behind us: the Liberal Party staff; the Greens' staff, who I know have worked tirelessly on this; and the parliamentary counsel's office, who have had to deal with numerous amendments as a result of the engagement that I have had with the crossbench, Bianca Kimber and the others who have worked on this legislation. They have done an outstanding job at very short notice, and I would like to pass on my thanks to them.

I would like to thank Alison Ryan for coming in today, and with her friend Rusty. It is great to have you here and it is great, I think, for you to see what is about to happen here as this reaches a conclusion. This has been a long journey for you, a difficult journey, and it is great to have you here today with us.

I would like to thank those people in the community that made contributions not only to my legislation but also to the government's and who have contributed to the debate. We have obviously weighed heavily on and used the submissions made to the government throughout this process, including the discussion paper I quoted from before. In particular, I would like to thank the AFPA for their assistance.

Most importantly, this is legislation that will change lives. It will save lives and it will prevent carnage on our roads. Throughout all of this debate, be it about the technical differences that we might have had, be it about the human rights implications, the point is that this is legislation that will save lives. That is why we are here today. I think why many of us sought election to this place was to bring into this place and into the ACT legislation that makes a difference. And there is no question in my mind that this legislation will make a difference to many lives in Canberra moving forward.

The opposition has tried to do this repeatedly. I recall that in 2005 the opposition tried, and in 2008, and I introduced this in 2009, and the legislation has been either voted against or adjourned on numerous occasions. So it is good to be at this point. Much has been made of the political process. I do not want to harp on it, because I think this is a great moment, but I do have to say that I commend the Greens for their approach. I think they have taken this approach of road safety. We have had some disagreements, but we have worked together to achieve an outcome here for the people of the ACT.

Quite clearly, in Mr Stanhope's approach he has lacked integrity—I think that was pointed out very clearly by Mr Rattenbury—in the way that he has twisted and turned and, as late as this morning, was using claims that drugs may not actually impair drivers as an excuse to pull his own legislation. I think that the process that he has followed has been disgraceful. That has been well outlined and has been acknowledged, clearly, by many of the community groups that I engage with, by many uniformed officers that have contacted my office and by the members in this Assembly. I think Jon Stanhope stands, in many ways, condemned for the approach he has taken.

I am sure—I am very confident—that this is good legislation and I look forward to it working successfully. But, if there are any technical problems that do come to light, I

think the government will stand condemned for not engaging in this process. They have refused to even sit down and discuss this legislation since it was tabled over six months ago. If there are any technical issues that need to be worked out, and I am sure there will be, the government will stand condemned.

I would just like to make the point, in terms of the two substantive issues that have been raised in recent hours by the Chief Police Officer and the human rights commissioner, that I am confident those issues have been addressed. I will quote again from the AFPA's comments:

“The AFPA applauds the measures introduced in this Bill, those measures will aid our members in exercising their duties to the community as professional police officers. This Bill will save lives by getting drug affected drivers off the streets of Canberra.

“I am also confident that with the amendments, this Bill will also address the issues raised recently in media by the ACT Chief Police Officer which were based on an earlier version of the Bill.”

In relation to human rights, I think the issues have been addressed. I recognise that Amanda Bresnan went through them in some detail and I think that the bill, as amended, does address the concerns as far as they can be addressed. The point is that there will always be people in the community, including the human rights commissioner, who have philosophical objections to random roadside drug testing, and there is nothing we can do about that.

The point that is in the government's own discussion paper is about proportionality. Is the measure that we are introducing here today an important and significant objective? That is the first test. And there is no question that it is. And the second is: is it proportional; is it reasonable? And the answer to that question is yes, it is. So I think the two concerns that have been thrown at this legislation at the 11th hour by the Chief Minister have been substantially addressed.

We are finally there. This has been a long and difficult process for the community. They are perplexed, I think, by the way this has been conducted in this Assembly. It has brought no credit to us as parliamentarians and I lay the blame for that fairly and squarely on the government. Their refusal to engage has not only made this a more difficult process than it needed to be; the way they conducted themselves has actually brought discredit on the Assembly. But it has been worth it. There is no doubt in my mind and in my heart that it has been worth it.

We are at the right point today. It is the time to look forward. It is time to put the debacle of the government's resistance to this legislation for five years behind us and to look forward, and to look forward to what this means in the community. That is that it will remove from our community people who are driving under the effects of drugs, and that has been the objective.

It is now with the government to decide what they are going to do with this legislation. They have been given the authority, they have been given the power, in this Assembly to now roll out a regime of random roadside drug testing. It is quite clear that the will of this Assembly is for them to do so and, although the position changes, I suspect the

government know that this is the right thing to do. It is quite clear that, other than those, I guess, that will always have human rights objections to this, the vast bulk of the community want this to occur.

It now behoves the government to put their petty struggles behind them, to put the political point scoring behind them and to get on and enact this legislation and make sure that our police force, who are charged with the responsibility of keeping this community safe, are given the powers and the tools to do so. And you, Chief Minister, need to get out and make it very clear to the police in this community, and to the legislators, that you will now get behind this legislation, that you will now support the police and that you will make this happen. The community just simply will not tolerate any further delay, or any further political point scoring, that continues to put lives at risk on our roads.

Today has been a victory. But it is not a victory for the Liberal Party. It is not a victory for the Greens. It is a victory for the community. It is a victory for our police force, who are charged with the responsibility of keeping us safe. And it is a victory for people like Alison Ryan and everybody she represents who have lost a loved one because of an accident involving someone affected by drugs. That is a victory today and it is one for her and for those she represents.

Remainder of bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

## **Litter (Shopping Trolleys) Amendment Bill 2010**

Debate resumed from 24 February 2010, on motion by **Ms Le Couteur**:

That this bill be agreed to in principle.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (12.08): Mr Speaker—I am sorry, Mr Assistant Speaker.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): A matter of time, Chief Minister; a matter of time.

**MR STANHOPE**: Yes, thank you, Mr Assistant Speaker. Ms Le Couteur has proposed a bill to amend the Litter Act to create a regime for managing shopping trolleys that are left on public land in the ACT. The government agrees that abandoned shopping trolleys are a form of litter that is unsafe and unattractive and that they can damage the environment, pose a safety risk for motorists, cyclists and pedestrians and, I am sure, aggravate and irritate all Canberra residents.

The government certainly agrees that something needs to be done to ensure that shopping trolleys do not continue to be abandoned in public places at the rate that they currently are—not only that they not be abandoned in public places, but that there be a

system that essentially ensures that shopping trolleys are picked up. I think the great irritant that people face in relation to shopping trolleys and their abandonment is the length of time that we see some shopping trolleys sitting in the same place uncollected. They do become over time very, very unsightly rubbish.

At present the collection of shopping trolleys found abandoned in public places almost always ends up as a cost to the territory and to the community. The Department of Territory and Municipal Services is regularly engaged in the collection of shopping trolleys that are not collected by the stores that own them. While many retailers do do the right thing and have someone collect their trolleys, this is often limited to an area within a relatively narrow radius of a shopping centre or the shop from which the shopping trolley came.

The removal of trolleys from shopping centres appears to be something that many retailers view as a matter over which they have little control. It is one of those issues that it is hard to discern any great determination by some shops to do anything about. So we do see shopping trolleys abandoned on the side of the road, on walking paths and on cyclepaths.

I often see them in the lake. It amazes me when they are left that others come along and they push them off bridges. They push them into our lakes, they push them into the creeks and of course they often end in places where it really is quite hard to retrieve or recover them. They do become incredibly unsightly. The government has been giving consideration to this issue for some time now.

It is quite difficult as one goes through the options available to actually settle on a scheme that seems to be fair and appropriate. The Department of Territory and Municipal Services has, over time, engaged in consultation with a whole range of stakeholders to ensure that, were there to be a government-based regulatory scheme, whatever is developed will effectively deal with the issue. As many things are, it is simply not as simple as it seems.

This particular issue can be complex and is surprisingly complex. It seems quite simple. Somebody owns a shopping trolley; the shopping trolley is taken by somebody else for the use of getting their groceries home and then they abandon it. You think, "What is the problem?" You just want it to be moved, but once you get into the actual issues, it does become quite complex.

There is a whole range of considerations. This is another one of those issues for which there is no obvious silver bullet. For example, trolleys are often taken from shopping centres by the most economically and socially disadvantaged among us. I refer to people without transport that do rely on public transport or on a bicycle. I am referring to people who do not have a car. Ms Le Couteur acknowledges this. In her presentation speech she said that her bill does take a fairly straightforward approach to the problem and that she had, in developing the bill, taken a similar approach to positions that the government had recently articulated.

I believe that Ms Le Couteur was referring to the comments about a regime that would require retailers to mark their shopping trolleys and that owners who did not collect their dumped trolleys within a certain time frame would suffer a fee. The government

acknowledges that Ms Le Couteur's bill proposes a range of measures that we believe certainly would be useful in dealing with the problem of abandoned trolleys.

But we do believe, with great respect to Ms Le Couteur—I acknowledge the work and her interest in this subject; it is something which she has raised with me on many occasions—that as we look through the bill there are some complexities that have not been dealt with as fully as we believe they might be. There are some unanswered questions that I think it would be appropriate for us to give further consideration to.

They relate to issues around whether or not the collection system and the penalties proposed will actually be effective and about whether or not there are perhaps some other ways of either adding to or enhancing the scheme that Ms Le Couteur and the Greens propose. My office has been in discussion with Ms Le Couteur's office. We have developed a number of proposed amendments which we have provided to Ms Le Couteur and to her office.

They are proposals that would, for example, remove what we believe to be a gap in the bill. It creates an offence of leaving a trolley in a public place but, of course, this is where these things and legislation become complex. It is not enough just to have a penalty that applies to public places. It would be just as easy for somebody that was aware of the law, accepting that anybody would be, just to leave it in a private place, to leave it in somebody's front yard. Then the offence provision in the bill is not attracted. This simply undermines all that Ms Le Couteur is trying to achieve.

We believe that there are changes of that order required to adjust some of the gaps that appear to us as we look at the bill. So we have provided a number of proposed amendments in relation to not requiring that each trolley has a unique identifying number. We think that probably would be particularly onerous to ask a retailer to have a notice or a tag on every single shopping trolley that gives it a number so that it is identifiable in that way.

We also propose changes that would allow a suburb-wide collection of abandoned trolleys after due notice is given to retailers. As it stands in the structure that Ms Le Couteur and the Greens have put forward, their scheme would require business and the government, we believe, to expend considerable resources on each and every trolley that loses its way. It requires businesses to mark every trolley and officers to visit an abandoned trolley on at least three occasions prior to its removal.

If one thinks around some of the implications of that, we believe that really in a fair and workable scheme we would be better to try and ameliorate them. Having said all that, the summary of the government's position is that we support Ms Le Couteur's intent and, indeed, we share the desire to do something about shopping trolleys.

We have proposed a number of amendments. We look forward to further discussion and refinement of those with members of the Assembly. We do hope that through that engagement—perhaps Ms Le Couteur might actually deal with this at some stage—there might be some benefit and purpose in a public process or a more public process as we conclude legislation.

The government's position is that we are prepared to agree in principle today. We would wish to see debate on the bill adjourned at the in-principle stage so that we can work further with the Greens and, indeed, with the Assembly on refining the proposal. We believe that it does need some refinement and some change. I understand that Ms Le Couteur has certainly indicated that she is very open and willing to give active consideration to amendments and to other suggestions. We are willing to engage with Ms Le Couteur most particularly and with the Assembly in relation to that.

The government will support this bill in principle today. We would then propose that it be adjourned. I understand Ms Le Couteur is agreeable to that. I would welcome the opportunity of finalising or formalising with Ms Le Couteur a proposal to perhaps more broadly engage the community in a response to the issue.

**MR COE** (Ginninderra) (12.18): The Litter (Shopping Trolleys) Amendment Bill 2010 is a classic example of over-legislation. Either the legislation will have no impact because it is too difficult to enforce or it will unfairly hurt the hardworking business men and women of Canberra. Whilst a trolley in a park or by the side of the road affects our amenity, I have serious concerns about whether this Assembly passing legislation will make such a problem less likely. Instead, this legislation unfairly pushes the blame and responsibility onto retailers rather than the person who littered or, worse, the person who stole the trolley.

Ms Le Couteur may say that small businesses will be exempt, and the example of a store with 25 trolleys or fewer is a suggested possible threshold. However, I contest that many small retailers would have more than 25 trolleys and they would be unfairly hurt. This legislation is much more about political point scoring for the Greens rather than a genuine attempt to tackle an actual or perceived problem.

Is a drunk person who takes a friend for a ride in a trolley less likely to do so after this legislation? Is a person who walks back to their apartment with a shopping trolley without returning it less likely to do so after this legislation is passed? Is a person who steals a trolley and hauls it up a tree or onto a roof less likely to do so after this legislation is passed? The chances of catching someone leaving a trolley in the wrong place, I would suggest, is extremely slim. Who is going to enforce this? Are we going to ask TAMS officers to do this? The bill mentions that the police could do it.

If the chances of catching someone are next to nil, are we going to monitor CCTV or even dust a shopping trolley for fingerprints? I would imagine there would be very many sets of fingerprints on the average shopping trolley handle. This bill is hot air. If I may use a shopping trolley metaphor, this bill is a trolley with a dodgy wheel that might look the part but is in fact dysfunctional.

The only people that will be easily caught out by this legislation are the retailers. This is yet another attack on the supermarket industry. Now we have the ALP and the Greens hitting at the industry from multiple angles. That is a seemingly calculated and coordinated attack on an industry which we all depend on and which provides employment to thousands of Canberrans.

The opposition does not support overreaching, as an Assembly, and we do not support attacking the supermarket industry. We do not support this political point scoring effort that will make no tangible difference. On issues like this, the government agency or council should take reasonable steps within the existing framework to address any actual or perceived problem. The opposition will be voting against the legislation.

**MS LE COUTEUR** (Molonglo) (12.21): I thank the Liberal and Labor speakers for their contributions to the debate today. I am very pleased that Mr Stanhope has indicated that the government is going to come on board and support the bill. I am disappointed that Mr Coe has indicated that the Liberals will not even give in-principle support to the bill. As Mr Coe has made it abundantly clear, they do not support the idea of any regulation in this area. This is a mistake.

I think that both sides of politics acknowledge that trolleys are one of the problems of our urban life. I would ask the Liberal Party: is the problem of abandoned trolleys being adequately dealt with at present? I think the answer, as we would all agree, is that, no, it is not. Trolleys are all over the city, as Mr Stanhope said. They are so common that we almost do not even see them as we walk through our daily lives. You see them particularly on bike paths, you see them in creeks and you even see them up trees. We need another approach because what we have at present is not working.

Any member who has listened to their constituents will know that this is a real concern. Their constituents will have told them, and they may have found out for themselves, that reporting trolleys to supermarkets does not always lead to a swift response, or in fact any response. The trolleys remain in untidy and unsafe public areas for weeks. I have reported trolleys myself and did not have much luck in getting them collected. You find, in fact, that trolleys seem to breed. Once there is one there, they breed. They are a hazard for residents and commuters. I am aware, unfortunately, of Canberrans who have been seriously injured after crashing into lost trolleys which were blocking bike paths. They also damage the environment, attract other unsightly litter and are costly to the territory and, therefore—as Mr Stanhope pointed out—to territory ratepayers. Trolleys are frequently vandalised and when they are left out in public they often become a tool of vandalism.

I also agree with Mr Stanhope's point, which we made earlier, that we have to be very careful when legislating in this regard to make sure that we take into account the social justice issues, given that some of the trolley litterers are people who have no other form of transport. But this is the sort of local problem that the Assembly is here to deal with. We are a council as well as a state government. This is the sort of bread and butter legislation which we need to look at because, if we do not, who is going to?

I was actually quite surprised to find that the Liberal Party refused to consider this bill even in principle. They obviously do not think trolleys are an issue worth looking at. It is not that they will have amendments and it is not that they have got a better idea; it is that they have got no idea. I wonder if the Liberal Party have backed down on their previous commitment to stopping litter, and dangerous litter—litter which damages the amenity of Canberra and causes injury and frustration to its citizens. I can remember Mr Coe talking about illegal dumping and littering in February last year. He said:

... as Canberrans we are very lucky to live in a city of many beautiful parks, nature reserves, rivers and waterways, all within the suburban area. Unfortunately, some in the community litter or dump material ... can cause pollution, can be dangerous to other residents and can destroy the amenity of an area. This sort of dumping can have a financial impost on the residents of the ACT through clean-up costs. ... this sort of dumping is still a problem that needs to be tackled.

Mr Coe said that when he was talking about the dangerous substances and litter-dumping legislation, but the comments are equally true for trolleys. If the Liberals have backed away from this, as they said, because they are concerned about supermarkets, I think they have got it wrong. There is nothing unreasonable about putting reasonable requirements on retailers so the amenity of Canberra and the safety and wellbeing of residents are protected.

It is also wrong to assume that supermarkets always want to collect their trolleys, so therefore they must be doing the best job they can at it. Trolley collection today is, of course, a business decision factored into the business's bottom line. One thing I did discover in my consultation with retailers is that the price of trolleys can vary, but they have become a lot cheaper. They can be imported quite cheaply from China, and some of them cost less than \$100 each. I have heard of them costing \$60 each, which means that they have become a disposable item, as we can see.

The bill that I have presented provides a reasonable solution that balances the interests of retailers, the public and the territory. It puts a new onus on trolley owners to collect dumped trolleys within a 24-hour period once they have been notified. This is reasonable. It means the retailer has time to respond and there will be no penalty if they respond in that time. Uncollected trolleys can be impounded and the Uncollected Goods Act applies, meaning that the territory can regain its reasonable costs.

Retailers will need to provide contact details on trolleys, which is also a reasonable requirement, considering that trolleys end up straying so far away from their home. I must say that if we were fortunate enough to have the iPhone application that some councils have, where you use your iPhone to take a picture of the problem and it transmits the GPS location back to the government, it would become incredibly simple for all concerned. I am looking forward to that in the future.

One of the useful parts of this bill is that it encourages retailers to take more responsibility by operating trolley containment systems. Evidence shows that these systems make a difference to wandering trolleys. The Woolworths in Dickson, my local Woollies, has recently installed one. I can say that it has reduced the quantity of trolleys in Downer. This is the sort of thing we are trying to encourage with the legislation—that retailers take reasonable steps.

The bill also takes a considered approach to individuals who take trolleys. It allows authorities to require someone taking a trolley to return it, and upon failing to comply with this they can be fined. It recognises that it is commonly people who have a socioeconomic disadvantage who take trolleys from retailers.

Consultation on this matter has been considerable over an eight-month period. I wrote to local retailers as well as to other groups, such as the Australian Retailers

Association and the community councils. This bill has been seen and commented on by IGAs, Kmart, Coles, Woolworths, Supabarn, Trolley Tracker and community councils, as well as others, and I have met with many of these groups in person.

The feedback on the bill was actually quite positive, despite the fact that it regulates the retail sector, something which traditionally the retail sector loathes. In fact, Trolley Tracker told us that in some ways the bill is a catch-up for the ACT with the New South Wales code for supermarket trolleys.

Comments from the retailers were basically minor. The main issue that came up was removing the requirement for a unique identifier in each trolley, and we are happy to agree to do that. It may legitimately be too onerous for retailers, especially given that they tend to move trolley fleets between different stores. Instead, this can be replaced with a power of rangers to add a unique notice number or sticker to a trolley that they find and need to identify. We can deal with this in the detail stage. In fact, I think that this is probably going to be done by the government's amendments.

I thank the government for its support today. It is a bit disappointing that the government is still not ready to pass the bill today. It has had the issue of abandoned trolleys listed as an issue for action on its sitting program for years. In January 2008, the government promised to amend the law to combat trolley dumping and nothing happened. It has been over two years since that announcement.

I raised this issue last year and introduced legislation in February. It is now nearly six months later. I would have liked to have seen that when we brought the legislation on the amendments were ready to be talked about. However, the government's amendments do sound constructive. I look forward to constructive negotiations where we can perhaps have the best of both worlds in what is finally passed.

It is disappointing and frustrating that the government often seems not to put effort into the initiatives which come from the Greens, even if the government acknowledges they are important issues. There is a bit of a pattern happening here where the government tries to stall and stymie private members' business. The same thing happened in March with Ms Hunter's education bill. We brought it on and the government said it was not ready, despite having had ample time and warning.

Then there was the energy efficiency motion from Mr Rattenbury, another very important issue. Ms Bresnan's solar bill faced the same fate. We were provided with government amendments through a regulation on the Thursday night after the sitting was over. Another example was last week, when I was prevented from talking on Ms Porter's animals motion because the government adjourned it. This is not the way we should be dealing with important issues. We have had useful discussions with the Liberal Party. In conclusion, as I can see the time, we have an opportunity to address in the Assembly what has been a vexed issue for Canberra and many cities around Australia.

*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 12.32 to 2 pm.**

## **Questions without notice**

### **Government—taxes and charges**

**MR SESELJA:** My question is directed to the Treasurer. Treasurer, from tomorrow a range of ACT government taxes and charges will go up. Electricity prices will go up by 2.35 per cent, household bills for water and waste water will increase by 4.3 per cent, or \$50, ACTION bus fares will go up, government parking fees will go up, tip fees will go up, as will household rates. Treasurer, how much extra will the average Canberran have to pay a week because of increases in ACT government taxes and charges?

**MS GALLAGHER:** I imagine that over all of those different taxes and charges that you have just outlined, it would be almost impossible to give a per household figure.

**Mrs Dunne:** Why?

**MS GALLAGHER:** It depends if you use them, doesn't it, Mrs Dunne? It depends if individual Canberrans use the tip, if they use the buses, if they drive their car and, if they drive their car, whether they park their car in Civic or whether they park their car in Dickson. So per household, that would be an almost impossible task. But what I can say to the Leader of the Opposition is that this budget outlines some very modest increases in fees and charges across government.

To the largest extent possible, they have gone up with the wage price index, which is what we introduced in 2006, as a means of increasing fees to the ACT government. I should say that when you look back in terms of revenue growth, revenue growth has not kept up with the increase in extra funding and services delivered to the community through the government.

**MR SPEAKER:** Mr Seselja, a supplementary?

**MR SESELJA:** Thank you, Mr Speaker. Given the level of increases in ACT government taxes and charges in 2010-11, why will the ACT budget still be in deficit?

**MS GALLAGHER:** Here we have the global financial crisis deniers again, that have completely obliterated from their memory the impact of the global financial crisis and the fact that we lost over a billion dollars across the forward estimates in revenue.

**Mr Seselja:** You got it all back. You got it back.

**MS GALLAGHER:** No, we did not, Mr Seselja. We got some additional one-off stimulus money that has to be used for a particular purpose. You cannot include that as a means of dealing with your ongoing recurrent expenditure.

**Mr Smyth:** The New South Wales Premier is misleading the people of New South Wales?

**MS GALLAGHER:** And Mr Smyth conveniently uses New South Wales again as another example. New South Wales happened to do very well in the Commonwealth

Grants Commission. Their budget turnaround is almost completely attributable to that, whereas our budget has had to withstand a further cut of 10 per cent of our GST revenue. We have a very strong budget plan, endorsed, I think, by the estimates committee to a large extent, about returning the budget to surplus. We want to do it in a measured and considered way. We want to do it in a way that minimises the impact on Canberra families, and we want to do it in a way that allows our budget to grow, recognising that disability services, child protection, education, health and community services are all going to grow over the next few years while our revenue remains flat. That is the budget plan that we have put in place, and I am yet to hear an alternative view that stacks up.

**MR SMYTH:** I have a supplementary question, Mr Speaker. Treasurer, what impact will the rise in ACT government taxes and charges have on inflation in the ACT? How much will inflation rise? Do you have a figure?

**MS GALLAGHER:** I think it is a bit of a stretch for the Deputy Leader of the Opposition to say that a very modest increase in some fees and charges across the ACT government is going to have an impact on inflation. I think the ACT government—and this is pointed out in the ACIL Tasman report—

*Opposition members interjecting—*

**MS GALLAGHER:** I think the ACIL Tasman report just draws out who the significant player is in the ACT economy. It is the commonwealth.

**Mr Smyth:** And, what, you didn't know that? You needed a report from ACIL Tasman to know that?

**MS GALLAGHER:** I am just saying that your own independent analyst there—

**Mr Hargreaves:** I rise on a point of order, Mr Speaker. Could you please remind all members that conversations across the chamber are not the appropriate way of dealing with question time.

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

**MS GALLAGHER:** Thank you, Mr Speaker. I think I will go with the less is more approach, and I have answered the question.

**MR SPEAKER:** Supplementary, Mr Smyth?

**MR SMYTH:** Yes, thank you, Mr Speaker. Treasurer, what impact will the increase in taxes and charges have on families in Tuggeranong and Belconnen?

**MS GALLAGHER:** I am sure the people of Tuggeranong and Belconnen will be very pleased with the budget overall, the extra investment that the government is making in their communities, continuing to invest in health, in education, in community services, in vital community infrastructure. I get the sense—and I have not had one letter from a constituent to change my view or to support the Liberals' view—that the community understand that the government has to increase fees and

look at ways to increase revenue when demands from the community about growing services continue to grow. I think the community understand that, and I have to say, Mr Smyth, that I have not had one letter, that I can recall, opposing the very modest increases in this budget—I will check that—outside of the change of use charge, on which I have had some. But even then I have not had “don’t do this”; I have had questions about when are you going to do it and what it means. I think the community understand and it is probably about time the Liberals did.

### **Gaming machines—legislation**

**MS HUNTER:** My question is to the Minister for Gaming and Racing and relates to the proposed gaming machine amendment bill. The presentation of the bill has been postponed from the 2010 autumn sitting to the spring sitting. Minister, can you provide the Assembly with an update on how this bill is progressing and when it will be presented to the Assembly?

**MR BARR:** An element of that question clearly relates to seeking an announcement of government policy. So I will attempt to steer clear of that. However, I have been on the public record and was asked questions in the estimates process in relation to how the government intended to proceed with this legislation.

The government is committed to reforming our gaming machine legislation and we are conscious of a number of new dimensions in the policy debate, most particularly the Productivity Commission’s recent report. We will have a further update on the prevalence of problem gambling released by the ANU and funded by the commission in the near future. The government continues its negotiations with various stakeholders.

I think there are a number of important principles that need to be considered in this debate. Firstly, from my perspective, it is to ensure that harm minimisation is at the forefront of government policy in this area. We seek, where possible, to ensure the long-term viability of the licensed clubs sector in the territory but we also seek to ensure, through our reform process, that the level of community contributions from gaming machines is increased to give more of a return to the community from our community-based gaming model and to see a greater return to the community to support a range of important community activities that it would appear all in this debate are supportive of.

I would also like to see the territory move away from the position that we currently hold of having the most number of poker machines per capita of any jurisdiction in the country and that we respond to some of the issues that were raised in the Productivity Commission report, most particularly, as it stands, the recommendation in relation to gaming machines at the casino. The government has a longstanding position not to support that and, in an environment where we are seeking to reduce the number of poker machines in the territory, I do not believe it is appropriate to be seeking to add more machines into new venues.

Having said all of that, the process for further development of policy in this area will be done in negotiation with stakeholders and I will bring forward a bill to the Assembly in the spring sitting.

**MR SPEAKER:** A supplementary, Ms Hunter?

**MS HUNTER:** Yes, Mr Speaker. Minister, can you confirm that the reallocation scheme will include a mechanism to reduce the number of poker machines in the ACT?

**MR BARR:** That certainly is the intention of the policy at this stage. The exact mechanism, of course, is to be determined in negotiation with a number of stakeholders. The government has already announced a position that we want to see a reduction in the number of poker machines in the territory.

**MR SPEAKER:** A supplementary, Ms Bresnan?

**MS BRESNAN:** Thank you, Mr Speaker. Minister, as we will not have the 1 July implementation that licensed clubs were hoping for, when is the government planning to implement the reallocation scheme which the bill creates?

**MR BARR:** That is obviously a hypothetical question, Mr Speaker, in so much as it is contingent on so many factors, not least of which is successful passage of any legislation through this place. As we have seen in recent weeks, that can be quite a complex matter. But in terms of a time frame, I have written to ClubsACT, indicating that, given the range of policy issues that the government is grappling with, the more recent information, most particularly the Productivity Commission report, and further information we are expecting in this area, a more realistic starting date for any new scheme would be 1 July next year.

**MR SPEAKER:** A supplementary question, Ms Le Couteur?

**MS LE COUTEUR:** Thank you, Mr Speaker. Minister, what will the quantum of the reduction of poker machines be?

**MR BARR:** That is a matter that will be determined through this process and ultimately determined by the Legislative Assembly.

## Visitors

**MR SPEAKER:** I would like to take the opportunity to welcome delegates from Chinese universities visiting the Assembly today. They are part of the ANU's policy and governance program. I would like to welcome you all again to the Assembly.

## Questions without notice

### Childcare—places

**MRS DUNNE:** My question is to the minister for community services. Minister, last night you made a statement seeking to clarify the situation in relation to childcare places at the Flynn primary school. However, in that statement you failed to acknowledge that you misled the Assembly in May when you said, and I quote from the *Hansard*:

Now this announcement delivers another 110 places.

**Mr Hargreaves:** On a point of order, Mr Speaker, Mrs Dunne in her question said, “You failed to acknowledge that you misled the Assembly.” That sort of language requires a substantive motion and we do not see one. We do not have one before the Assembly. I would ask Mrs Dunne, through you, Mr Speaker, to withdraw that comment.

**Mr Seselja:** On the point of order, Mr Speaker, the minister made a statement in the Assembly yesterday which acknowledged that she gave incorrect information to the Assembly previously. So it is reasonable for Mrs Dunne to ask the question. She has not even had the opportunity to ask the question. It is a statement of fact based on Ms Burch’s own statements yesterday when she gave incorrect information in this place.

**Mr Hargreaves:** On the point of order, Mr Speaker, there is a really big difference, in the context of the procedures and processes of this house, in a member giving incorrect information and coming in and correcting the record and misleading the house. The term “misleading” is, if you check it out, not parliamentary, unless it is accompanied by a substantive motion. The member should withdraw it.

**MR SPEAKER:** Thank you. On the point of order, I think there is an understanding of the difference between incorrect information and misleading. Mrs Dunne, you might reframe your question.

**Mr Hargreaves:** I am sorry, Mr Speaker, on the point of order, Mrs Dunne has to withdraw that comment. That was the request that I made, through you, to Mrs Dunne.

**MR SPEAKER:** You are correct, Mr Hargreaves; I forgot that part. Mrs Dunne, would you like to withdraw that and reframe your question?

**MRS DUNNE:** At your direction, Mr Speaker, I will withdraw.

**Mr Hargreaves:** No, no, no.

**MRS DUNNE:** I said I will withdraw. What else do you want me to do?

**MR SPEAKER:** Order, members!

**Mr Hargreaves:** The qualification is not acceptable.

**MR SPEAKER:** Order, Mr Hargreaves! Thank you. Mrs Dunne has withdrawn. Mrs Dunne has the floor to ask a question.

**MRS DUNNE:** Thank you, Mr Speaker. My question is to the minister for community services. Minister, last night you made a statement seeking to clarify the situation in relation to childcare places at Flynn primary school. However, that statement failed to acknowledge that what you said in May turned out to be not entirely factual when you said, and I quote from *Hansard*:

Now this announcement delivers another 110 places. That is an incredible increase in the childcare places to best serve the families here in the ACT.

**Mr Smyth:** Incredible!

**MRS DUNNE:** “Incredible” is probably a good word, Mr Speaker. Minister, will you now acknowledge that you misled the Assembly in your statement in May when you said that another 110 places would be provided by the refurbishment at Flynn primary school?

**MS BURCH:** I did come down last night, Mrs Dunne, when you were nowhere to be seen. You have issued a media release in which you asked me to do exactly what I did last night. This budget has committed \$4 million to deliver childcare places at Flynn, up to 120 places. We have now finalised negotiations and we have agreed that Gumnut and Alkira will move into Flynn. In February Mrs Dunne was calling on me to secure accommodation for Gumnut and now she is complaining that I have secured accommodation for Gumnut.

**Mr Seselja:** On a point of order, Mr Speaker—and it goes to direct relevance—the minister was asked a specific question: whether she will acknowledge that her May statement was misleading. It is very simple. She can talk around it as much as she wants. It is a direct question. She has had more than a minute now. I would ask her to be directly relevant to the question as to whether the statement she made was misleading.

**MR SPEAKER:** I believe the minister is in the process of answering the question. There is no point of order. Ms Burch, you have the floor.

**MS BURCH:** Thank you, Mr Speaker. I go again to the statements I made last night where Alkira and Gumnut combined provide for a licence of 97 places. There is room for them to grow.

**MR HANSON:** Did you or did you not mislead? That is the question.

**MS BURCH:** The commitment for 110 childcare places for Flynn remains. That is what this government has delivered. Also, as part of that answer back in May, I indicated that we were earmarked for 450 new childcare places to come on line. Recent advice to me from my department, this morning, has said that indeed we will be closer to delivering 530 new childcare places this year. That is indeed an increase of 80 to what I had said. I think any increase in childcare numbers for the families of the ACT would be welcomed by the families of the ACT. I do not understand why it is not welcomed by the opposition.

**Mr Hargreaves:** Supplementary, Mr Speaker?

**Mrs Dunne:** No, I have the supplementary question, actually.

**MR SPEAKER:** Sorry. Mrs Dunne has a supplementary.

**MRS DUNNE:** Thank you, Mr Speaker. Minister, why will you not acknowledge that you made a misleading statement in the Assembly in May when you said that another 110 childcare places would be provided by the refurbishment at the former Flynn primary school?

**MS BURCH:** It is strange having a question come from the “Miss Misspeak” of the Assembly herself, who verbalises and misquotes and misrepresents people all over the place. I made a statement last night. I have answered the questions today.

**Mrs Dunne:** I take a point of order, Mr Speaker.

**Mr Hargreaves:** Mr Speaker, a supplementary?

**MR SPEAKER:** Point of order from Mrs Dunne. I will come to you in a minute, Mr Hargreaves.

**Mrs Dunne:** Ms Burch has attempted to defend herself by attacking others, and in doing so she has behaved in an unparliamentary way—accused me of misleading the Assembly and misrepresenting people in the Assembly—and I think that you should demand that she withdraw it.

**MR SPEAKER:** On the point of order, whilst I think Ms Burch’s comments were entirely unhelpful, I do not believe there is a point of order. Mrs Dunne, if you feel there is a specific accusation that has been levelled at you, I invite you to use standing order 46—

**Mrs Dunne:** I will review the *Hansard* and refer it to you before tomorrow morning’s sitting.

**MR SPEAKER:** We will now proceed to supplementary questions. Mr Hargreaves.

**MR HARGREAVES:** Mr Speaker, I have a supplementary question. Minister, in the context of the overall increase in childcare places that you have been talking about in the various areas around town, could you please indicate to us, with respect to the Flynn Primary School premises, what feedback you may have had from those particular organisations which are now hoping to relocate to that venue?

**MS BURCH:** I thank Mr Hargreaves for his comment. Indeed, I have received a number of—

**Mr Seselja:** It was a comment, wasn’t it? Not so much a question, more a comment—well spotted.

**MS BURCH:** Sorry, his question. I have received a number of comments from community groups, and I refer Ms Dunne to the *Chronicle* and “Childcare providers overjoyed with new home”. Can I go to some of the quotes:

Director of Gumnut Place Child Care Centre, Michelle Smith, said she was overjoyed with the news and believed the families would be happy to move their

children to Flynn ... “We’re ecstatic, we’ve got the outcome that we wanted—somewhere to move and still service the community.”

Then we have comments from Alkira:

... the merger was a natural progression for the two providers ... “Our families and our staff are just so over the moon about moving into a facility that is not dilapidated and falling down, and is purpose built.

Overall, it’s an excellent outcome, not just for Alkira and Gumnuts, but for all the north Belconnen families and the surrounding areas as well.”

So, Mrs Dunne, why don’t you ring Gumnut and Alkira and tell them you actually oppose their move?

**MR SPEAKER:** Mr Seselja has a supplementary question.

**MR SESELJA:** Thank you, Mr Speaker. Minister, when did you first become aware that your statement made in the Assembly in May in relation to 110 childcare places was incorrect?

**MS BURCH:** I outlined that in my statement last night.

### **Sport—golf courses**

**MS LE COUTEUR:** My question is to the minister for sport and concerns golf courses in Canberra. Minister, there are more golf courses per capita in Canberra than in any other city in Australia, and many golf courses are now wanting to sell off part or all of their courses for residential development. Has the minister developed a policy on how many golf courses there should be in the ACT and is there a strategy to ensure the continuing viability of golf courses in the ACT?

**MR BARR:** I thank Ms Le Couteur for the question. It is indeed a very relevant one. Ms Le Couteur is right: the ACT does have more golf courses per capita than any other city in Australia. That is a well-established fact. In the context of the number of available players and the popularity of golf as a sport as opposed to the many other forms of recreation that are available to Canberrans, combined with the impacts of the drought and what clearly is a playing field that is not level in terms of access to water across the golf courses in the territory, it is an entirely relevant issue.

It is clearly for those reasons that a number of golf courses have sought assistance from the government through our sport in a drought funding programs to seek to drought-proof their courses, to change their grass types and to be able to store more stormwater on site. Funding has been provided through those sport in a drought programs to the Federal Golf Club and, in this year’s budget, as we discussed last night, to Murrumbidgee and Yowani courses. There has been a limited level of redevelopment occurring on some golf course sites. I am thinking of Belconnen. And, yes, there are now two proposals before government and before the community in relation to courses on the south side of Canberra.

The Vikings club have put forward a proposal in relation to the Murrumbidgee and Capital golf clubs, effectively for the Vikings club to assume a partnership with the Murrumbidgee club to ensure its ongoing viability. They have put forward a proposal and they are going to be consulting with the community—they may in fact have already begun—in relation to that site in Narrabundah.

Equally, Federal have a proposal for a small proportion of their site to be deconcessionalised and then potentially turned into some form of residential accommodation. Those issues are before government. We are considering those. Clearly, though, there are too many golf courses in Canberra. They are not sustainable. Government will need to respond and work with the various operators to ensure that we do have a viable number of golf courses into the future so that they are sustainable, both financially and environmentally. It is important that we do have viable golf courses in the city, and it would be very disappointing, as a result of inaction or a failure to grapple with the difficult policy challenges that this presents, for a number of golf courses to fall over and for there to be no longer viable operations on a number of those sites. That is the risk we face if we do nothing.

So it is clear that we will have to respond, and there are trade-offs. Undoubtedly, there are trade-offs, and we will have to balance competing interests and competing outcomes. But there is a possibility that through some innovative thinking and some strategic partnerships we will be able to see a viable number of golf courses into the future and the possibility, to address some of our other concerns around urban infill, for new housing, new affordable housing options and new sustainable housing options as part of this process. The government clearly is considering two matters at this point, and the community are clearly considering two matters in relation to south-side golf courses.

**Mr Doszpot:** A supplementary, Mr Speaker?

**MR SPEAKER:** Ms Le Couteur still has a supplementary.

**MS LE COUTEUR:** Is it appropriate to deconcessionalise land on golf courses that has been provided for sporting purposes?

**MR BARR:** That is a very interesting question of principle. The government's view is that, on a case-by-case basis, you can assess that. Leases are deconcessionalised from time to time. There is a formal process within the Planning and Development Act for that to occur and it is a decision that is not taken lightly. But it has certainly occurred in the past and will, no doubt, in the future. The territory plan is not set in stone. It is meant to be a movable and changeable plan that does adapt to circumstances and changing circumstances.

I think, to have an in-principle position that no lease can ever be deconcessionalised is not right and we would not have written into the Planning and Development Act and into the territory plan the provision to deconcessionalise. We would not have given ourselves the flexibility to vary the territory plan if we did not believe from time to time there would be circumstances where you would consider it.

I am not an absolutist in this. I think you need to assess on a case-by-case basis. Clearly we have an issue with golf courses in the territory.

**MR SPEAKER:** Supplementary question, Mr Doszpot?

**MR DOSZPOT:** Minister, with regard to the funding that you spoke about regarding water-related issues for the golf clubs, can you confirm that there has been a recent substantial cut to the budget that you originally allocated for that? Can you tell us how much?

**MR BARR:** No, there has been no cut. In fact, that budget has increased. I think if you take the totality of the program already spent and committed into the future, it is around \$30 million over the period. I think Mr Doszpot alluded to that when he was reading out a number of my media releases last night.

That funding is over a number of years. Some grants have already been allocated and spent. Others in this year's budget have been provided. Then there is an ongoing program up to 2013, Mr Speaker, for financial assistance both to non-government sporting providers and also around government sporting assets to ensure that we are reducing our reliance on potable water costs across our sport and recreation facilities.

**MS HUNTER:** Supplementary?

**MR SPEAKER:** Yes, Ms Hunter.

**MS HUNTER:** Minister, have you organised a roundtable to gather all the golf club managers together and discuss the future of the industry in the ACT?

**MR BARR:** Thank you. I have met with a number of golf course managers. The Treasurer and I in fact met in the Treasurer's office last year, I believe, with a number of golf course managers. We have met individually and collectively with a number of those course managers, particularly those that have been experiencing some financial difficulty or some difficulty in sourcing water.

There are other courses, as I indicated, Ms Hunter, in response to the initial question. There is not a level playing field here. At least one golf course, by virtue of a historical circumstance, has free access, or virtually free access, to a seemingly unlimited water supply through Lake Burley Griffin. That particular club has not approached government with any need for financial assistance or assistance to access water.

Other golf clubs clearly are in a different position and, yes, we have met with them. We continue to meet with them and we continue to provide the sort of support that is necessary to ensure the ongoing viability of golf in the territory. However, we do recognise that we are oversupplied with golf courses and it is clear that for a sustainable number into the future there will need to be some change in this industry.

## **Budget—welfare services**

**MR SMYTH:** My question is to the Minister for Disability, Housing and Community Services. Minister, according to budget paper No 3 2009-10, page 251, the ACT proposed to spend \$63.5 million on “welfare services for people with a disability” in the 2009-10 year. According to budget paper No 3 2010-11, this expenditure in 2009-10 dropped to \$55.1 million. Minister, can you explain why this is the case?

**MS BURCH:** I thank Mr Smyth for his question. Funding across disability services since we have been in government has increased significantly. I think we are up to over \$70 billion in provision of disability services across a range of sectors—providing ISP support and accommodation, flexible respite hours. So we have actually increased funding.

I do not have the budget papers in front of me, Mr Smyth. I am quite happy to go up to my office or ask one of my staff to get the page number and the sentence number, which is apt that you do. You go to the dots and the i’s of budget papers. But I think an increase of over 78 per cent provided to disability services by this government is something that is welcomed by the disability sector. As I said, that has increased access to community hours and flexible respite hours and accommodation places.

**MR SPEAKER:** Supplementary question, Mr Smyth?

**MR SMYTH:** Thank you, Mr Speaker. Minister, which programs or initiatives have you cut since becoming minister?

**MS BURCH:** I am not aware that I have cut any programs in the last eight months.

**MR SPEAKER:** Supplementary question, Mr Hargreaves?

**MR HARGREAVES:** Thank you, Mr Speaker. Minister, you may need to take this on notice. Can you please provide to the Assembly figures on the amounts of money provided to Disability Services, particularly relating to ISPs between the financial year 2000-01 and the current time?

**MS BURCH:** I thank Mr Hargreaves for his question and his continued interest in the disability sector. For the information of those opposite, of the \$74 million, over \$26 million is going to community agencies. That goes to the ISPs, that goes to accommodation support, to community access services, to respite services and to other services such as research and development. So that is over \$26 million that can support ISPs. That forms only part of the response that we provide to people with a disability. Whilst it is a very crucial point, grants—quality-of-life grants and innovative grants—all go to supporting people with disability so they are able to live their lives to the fullest and are able to further participate in society.

**MRS DUNNE:** A supplementary question, Mr Speaker.

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Minister, do the tables on page 347 of budget paper No 3 2010-11 and the tables on page 251 of budget paper No 3 2009-10 accurately reflect the expenditure in your portfolio?

**MS BURCH:** Given Mrs Dunne's propensity to actually verbal people and to misrepresent, I will take that one on notice.

### **ACT Ambulance Service—concessions**

**MS BRESNAN:** My question is to the Minister for Police and Emergency Services. It is about concessions for ambulance travel. It has come to my attention that in every jurisdiction except for Victoria and the ACT holders of the commonwealth seniors health card can access concessions for ambulance travel, be it for emergency or non-emergency situations. Minister, why doesn't the ACT government provide this concession?

**MR CORBELL:** The government provide concessions for a range of holders of certain benefits in the ACT, and there is also a range of concessions provided to certain commonwealth cardholders, in particular veterans, who receive certain benefits as part of their veterans disability benefit. The government have taken the view that it is not possible in all circumstances to provide for reciprocal recognition of other cards held by people from other places around the country, and we encourage all Canberrans to take out a simple low-cost health insurance plan that provides ambulance cover. The cost is in the order of about \$30 a year—it was last time I was looking at the issue. It is a very low-cost and effective way of providing full cover for any unexpected trips that you may need to take by ambulance, and that remains the government's position.

**MR SPEAKER:** Ms Bresnan, a supplementary question?

**MS BRESNAN:** Yes, thank you, Mr Speaker. Minister, on what basis does the government think it is appropriate to provide concessions for healthcare card holders and pensioners but not holders of the seniors health card, even though almost every other jurisdiction provides for all three?

**MR CORBELL:** I think the seniors health card at the commonwealth level is not means tested, whereas the other cards that Ms Bresnan refers to are means tested. The government, consistent with its social justice considerations, provides benefits to those on low incomes, not to those who receive cards that are not income tested. I will check the record on that, but that is my understanding of the commonwealth seniors card.

**MR SPEAKER:** A supplementary, Ms Le Couteur?

**MS LE COUTEUR:** What types of costs do people with a commonwealth seniors health card face if they have to use an ambulance?

**MR CORBELL:** It would depend on the nature of the use of the ambulance. There is a billing regime that is applied consistently, depending on the circumstances of the

use. Obviously, for example, if someone requires an ambulance and they have perhaps been involved in a motor accident immediately outside Canberra but where an ACT ambulance responds, which can occur from time to time, it is more expensive than a call for an ambulance within the territory.

This is why we always encourage Canberrans to take out health insurance. Indeed, for a very low fee you can get full ambulance cover to cover all the costs of an ambulance service should you require it in the territory.

**MS HUNTER:** A supplementary.

**MR SPEAKER:** Yes, Ms Hunter.

**MS HUNTER:** Minister, does the government receive requests from people who cannot afford to repay the cost of an ambulance trip and, if so, can you advise how many requests have been received in this financial year?

**MR CORBELL:** Yes, the government does receive requests for waivers of fees. They are considered in accordance with policy established by the Ambulance Service and are considered on a case-by-case basis.

### **Childcare—places**

**MR COE:** My question is to the Minister for Disability, Housing and Community Services. Minister, for the 2008 election ACT Labor promised to allocate \$4 million to build two new childcare centres in areas of high demand. In the 2010 budget, \$4 million was allocated to refurbish part of the former Flynn primary school for a childcare centre. Minister, which of the childcare centres promised in 2008 have been delivered?

**MS BURCH:** We have committed to bringing on more childcare places, more childcare services and more childcare centres. Flynn is the one we have invested in in this budget. As we have heard, Gumnut and Alkira are looking forward to that move.

We have also recognised in the west Belconnen and Weston areas the need for childcare centres. The children's services forum and the sector itself have ongoing discussions about the best priority and sites for those childcare centres. That responds to the businesses' own desires and needs about their location in response to the needs of the ACT.

**MR SPEAKER:** Mr Coe, a supplementary?

**MR COE:** Yes, Mr Speaker. Minister, when will ACT Labor fulfil this promise, and, with respect to these new childcare centres, how many new spaces are there?

**MS BURCH:** I did not hear the last bit of the question.

**MR SPEAKER:** Can you repeat it, Mr Coe?

**MR COE:** Further to when Labor will fulfil the promise, how many new spaces have been created through this commitment?

**MS BURCH:** I think I have indicated that the new figures this morning from the department have indicated an additional 530 childcare places coming on in the next 12 months.

**MRS DUNNE:** Supplementary question, Mr Speaker.

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Minister, is the \$4 million allocation to the childcare centre at Flynn in addition to the 2008 election promise or instead of the ACT Labor Party's 2008 election promise?

**MS BURCH:** It is part of the 2008 election commitments.

**MRS DUNNE:** I have a supplementary question, Mr Speaker. In that case, Minister, you have already spent \$4 million and you have delivered one childcare place. Where were you going to get the money and how much extra money will you provide for the extra childcare centre?

**MS BURCH:** That, Ms Dunne, is on the assumption that we are responsible for building and putting on line each and every childcare place. We have delivered \$4 million, and we will look across the sector. The sector itself is quite capable, in responding to the needs of ACT families. I think it is incumbent on this government, one, to take its own responsibilities seriously, but also to allow partnerships with the commercial sector.

### **Health—autism spectrum disorder**

**MR DOSZPOT:** My question is to the Minister for Disability, Housing and Community Services. Minister, the commonwealth health department advises that children with autism require, at minimum, 20 hours per week—1,000 hours per year—of intensive early intervention autism spectrum disorder treatment for at least two years. Since Therapy ACT does not provide 1,000 hours per year per child, how does the ACT government ensure a child with autism-ASD gets the proper treatment that they need?

**MS BURCH:** I thank Mr Doszpot for his interest in autism. This government responds to supporting the needs of children with autism and their families by allocating \$400,000-odd over the next four years for a coordinator with a particular view to supporting families with children with autism so they can navigate the complex array of both local and commonwealth services for those families. In last year's budget we committed significant moneys and brought on additional speech therapists.

Therapy ACT conducts multidisciplinary assessments that aid in diagnosis. Therapy ACT is not the only health clinician in the ACT that responds to the needs of children

with autism and their families. A community of paediatricians at ACT Health work in partnership in the assessment and diagnosis process. In February this year, Therapy ACT commenced offering assessments to children between the ages of two and three. We have put on significant intervention processes that have included working with a family, whoever the child is that we diagnose with autism. The program provides information, parent education, support and short-term targeted intervention. It works hand in hand with the families and gives them skills as to how they are also able to support their child.

**Mr Coe:** On a point of order, Mr Speaker, on relevance. The minister has spoken about diagnosis and also assessments but not about treatment. How would the minister actually determine and ensure that all the people living on the spectrum get the treatment they need?

**Mrs Dunne:** The question was about ensuring proper treatment. It was not about assessment.

**MR SPEAKER:** Minister, would you like to add any further comments that are relevant, perhaps?

**MS BURCH:** Therapy ACT provides therapeutic intervention, occupational therapy, psychology, speech pathology and social work for children with autism spectrum disorders. Intervention is provided in a variety of models, Mr Coe, including individual group and home programs and professional education and consultation and childcare. Can I just say in the last moment that private paediatricians, psychologists and other health professionals and interstate agencies are also involved in assessment, diagnosis and care.

**MR SPEAKER:** Mr Doszpot, a supplementary question?

**MR DOSZPOT:** Yes, Mr Speaker. The relevance to the questions is becoming quite legendary from this minister. But, minister, can you try and answer this one, please: how many hours per week of early intervention ASD therapy and treatment do children in the ACT receive during their initial intensive 12 months after diagnosis?

*Opposition members interjecting—*

**MR SPEAKER:** Order! Let us see if the minister is going to answer.

**MS BURCH:** I will go to Therapy ACT if they want. There was the beginning of a question earlier that compared a program that is separate from Therapy ACT. There is a recommendation of a minimum of 20 hours of intervention. That does not mean necessarily that Therapy ACT has to have a clinician on site eyeballing a child for 20 hours. I have said that we work with families to give them the skills so they can manage. These children are also in the education environment, so through DET, through the education department, we also work with teachers and give them the skills, so some of these areas are provided within the school environment.

If they want the hours, is that at home, in therapy or in DET?

**Environment—green buildings**

**MR HARGREAVES:** My question is to the Minister for the Environment, Climate Change and Water. Can the minister advise the Assembly of how Canberra businesses are responding to the ACT government's agenda to be a carbon neutral city by 2060?

**MR CORBELL:** I thank Mr Hargreaves for the question. Just today, I was informed of a new development, and had the opportunity to receive a briefing on it, by the Rock Development Group, which is a well-known Canberra business that is taking a leading role in deploying renewable energy technologies and applying a truly triple-bottom-line assessment to its new development at the Belconnen fruit market site. This is a \$130 million proposal.

**Mr Hargreaves:** How much?

**MR CORBELL:** \$130 million, which will see the first six-star green-star communities project in Australia using the Green Building Council of Australia's new green-star communities rating tool. The proposal is to deploy geothermal technology for the heating of buildings, including a number of large residential apartment buildings on the site. It proposes just next month to deploy a 30-kilowatt PV installation and it proposes to use waste water recycling systems for both rainwater and black water on the site.

This is a leadership project for the city. Obviously, it needs to go through all of the appropriate planning processes, but the fact that we have a developer that is prepared to put their hand up and say, "We want to help in contributing towards the development of carbon neutrality for our city," is something that I would hope all members in this place endorse. We need to see more leadership like this from people in the development industry. We need to see developers prepared to put in place these types of technology, where we see the deployment of renewable technologies at scale, where we see genuine recycling of water, the capture and reuse of water, where we see the deployment of photovoltaic technologies, where we see the smart design in a mixed development precinct that we are looking for in this city.

We talk a lot about it in this place, but here we have a developer who is saying they are prepared to do it, and they are well advanced in their planning and in their proposals. I am very pleased to see developments such as this proceeding in Canberra.

Of course, another aspect that is well worth highlighting is that this proposal will be the first proposal, the first private development in this city, to have electric vehicle recharging points. They are negotiating with Better Place to be the first private development to have the recharging points for electric vehicles, and that is another very positive development, one that I think all members in this place should welcome.

**MR SPEAKER:** Do you have a supplementary question, Mr Hargreaves?

**MR HARGREAVES:** Thank you very much, Mr Speaker. Hearing, as I did, Minister, about that issue about electric vehicle charge points, what progress is being made to make Canberra electric vehicle ready, other than that particular development?

**MR CORBELL:** The government itself is working closely on the issue of electric vehicles, following from the Chief Minister's announcement last year and the decision of Better Place to choose Canberra as the first city in Australia to have an electric vehicle charging infrastructure. Since that time the government has signed a memorandum of understanding with Nissan and Renault, exploring the issue of the development of policy for the deployment of electric vehicles into the ACT. Work on that MOU, as a result of that MOU, is ongoing.

The government is also exploring the development of a range of other measures to encourage the deployment of electric vehicles. In particular, in the government's own fleet we already have a very strong policy of encouraging more fuel-efficient vehicles, through only leasing four-cylinder vehicles. The process that my department is coordinating across government is now looking at the possible deployment of electric vehicles as part of the ACT government's own fleet, and decisions on that will be made in due course. Equally, we are cooperating closely with ActewAGL, and I know that my colleague Mr Barr and the planning authority are working closely with ActewAGL in relation to planning issues that arise from the deployment of the electric vehicle charging technology that they propose.

So a lot of work is happening in this space, and it is very exciting that Canberra is the place that has been chosen for the electric vehicle rollout by Better Place in terms of the charging points; that we have manufacturers like Nissan and, indeed, last week Mitsubishi, making their vehicles available to government, to understand what the issues are associated with the use of those vehicles here in the ACT; and, of course, that we now have a private developer at the Belconnen markets prepared to actually put their money where their mouth is and deploy that technology. So it is a very pleasing development.

**MR SPEAKER:** A supplementary, Ms Le Couteur?

**MS LE COUTEUR:** Minister, you mentioned a range of technologies—geothermal, black water and grey water reuse. Which of these will the government be implementing in Molonglo?

**MR CORBELL:** You would need to ask the Minister for Planning that question.

**MR SPEAKER:** Ms Le Couteur, a further supplementary?

**MS LE COUTEUR:** Yes, a further supplementary, Mr Speaker. Minister, you talked about the green star rating. I think this is going to be in your purview, but will the government now be using the green leasing principles in terms of any new government building leases? I think that is a legal matter; so it could be for the Attorney-General. I am trying to get it in your bit.

**MR CORBELL:** The government, along with all state and territory governments and the commonwealth, has endorsed new green leasing principles that will apply to a broad range of rentals that governments enter into for accommodation. They set new standards in relation to energy and water performance and a consistent set of principles that will be used as a minimum by all state and territory governments. The ACT government has endorsed those principles and I am happy to provide Ms Le Couteur with further information in relation to those.

Obviously, Mr Speaker, in relation to the green star rating, I do not know whether Ms Le Couteur is aware that the Green Building Council do not permit governments to mandate their tool. They have a very strong view that governments are not allowed to mandate their rating tool in relation to development. But the government, through the green leasing principles that all states and territories have signed up to, is mandating certain levels of performance in relation to the leasing of office accommodation.

In addition to that, as members would be aware, the government continues to explore the issue of a government office building. If that was to proceed, the sustainability of that building and the energy and water performance of that building are key considerations and ones that I and my department are personally involved in.

### **Children—grandparent and kinship carers**

**MR HANSON:** My question is to the Minister for Children and Young People. Minister, in 2008 the Stanhope government promised, if it was re-elected, to provide \$800,000 over four years for “a dedicated service run by a non-government organisation to provide information, advice and support to grandparents and kinship carers who are caring for children”. Minister, the funding for this promise was appropriated in the 2009-10 budget. Today is the last day of the 2009-10 financial year. How much of the first year’s allocation has been given to a dedicated service run by a non-government organisation? If not all of the 2009-10 funds have been allocated, will they be rolled over for use in future financial years or will they be treated as a saving?

**MS BURCH:** I thank the opposition for their continued interest in kinship carers. Kinship carers do a fantastic job in difficult circumstances. Indeed, this government committed \$800,000 over four years. The tender for the advocacy of a support program has closed and is currently being assessed. I am looking forward to those dollars being contracted out and services being delivered.

I think I need to put on record that there has not been an absence of service and support provided to kinship carers over the last 12 months. We have created a carer liaison position that is providing support and guidance and responding to the needs of the kinship carers group. We have provided moneys to Marymead to support kinship and grandparent carers. We have also supported kinship carers in a range of things—through training and other bits and pieces.

As to the other part of the question, my intention to spend the appropriation on kinship carers is absolute.

**MR SPEAKER:** Mr Hanson, a supplementary?

**MR HANSON:** Minister, how much of that \$800,000 has been provided to kinship carers in this financial year?

**MS BURCH:** I will take the detail on notice; I do not have it about me. Kinship carers have been supported. They have been participating on the kinship and foster carer committee. They have a carer liaison position. They have been supported

through training and other contingencies and subsidies. As for the absolute dollars, I am quite happy to bring that back.

**MR SPEAKER:** Mrs Dunne, a supplementary question?

**MRS DUNNE:** Yes, Mr Speaker. Minister, will any unexpended moneys from this financial year, which is ending today, be rolled over for the benefit of grandparent and kinship carers?

**MS BURCH:** I think I am on record as saying that the appropriation will be committed, and is committed, and will be provided to supporting kinship carers.

**MRS DUNNE:** Supplementary question, Mr Speaker?

**MR SPEAKER:** Yes, Mrs Dunne.

**MRS DUNNE:** Minister, when will you address the issue of systemic abuse of grandparent and kinship carers and the children in their care by your department?

**MS BURCH:** I have refuted that comment. But I have continued to work with the kinship carers. I am looking forward to meeting with the kinship carers. I have got a couple of meetings scheduled and coming up and I am looking forward to that so we can continue this discussion. I have also asked my department to give me, line by line, program by program, support activity by support activity, what they are doing to support kinship carers.

I think it is a good opportunity to reflect on the Liberal Party's commitment to kinship carers. I refer them to their election commitment of supporting kinship carers. Whereas we committed \$800,000, they committed—

**Mrs Dunne:** None of which you've spent.

**MS BURCH:** Are you responsible for this bit, Mrs Dunne, or the blank down the bottom, Mrs Dunne? Not one cent did the Liberal Party commit or have they committed to support kinship carers.

**Mrs Dunne:** They haven't got any out of you either. Have they got anything out of you?

**Mr Hargreaves:** Who gets the Mars bar, minister?

**MS BURCH:** I do not know. I will have to go upstairs and count.

**Mr Stanhope:** I ask that all further questions be placed on the notice paper.

### **Supplementary answer to question without notice ACT Ambulance service—concessions**

**MR CORBELL:** In relation to the question I was asked earlier today about ambulance cover, can I provide some more information. First of all, in relation to the commonwealth seniors health card, it is not available to people who receive

Centrelink payments, nor is it available to people who receive veterans affairs payments. There are some income tests on it but, they are above those for recipients of Centrelink payments; so they are an in-between category.

In terms of comparison, can I indicate that the ACT, Victoria, the Northern Territory and South Australia do not provide any free ambulance service for holders of these cards; New South Wales does. In Western Australia senior citizens over the age of 65 receive a 50 per cent subsidy, so the picture is quite mixed around the country.

I was also asked what was the average cost of emergency ambulance services in the ACT. Within the ACT, \$750 is the charge, with an additional \$10 per kilometre for every kilometre outside of the ACT. This compares with \$924 in Victoria, \$625 in the Northern Territory, \$770 in South Australia, \$301 in New South Wales and \$738 in Western Australia. Only two jurisdictions provide universal and free ambulance cover, and they are Tasmania and Queensland.

The government has indicated as part of its review of the provision of ambulance services through the Lennox report, which I have made publicly available, that the issue of a sustainable funding base for ambulance services and, in particular, the question as to whether or not there should be a uniform levy or charge to provide in return a free and universal ambulance cover is a matter which the government is currently giving further consideration to and will be considered in the lead-up to next year's budget.

## Leave of absence

Motion (by **Mr Hargreaves**) agreed to:

That leave of absence be granted to Ms Porter for today and tomorrow due to ill health.

## Litter (Shopping Trolleys) Amendment Bill 2010

Debate resumed.

Question put:

That this bill be agreed to in principle.

The Assembly voted—

Ayes 10

Noes 5

Mr Barr	Mr Hargreaves	Mr Coe	Mr Seselja
Ms Bresnan	Ms Hunter	Mrs Dunne	Mr Smyth
Ms Burch	Ms Le Couteur	Mr Hanson	
Mr Corbell	Mr Rattenbury		
Ms Gallagher	Mr Stanhope		

Question so resolved in the affirmative.

Bill agreed to in principle.

## Detail stage

Clause 1.

Debate (on motion by **Ms Burch**) adjourned to the next sitting.

## Environment—urban street trees

**MR SESELJA** (Molonglo—Leader of the Opposition) (3.07): I move:

That this Assembly:

(1) notes:

- (a) the importance of street trees to the residents of Canberra;
- (b) that the ACT Budget has gutted the program to replace existing street trees by \$11.2 million; and
- (c) the Greens/Labor Estimates Committee report which failed to address the reduction in the Government's street tree budget, despite it being raised in committee hearings; and

(2) calls on the Government to immediately, and without delay, divert funding from the National Arboretum Canberra to the street tree replacement program, ensuring that there are sufficient funds available to replace street trees where necessary.

This motion is about a number of things: it is about priorities; it is about what kinds of priorities this government has; it is about fiscal responsibility; and it is about the unique nature of Canberra. It is about all of those things, and I will address each of them in turn.

I will deal with priorities first. This is a government that has demonstrated over a period of time that it is increasingly out of touch with the priorities of Canberrans. In its everyday decisions, in its budgets, in how it spends taxpayer dollars, it spends money often on things that please members of the government far more than things that are important to the community. And we believe that a government has a fundamental responsibility to spend taxpayers' money wisely and to focus the limited pool of taxpayer dollars to where it is most important to the community.

That leads to all sorts of choices. There are all sorts of things that one might like to fund in a perfect world. There are all sorts of things that are not a bad idea necessarily in and of themselves. But they need to be prioritised. What we see in this year's budget is a fundamental misallocation of resources from ACT Labor. It is a fundamental misallocation of resources to say, "We have got \$26 million that we believe needs to be spent on the arboretum over the next few years"—\$26 million extra that needs to be spent over the next few years—"but we are going to find savings in order to pay for promises like that. And we are going to find those savings by gutting our street tree program."

That is what the ACT Labor Party, through its budget, is saying to the community. It is saying that Jon Stanhope's legacy project is more important than the street trees in people's suburbs; it is more important than the amenity of people's suburbs; it is more important than the look of our suburbs.

There is no doubt that Canberrans value their street trees significantly. Canberrans value the unique nature of Canberra. We are not wall-to-wall apartments as some cities around the world are. We are a beautiful city that is designed around the idea that we can enjoy open space, that we can enjoy nature, that we can connect with nature in our neighbourhoods. That is one of the things that makes Canberra an absolutely fantastic place to live and a fantastic place to raise a family.

So it is not surprising then, that Canberrans get concerned when they see aspects of that lifestyle being threatened or undermined. We see it when there is a significant taking away of open space. There is understandable community angst when utilised public space is taken away without justification, without something to replace it. Street trees, likewise, are something that significantly adds to the amenity of our suburbs. We know, when we look around Canberra—and I mentioned this in last night's debate—that this not limited to particular parts of Canberra; it is not limited to particular suburbs. You could go to virtually any part of Canberra and people value their street trees.

I mentioned last night some of the beautiful streetscapes in the inner south, likewise in the inner north. But it is not limited to those inner areas. They are more established, indeed, but of course we have got some beautiful treescapes in parts of Belconnen and Tuggeranong. In Gungahlin, I think we have been less successful in some of the efforts to get street trees, and I think that one of the things that sometimes people are disappointed about with Gungahlin is that we have not developed the kind of streetscape that we have in earlier times and in other suburbs.

But whether you are in Banks or Conder, whether you are in Evatt or Macquarie, whether you are in Deakin or Turner or Aranda, people in Canberra value their street trees, and they would say to this government and they would say to this parliament, "Get it right. Get your priorities right. Take care of the basics first. Take care of the fundamentals first before you go and spend money on legacy projects, on things that in and of themselves some people will agree with, some people will disagree with." They are high priority, not like the arboretum.

I want to touch on some of the government's own words in relation to urban forest renewal. Their own publication says:

Mature trees from over 300 different species fill Canberra. They significantly contribute to the aesthetics, and have direct economic value and environmental benefits. The Australian National University has calculated this value at more than \$15 million annually including \$3.9m annually in energy reduction (less cooling and heating); \$7.9m annually for pollution mitigation; and \$3.5m annually for storm water mitigation. Trees have also contributed to the reduction in Canberra's wind speeds by up to 50% ...

They are the tangible measures that the economists give us. Then there are all of the intangibles. Mrs Dunne touched on some of these tangibles that are not even mentioned in this, such as the value of people's properties. Of course we look forward to ACT Labor coming up with some sort of formula that taxes people for the extra value of their properties as a result of street trees! The same publication also notes:

These trees are aging and reaching the end of their life simultaneously. They also need greater levels of maintenance to minimise risk to community and property ... There is a pressing need to commence replacement of Canberra's urban forest.

So we have a situation which goes back many years. There was the Standing Committee on Planning and Urban Services report in 2000, *An appropriate tree management protection policy for the ACT*. That report talked about the importance and the essential nature of our urban forests to the vitality and look of our city. In fact, this is a press release from Mr Hargreaves that I am quoting from:

Our urban forest is essential to the vitality and look of our city and has benefits beyond the aesthetic such as environmental and economic benefits that further heighten its importance ...

In order to leave a legacy for future generations, we need to plan for replacement forests better able to cope with the predicted dry climate.

It was acknowledged many years ago that we have gone down a path of trying to make that happen. Everyone in this place apparently agrees that that is a good thing. Everyone in this place apparently agrees that we should be spending money on that, that that is a good use of community resources and limited public funds. But this government has decided this year, "Actually it's not that important. It's no longer important. It is less important than it was last year or the year before. We're going to slash \$11 million." Is it so they can put the money into health? Not really. It is so they can spend the money on the arboretum. That is what it is about.

They have chosen which trees are good trees and which trees are bad trees. The good trees, according to ACT Labor, are on the hill there for the arboretum. They are the good trees. According to ACT Labor, people's street trees are no longer as important as they once were. All of the work that flowed, even from committee hearings and reports in this place a decade ago—and there has been work in recent years—is now apparently expendable. It is apparently no longer important. Jon Stanhope has decided that street trees, community amenity in their streets, in their suburbs, are not as important as his arboretum.

That is where we come to this fundamental question about priorities. We all apparently agree that it is a good thing. So the question is: which is more important? The Assembly will have a decision to make today. The Assembly can make a decision that says, "We believe it is more important that we spend money on street tree replacement, on maintaining the amenity of our suburbs. Whether it be in Tuggeranong, Belconnen, Gungahlin, the inner south, the inner north, Weston Creek, Woden, wherever it might be in this wonderful city of ours, we value that about Canberra." It is all well and good to say you value it. Here we have an opportunity as an Assembly to actually say to the government, "No, you need to fix it."

This is where we come to the choices that are to be made. As I outlined at the start, we believe in fiscal responsibility. This is a government that is delivering very large deficits at a time of record revenues. They are the facts. In order to get the kind of spending that we believe is needed on street trees in our suburbs, we believe that it should be reallocated from other parts of the budget. That is responsible. That is reasonable. That is how we believe it should be done. And we have nominated the arboretum. We have nominated the arboretum because we believe the government is picking and choosing and it has chosen what it sees as and what it deems to be the good trees at the arboretum.

Make no mistake: by allowing the budget to go through in its current form, by not sending a clear message to the government, people who vote against this will be endorsing that intent. They will be endorsing ripping \$11 million out of the street tree replacement program. We have got an opportunity here. It is not a majority government. If this was a majority government, as it used to be, we would put forward the motion and we would know that the then nine Labor members were going to vote against it. They would push through their budget, and they would be responsible.

Now it will be the Assembly that will be responsible for determining whether we agree with it or not. The members of the Liberal Party in the Assembly will be voting to save our street trees. We will be voting for different priorities from this government. We know how the Labor Party is going to vote. They have set out their intentions in the budget. They have said they believe the arboretum is more important than street trees. Okay. We fundamentally disagree with that but they are on the record as saying that. That is reflected in their decisions. That is reflected in their budget.

So I ask to the Greens: will you support our moves? Will you use the power you have in this place?" Between us and you, there are 10 votes. That is a majority. We have a majority that apparently is in favour of a street tree replacement program, that apparently believes that ripping out \$11.2 million is not a reasonable thing to do. The question becomes: will we vote to make that a reality? Will we vote in accordance with that belief, in accordance with those different priorities? It will be a reflection of our collective priorities as an Assembly.

We make it clear in the terms of this motion that we believe the government has got its priorities wrong, that the great tree-killing plan of Jon Stanhope is not something we believe in. Make no mistake: if you vote in favour of ripping out that \$11.2 million—when we are told by the government that this is urgent, that there is a pressing need to commence replacement of Canberra's urban forest, that the trees are ageing and reaching the end of their life simultaneously, that we need greater levels of maintenance to minimise risk to community and property—then you are voting for lesser amenity in our suburbs. You are voting for a position that says, "Despite the fact that the work has been done identifying that there is a pressing need, that there is an urgent need, we do not mind it being taken out." You are saying to the community that you agree with these misplaced priorities, that you agree that the arboretum is more important than street trees.

The Assembly has a clear decision to make: it can follow the government's line—the ACT Labor Party's warped priorities on this issue, follow the path that will lead to

less amenity in our suburbs right across Canberra, that will ignore what we believe is a very strong and overwhelming wish of the community to see that amenity protected—or it can choose to go down another path. It will choose to go down a path that says the arboretum and other personal pursuits of the Chief Minister and the ACT Labor Party are more important than our urban amenity. I commend the motion to the Assembly, and I look forward to the support of the Greens on this motion.

**MS LE COUTEUR** (Molonglo) (3.23): I thank Mr Seselja for raising the very important issue of street trees in Canberra. As I am sure Mr Seselja recalls, I introduced my own motion about the importance of street trees to the Assembly last year, on 11 November. I will talk some more about that in a moment.

First, I want to address the Liberals' motion, which basically says that funding for street trees has been gutted by the budget and asks that funding be taken from the arboretum in order to fund street tree planting. We agree with one part of this but disagree with the other. When it comes to the central premise of this motion, we think that the Liberal Party is blurring two different issues together. I foreshadow now that I will be introducing an amendment which has just been circulated in my name. It addresses these problems and still guarantees that funding will be returned to the urban forest renewal program.

**MADAM ASSISTANT SPEAKER** (Mrs Dunne): Ms Le Couteur, do you want to move that amendment now? Then you do not have to foreshadow it.

**MS LE COUTEUR**: I think I will move it at the end of my speech. I am foreshadowing it at this stage.

**MADAM ASSISTANT SPEAKER**: You can speak to it.

**MS LE COUTEUR**: If I can speak to both, I am happy to move it now.

**MADAM ASSISTANT SPEAKER**: Yes.

**MS LE COUTEUR**: I move the following amendment that has been circulated in my name:

Omit all words after “residents of Canberra”, substitute:

“(b) that the ACT Budget has deferred funding of the Urban Forest Renewal Program; and

(c) the Estimates Committee report raised the deferring of the Urban Forest Renewal Program as a key issue; and

(2) calls on the Government to restore appropriate funding to the Urban Forest Renewal Program, in consideration of recommendations made by the Commissioner for Sustainability and the Environment, by the 2011-2012 Budget, and to ensure that there are sufficient funds available to replace street trees where necessary.”.

The issues have become blurred. The program that was de-funded in this budget was the urban forest renewal program. The urban forest renewal program is about addressing, as Mr Seselja said in part of his speech, that Canberra's trees were planted in two big batches. As one was native and the other deciduous, they are coming to their peak age simultaneously. This is going to cause a big problem. It means that most of our forest needs to be replaced over the next 20 to 30 years.

I listened to Mr Coe yesterday. He said, "This is a line in the sand; if the Greens support the budget, then they are not supporting the families who want to keep their street trees in the front of their homes." Mr Seselja said similar things. I am afraid this is wrong. I do not think the Liberal Party understands what the budget issue is here.

There are two programs we are talking about here. There is a completely separately program for normal maintenance of management and replacement of trees which is run by Parks, Conservation and Lands. This program is still ongoing. The Canberra family with a dying tree out the front of their house will still be able to have it replaced, even with this budget, as they have done in previous years.

I initially wondered why Mr Seselja had chosen to word this motion by saying that the program that had been gutted is the one to replace existing street trees and also to say that there must be sufficient funds to replace the street trees where necessary. But I think, from what we are hearing from the Liberal Party today and yesterday, that they actually do not understand there are two different programs.

Normal street tree replacement will still occur. What will not occur is the specific new program, the urban forest renewal program. That is about planning for a new and different approach to tree management because of the emerging problem of ageing trees. As long as that is the point that Mr Seselja is making, we agree. But we should not be pretending that there is going to be a halt to the regular tree planting and replacement program.

We agree to the motion to the extent that it expresses, although not very well, a condemnation of the government's decision to de-fund the urban forest renewal program in this year's budget. The urban forest renewal program had originally been funded through the 2009-10 budget with \$18.7 million over four years. This year the funding was reduced to \$1 million per year for the next three years. It would not be planned to return to full funding till 2013-14.

I have already made this point a number of times since the budget was handed down. I have expressed this in the media, in my budget response speech yesterday and, indeed, in questioning in estimates. For a year or so prior to the budget, the government acknowledged the importance of beginning the urban forest renewal program. It has stated, and Mr Seselja mentioned this too, that there is a pressing need to commence replacement of Canberra's urban forest under this program. Mr Stanhope also said:

On the basis of expert advice from the ANU and the CSIRO ... we face, with our urban forest, something of a tsunami of decline ...

Faced with this acknowledged pressing need and tsunami of decline, there is no excuse for delaying the program unnecessarily. In addition to actual physical tree replacement, this is a program which requires significant planning, education and consultation. The Greens are concerned about the momentum that has already begun to be lost if the program is delayed for a number of years—conceivably beyond the next election.

The environment commissioner's report into the urban forest renewal program, which the Greens called for and the government has subsequently supported, was initially due in July. Now it is due in September. Even if this report goes to an Assembly standing committee, as Mr Stanhope suggested yesterday, that is no reason for the program be delayed for many years. Mr Stanhope also acknowledged in the estimates hearing that the funding left for this critical program is not adequate. In response to my question, "Do you really think that \$1 million is all that we are going to require going forward?" Mr Stanhope answered no; he said that it would not be enough.

So the amendment which I have just moved calls on the government to restore appropriate funding to the urban forest renewal program in consideration of recommendations made by the Commissioner for Sustainability and the Environment, by the 2011-2012 budget and to ensure that there are sufficient funds available to replace street trees where necessary.

I have had some concern that the removal of the funding for this program is partially a political decision, because clearly the urban forest renewal program has been contentious. It has generated strong views from the public and there is a significant amount of negative feedback. The commissioner has had to have more time for her considerations because there has been so much community concern about it. But our worry is that the government may abandon it until 2013-14 because it was an easy decision to put out in relation to what is a very contentious program.

But if the government does accept the amendment that I have proposed and agrees to restore funding by next budget, I believe we are going to be in a much better position to go forward and achieve a good outcome for trees in Canberra—all the trees in Canberra. The best approach now is for the funding to be returned from next year. If the amendment is supported, that is what will happen.

So I call upon Mr Seselja and the Liberal Party to support my amendment because it does achieve what I believe the Liberal Party has been asking for. If you are only concerned about making political points about some trees in the arboretum versus some trees in other places, I agree that you may not support the amendment. But if you are interested in supporting trees in Canberra, please support our amendment.

I turn to the bits of the motion that we do not agree with. This motion is calling upon the government immediately and without delay to divert funding from the National Arboretum to the street tree replacement program. This seems to be a really bizarre request. Why are we diverting funding from the arboretum? Is it just because they both have trees in them? Is that as far as the Liberals' analysis goes?

From the Greens' point of view, we want the funding for the urban forest renewal program to be restored. But we do not believe the funding necessarily has to come from the arboretum. The budget is \$3.6 billion. There is no reason to think that all the funding from the urban forest renewal program should come solely from the arboretum project. It is a simplistic argument.

Our amendment, which calls upon the government to restore the funding in the 2011-12 budget—which is when the funding is actually likely to be significantly required, given the timing of the commissioner's report and the subsequent referral to the Assembly—means that by the time the money is needed, the government will have been in the position to go through its normal budget process of rebalancing the budget alongside the other priorities.

This is how we should do it. I really do not think that the Liberals should be suggesting that rebalancing the budget within an hour of this Assembly debate is the way that the budget should be done. I just do not think it is good process. I cannot believe that Mr Smyth is really advocating that.

Secondly, as the Liberal Party knows, only the government can actually introduce money bills to the Assembly. This, in effect, is trying to be a money bill. They are just putting the arboretum in there to slightly confuse the issue. Thirdly, the arboretum has started. It should be properly managed, which does require funding. It would be churlish not to want it to be a success. The government has already put a lot of money—many millions of dollars—into the arboretum. I cannot imagine it is actually good public policy to create a white elephant on Dairy Farmers Hill. Is that the legacy that the Liberal Party actually wants for the arboretum?

Let us be clear about the arboretum. My predecessor, Dr Foskey, opposed the arboretum initially. This was because of the excessive water use, cost and not focusing on local vegetation. She would have preferred to see locally endangered species be grown there, which we believe would have also been cheaper as well. The current non-potable water strategy at the arboretum was developed partially in response to Dr Foskey's objections.

In opposing the arboretum, Dr Foskey was also well aware of the fact that the Botanic Gardens and the local national parks all need more funding. She wanted to see that they have adequate funds rather than Canberra having a series of projects which attempt to support biodiversity but are not adequately funded. But we lost that debate. The government has built the arboretum. It is underway. If the Liberals have not seen it, it is underway on Dairy Farmers Hill.

We believe that, given it has started, there will be value in properly completing the project. Hopefully it will serve as a fine tourist attraction for national and international visitors and as a facility that will bring great pleasure to all Canberrans. If the Liberal Party, who were not supportive initially of a project, want to see the vision demolished halfway through, I think that is a shame.

In regard to part 1(c) of the motion, that is just simply a silly part of politics. The estimates report is not a Labor-Greens committee report. It is report of the majority of

committee, which the Liberal Party unfortunately refused to engage in. The committee report does, in fact, address the issue of the urban forest renewal program. It is raised in the report as a key issue. But if the Liberals would like us to support their motion to restore funding for the urban tree renewal program, they might also wish to consider removing that silliness from their motion.

Before I conclude, I will briefly revisit some of the comments I made in my initial tree motion last year. I emphasised then that Canberra is a special city when it comes to street trees. We deserve our title of the bush capital. Canberra's urban forest plays a key role in the carbon cycle, provides habitat for wildlife species, improves landscape amenity and improves the liveability of the city. The urban forest is very valuable for people living in Canberra. To that end my motion called on the government to follow 11 important steps when it comes to managing the urban forest to ensure best practice and to ensure an urban forest for future generations of Canberrans to enjoy.

To conclude, I reiterate that I am very pleased that this debate has made it clear that I think all sides of politics support our street trees and basically support the urban forest renewal program. I urge the Liberal Party to support my amendment because that will ensure funding for the urban forest renewal program going forward after the commissioner has given her report and the Assembly has considered it. I think that this will be a good outcome and I urge the Liberal Party and the Labor Party to support it.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (3.37): I thank Ms Le Couteur and indeed other members for the debate or conversation around the importance of the urban tree renewal program.

One of the things that I am particularly appreciative of in relation to the very strong interest which the Liberal Party are now taking in relation to street trees and the street tree program is that the Liberal Party have now engaged on the importance of urban forest renewal. I am particularly grateful today, whilst, of course, the Liberal Party intend to make some political point, presumably at the expense of the government on this issue, for this satisfying aspect of the debate.

During the budget debate last night, members would have also heard—and probably, to be more honest, endured—I think six speeches on this very same subject. So the debate we are having now we, in fact, had last night. I think every single member of the Liberal Party spoke on this issue during debate on the TAMS budget line. Indeed, Mr Seselja has, just today, given the same speech that he gave last night. And I will do the same.

But, having said that, for the first time—and I say this seriously—the attention and the focus of the Liberal Party is on the importance of the urban forest tree renewal program; the complexities and the difficulties that we face as a community in replacing, over the next 30 years, the majority of our mature, ageing, dying urban forests. In a rough sense, within the streetscape of Canberra there are 600,000-plus planted trees, many of them, as Ms Le Couteur has just indicated, reaching a point

where we expect that between now and 30 years hence there will be major dieback within the urban forest.

This government, over the last three years—Ms Le Couteur has gone to some of the history of that—has sought to deal with that issue. We have sought to deal with it proactively and we have heightened levels of investment in trees. I went to the numbers—indeed, I tabled them, willingly, at the request of the Liberal Party. It is interesting to look at the level of investment pursued by this government over the last three years on trees. We have gone from a position, 10 years ago, where, on average, we were planting around 1,000 trees a year in the urban area. Five years ago, it climbed to 3,000.

So 10 years ago on average we planted 1,000 trees a year. It jumped to 3,000 trees a year by 2005. In 2007, as the government began to engage seriously with the impacts of the drought—and, I have to say with a certain penchant or passion that I have for trees—we went from 1,000 a year 10 years ago to 7,000 urban trees—and I am sure there are many we do not count here actually. But three years ago there were 7,000 urban trees planted; two years ago, 11,000 trees and, last year, 12,000 urban trees were planted. I have been the butt of some humour or jokes around here about the fact that I do like trees. Over the course of my term in government, we have planted somewhere in the order of probably a million trees, not counting radiata or our pine forests.

Just in terms of the equation, street amenity and our commitment to replacing trees, this whole motion and the Leader of the Opposition's speeches on this issue have been all about street amenity, replacing trees, our barren streetscapes, trees dying in our streets. Last year we planted 12,000 trees. We removed, I believe—and I will probably have to confirm this—1,700 dead, dying and dangerous trees and we planted 12,000 trees. So we planted over 10,000 more trees than we removed last year. This is in the urban area—this is just in the last year—not counting the 270,000 that we planted or arranged to be planted in non-urban areas of the ACT. In the last three years we planted three-quarters of a million or so trees in the non-urban area.

We have a deep and genuine commitment to trees, and that is reflected in the level of our expenditure and in the numbers planted in recent years. We have a number of programs. Ms Le Couteur goes to this point. There is not a single tree program; there are a number of them. There are a number of programs and a number of funding lines in relation to tree maintenance, tree planting and specific and special tree planting regimes. Indeed, in the current budget we provided \$150,000 to revegetate Mount Painter; \$200,000 for weed removal and tree planting in the Jerrabomberra wetlands; \$1 million of urban forest renewal funding has been retained to ensure—

**Mr Seselja:** It is no longer pressing, though, is it?

**MR STANHOPE:** It is pressing. It is pressing to the extent—

**Mr Seselja:** Why are you gutting \$11.2 million out of it then?

**MR STANHOPE:** Because we are developing an evidence-based, community-focused approach or response to the intricacies and the difficulties of the urban forest

renewal program. It is a 30-year program. There is all this balderdash that is reflected in the Liberal Party's position on this. But it is a 30-year program of renewal and we need to get it right. That is why I referred the issue of the planning and the implementation to the Commissioner for Sustainability and the Environment, in order to ensure, through her consultative mechanisms and the wisdom that she brings to the task, that at the end of the day we will have a consensus-based, bipartisan, well-consulted approach to how to proceed over the next 30 years to carry through on the renewal of our urban forests.

That is the government's intention. It has been referred off to the commissioner. She has had the inquiry going for some months. She has formally advised that she expects to complete a report in September. I have indicated that when the report is received in September the government's preference is for it to be referred to a standing committee of the Legislative Assembly for inquiry and report. I believe, having regard to the seriousness of the issue, we should do that. I would expect that that will not be achieved before 2011, and then the government will need to respond to that. And that brings us to next year's budget.

In the context of this particular program, the decision I took, the decision which the government has pursued, is that to maintain in this year's budget funding for a program that has been reported on by the Commissioner for Sustainability and the Environment and will be referred to an Assembly committee is simply not good. We have deferred it. We do not walk away for one minute from the importance of this particular project. The urban forest must be protected and it must be renewed. How we do that will at times be very challenging.

This is the issue that nobody in the Liberal Party has touched on in their ranting around this issue: there are some species, I am advised, in some streets, in some suburbs in Canberra, that the experts believe in their hearts should not be renewed. If that is the decision, the initiative, based on expert advice, that we decide to proceed with, I invite the Leader of the Opposition, and indeed Ms Le Couteur, to stand with me in a street with 200 people and say: "Guys, let's have a street meeting. Guess what, guys? We have collectively decided that the only way to safeguard this part of our urban forest is to cut down every single tree in this street and replant it with another species." I must say that I am not particularly wedded to that prospect, or particularly excited by it.

I have seen some streets, and I am sure you all have, where the trees in the street look bad, and if you go to the experts and ask, "Why do these trees look so crook?" they will say: "Because they should never have been planted here. They are an entirely wrong species. They do not grow in this climate." But I have got a sneaking suspicion that, if you live in that street with one of those trees on your nature strip for 40 years, you get a bit attached to them. I have got some daggy trees at my house; you get attached even to daggy trees. I guarantee that there would be significant community concern and protest and agitation if we pursued those sorts of policies. That is why I have asked the Commissioner for Sustainability and the Environment.

I will conclude on that. Everybody knows my views. Everybody knows that at its heart this motion is a quite blatant, confected piece of politics designed to cause me some presumed damage by associating me with the arboretum project that I regard as

in the long-term interests of the territory, a visionary project that will actually benefit this community for decades, if not a century or more to come. And I stand by it as a great project.

At its heart, this motion today has got nothing to do with the urban forest. It has got nothing to do with street trees. This is a motion attacking the arboretum and, in attacking the arboretum, attacking me. So let us just be honest about it: this motion has got absolutely nothing to do with the Liberal Party's confected concern for trees. It is as patent and as blatant as that.

The government is more than happy to support Ms Le Couteur's amendment. In large measure, it quite genuinely reflects what the government's intentions have been all along and we are happy to support it.

**MR SMYTH** (Brindabella) (3.48): Jon Stanhope will go down in history, when he leaves this place, as the great tree killer. It is hypocritical to say that you support trees, that you love trees, that you hug trees, that you have got daggy trees, and then rip \$11.238 million out of the budget as a saving because you have mismanaged the budget so poorly. That is the problem: Jon Stanhope, the tree killer. If you listen to the Chief Minister, you would think he was the only one that has ever planted a tree. He has just discovered trees. He is "Mr Tree". But he will be remembered as "Mr Tree Killer".

I can remember, as the Minister for Urban Services, last century even, going down to the urban forests that connected some of the primary schools that used to exist in Kambah and Wanniasa, that are no longer there. Mrs Dunne will remember great individuals like Tony Gray, who was fabulous on this issue, who really understood that you were either a tree planter or you were a tree killer. We were down there with the school kids, because we had programs back then in the late 90s and early 2000s to renew urban trees, street trees, trees out in the wilderness areas—trees all over the territory.

But, according to Jon Stanhope, who will be remembered as the great tree killer, he is the only one who understands or knows how to do this. It is just preposterous. And to exacerbate matters, he is then backed up by the Greens. The Greens, the great defenders of the tree, the great defenders of Canberra suburbs, the great defenders of the bush capital, have betrayed them today by saying: "We will not do it this year. We will put it off for a year. We won't tell you where the money is coming from, but we trust the tree killer to put it in next year's budget. We trust the great tree killer." That is the problem with the amendment put forward by Ms Le Couteur today: it allows the tree killer to get away with it. And he will get away with it. People will now know that the Greens—remember third-party insurance—have now committed the next act of third-party insurance fraud by not standing up for trees in the ACT.

Mr Stanhope went to the part of the document that he tabled last night. For those that were not here last night, we have a standing order 213 that allows members to call for a document; not the speech, the document—if you go to the *Companion to the Standing Orders*, it explains this rather nicely—so that members may make their own judgement of whether or not the member using "the document" is portraying it accurately. We did not get the document, because the Chief Minister was slipping

under his documents; he was shuffling them on his desk. He pulled the bits out that suited his purpose. But, just for the record again, what we got was attachment B and attachment D. And I would very surprised if TAMS supplied a document that did not have an attachment A and did not have an attachment C. Normally, that is how the alphabet works: A, B, C, D.

The Chief Minister talks about how he is the only one who has planted trees. I did a few searches. There was our project in Kambah for the urban forest renewal back in 2000. But my favourite was the Boboyan pines project, where we actually ripped out almost 400,000 pines, about 380 hectares of them incorrectly planted in the 60s in Namadgi national park, and replaced them with 500,000 eucalypts. And there was an appropriation, according to this wonderful summary of it by Eleanor Stoddart, which people can find on the web, of \$400,000 to cover that.

We can all drag out numbers when it suits us. We can all table half a document when it covers us, when we do not have the courage of our conviction to table the entire document—because it will, of course, present a different picture from what the Chief Minister was trying to do. But we will be remembered. The Chief Minister will be remembered as the great tree killer and the Greens will be known as his accomplices in this crime.

Ms Le Couteur says in her amendment—it is a fantastic amendment; it is just so typically Green:

- “(b) that the ACT Budget has deferred funding of the Urban Forest Renewal Program; and
- (c) the Estimates Committee report raised the deferring of the Urban Forest Renewal Program as a key issue;

But, actually, the committee did not. They listed it as a key issue in discussion in the estimates. They do not discuss it in the report. Ms Le Couteur needs to go back to page 54 to refresh her memory. It is part of the index and it just says:

Land Management (output 1.4)

5.10 Key issues raised included:

This is the second dot point:

Urban forest renewal program, including partial funding deferral and referral to the Commissioner for the Environment and Sustainability (664-671)

How is that raising it as a key issue? Where is the discussion? Where is the conclusion? Where is the scholarly work? Where is the effort? More importantly, where is the recommendation? It does not exist, because it was not raised in the report. It was certainly raised in the hearings. It is a notation in the index in the report. And that is what is wrong with Ms Le Couteur’s approach here today. I am appalled, because you are normally much better than that. You actually do care and you actually do get it. You are normally much, much better than that.

**Mr Stanhope:** How patronising is that?

**MR SMYTH:** She put this patronising amendment up to support the Labor Party. That is what is patronising.

It was not raised. It was mentioned, it was listed, it was indexed. That is what was done in the report. And then of course we have got the contradiction. Ms Le Couteur says that the estimates committee report raised the deferral of the urban forest renewal program as a key issue but then calls on the government to restore appropriate funding to this key issue next year: "Don't do it this year; it is not that key. Do it next year. Oh, and by the way, don't tell me where the money is coming from. We will keep that secret. That is just for next year."

This is putting it off. This is kowtowing to the government. This is not having the courage of your convictions. This is committing third-party insurance fraud. This is giving in to the government. And that is a shame because I expected more. Over the year and a half that you have been here, we have come to expect more from you, Ms Le Couteur.

Ms Le Couteur says, "Oh, it must be a political issue," and the Chief Minister says: "Come on, let us face it: this is aimed at me." How conceited! Everything is all about Jon the great tree killer. It is all about Jon. This morning the roadside random breath testing debate was not about road safety; it was about Jon and Jon's process and Jon's timetable that exposed the people of the ACT for five years. We could have had this back in 2005, but, no, we had to wait five years, because it is all about Jon.

Now we want to restore this money. The government always says, "Where is the money coming from?" Well, we have given them the source. We said, "Take some of the \$26 million that you are putting into the arboretum this year and put it back into something we consider to be more important—and, what is more, that the people consider to be more important." Where they live, their street, their suburb, their park, their reserve, their bush capital is what they are concerned about and that is what they would like to see.

The Greens have squibbed it. They do not want to do it this year. They do not want to tell us where the money is coming from. They are not willing to make a decision. They have put no case as to why not this year. They have just put forward another simplistic amendment. The motion as put forward is accurate and the motion put forward should be voted upon. The motion says:

That this Assembly:

(1) notes:

(a) the importance of street trees to the residents of Canberra;

I do not think you can disagree with that. Indeed, Ms Le Couteur left it in in recognition of that importance:

- (b) that the ACT Budget has gutted the program to replace existing street trees by \$11.2 million;

And it has. There it is: \$11.238 million, on page 98 of budget paper 3. There is the money gone: \$3.7 million in the coming year, \$3.7 million in the following year and \$3.7 million the year after that—money taken from the budget. So the program has been gutted. I do not know how you can disagree with that. The next point in our motion says:

- (c) the Greens/Labor Estimates Committee report which failed to address the reduction in the Government's street tree budget, despite it being raised in committee hearings;

And it has failed to address it. If you raise it as a key issue, the question then is: what are you willing to do about it? The Greens and the Labor Party were not willing to do anything about it in the report that they tabled. There is not a recommendation about this or the arboretum. There is no recommendation. No wonder Mr Hargreaves was so happy when he said, "The government can be very happy with this report." I am sure they are—because there is no analysis. There are very few meaningful recommendations, and there is nothing on behalf of the trees of Canberra. It is just allowing Jon, the great tree killer, to continue on his merry way.

This is an important issue and paragraph 2 of our motion says:

- (2) calls on the Government to immediately, and without delay, divert funding from the National Arboretum Canberra to the street tree replacement program, ensuring that there are sufficient funds available to replace street trees where necessary.

The government always ask us where the money should come from. We have given them a solution. It is not a solution palatable to the individual who is building his own legacy project for when he leaves later in the year. But it is a good solution. It allows the arboretum to continue but it certainly allows the replacement program for dead trees to continue, to protect that which people love so much about Canberra and indeed to help protect the birdlife and the animal life that rely on street trees, on trees in reserves, on trees in parks, on trees on the nature strips, on all the trees in Canberra in which live the fabulous birdlife that we have and that people are so pleased with. Indeed, I was there when the Chief Minister launched the last edition of the local ornithological guide to the birds of Canberra. Then, of course, there is the wildlife that rely on these trees.

I cannot for the life of me understand why the Greens will not stand up for this motion today and stop Jon the tree killer.

**MR RATTENBURY** (Molonglo) (3.58): I rise to thank Ms Le Couteur for bringing on her amendment today. The reason I thank her is that she has actually brought some common sense to this debate and potentially saved the Liberal Party the embarrassment of putting forward a motion containing a set of straight-out factual mistakes. Ms Le Couteur explained that very well at the start of her speech when she spelled out the difference between the street tree replacement program and the urban

forest renewal program. I know it does not suit Mr Smyth and Mr Seselja's narratives on this item, but they are actually two different things. A little bit of research reveals that. It is important to draw a distinction because it is the urban forest renewal program that has had the money taken out of it in this year's budget. The factual part of correcting that, as Ms Le Couteur has done in her amendment, is an important starting point. So thank you, Ms Le Couteur, for clearing that up for us.

I am excited by Mr Seselja's passion for trees. His speech late last night in which he suddenly became a profound tree hugger was truly inspiring. It moved me to want to dash out to the shops this morning and buy him a tree hugger T-shirt to present in the chamber today. Unfortunately, with the late sitting and the busy agenda, I just did not have time, Mr Seselja. I will keep an eye out for one as I go around the markets. The question I have is: why would the Liberal Party not support Ms Le Couteur's amendment, aside from the fact that it clears up the unfortunate terminology? That happens from time to time, so let us not harp on that too much.

The issue here is the urban forest renewal program. The government has identified, through steps that have already taken place so far, that it is very controversial. We agree with the referral to the commissioner for the environment to look at this program and the best way to roll it out because I think it is going to be extremely difficult. Mr Stanhope has talked about what is going to happen when a street faces losing all or half or even some of its trees. To have the commissioner consider this and look at the best ways to go about this program is a worthwhile thing to do. It is certainly something we advocated the government should do. It is vitally important to engage the community in this process if we are not going to end up fighting battles street for street through the city as we try to go through this very difficult program of replacing Canberra's significant but, unfortunately, ageing urban forest.

From that point of view, the fact that the government have removed the bulk of the funding for the coming financial year from this program makes sense. They have left some residual funding to keep parts of the program moving forward but, while the commissioner for the environment is conducting the inquiry, clearly the government will not be moving ahead with significant investment. We think that is fair enough. There is no point putting the money into a budget when you are not going to spend it.

Ms Le Couteur's motion calls on the government to restore the funding when it is needed. Once this study is undertaken, the commissioner has done her report and there is a clear path forward, we certainly will be urging the government—Mr Stanhope has said today that that is essentially the government's intention, and we welcome that—to move forward quickly. We should see an appropriate level of resources invested into this program because, as I think everybody has touched on, we want this program to be run well and we want to see our urban forests replaced in a timely and, hopefully, sensitive manner.

I have made some comments publicly on the arboretum. At the time the Liberal Party came along and said, "They created this fabulous dichotomy for themselves out of a budget of nearly \$4 billion." The Liberal Party decided that the best thing to do was to compare trees with trees. They said, "We've got this gap over here so where else can we find the money for that? Well, it has got to come from the arboretum." It is almost like they have created a little snow dome with the arboretum at one end and the urban

renewal program at the other and they are shaking it furiously to create some confected outrage for themselves. It is fine for them, but it bores the rest of us, frankly. In a \$4 billion budget we do not need necessarily to look at the arboretum.

**Mr Seselja:** Do you want to take it from roads then?

**MR RATTENBURY:** Just to answer Mr Seselja's intervention—I can assure you, Mr Seselja, that if the Greens wrote this budget it would be a different budget. It would be a different budget in a whole lot of places and the money would be there for the urban tree renewal program. I can guarantee you that because the Greens believe in this program and are committed to it. So when it comes to—

**Mrs Dunne:** It is a hollow promise. You're never going to deliver a budget.

**MR RATTENBURY:** Well, we might deliver it sooner than you do, Mrs Dunne. When it comes to the arboretum, I think there is an interesting question about what approach the Liberal Party are going to take on the arboretum. I have to confess that the arboretum is not a project that I supported at the start, but we are now in a situation where the arboretum has been rolled out. There has been substantial investment. We have got an attraction developing up there on the side of the hill that has had a lot of money invested in it and which many people, particularly in the tourism industry, are excited about. I note this particularly because in the estimates process Mr Smyth was very concerned about what attractions the government was going to establish to attract tourists to Canberra.

I am really interested to see where the Liberal Party is going to end up on the arboretum over time. Should the Liberal Party assume government in 2012, are they suddenly going to stop the arboretum? I do not know. It would be an interesting question to put to Mr Smyth. He might want to speak to that at some point. The question I have is: how long is the grudge going to be held on the arboretum? The Greens, I guess, have come to the practical view that we did lose the battle on the arboretum. Mr Stanhope has prevailed on that one and it is there now. The issue may be about when exactly we put some resources into it. Where is the Liberal Party going to stand on—

*Members interjecting—*

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Order! Members of the opposition will desist, otherwise they will have their names in lights.

**MR RATTENBURY:** I was speaking about Mr Seselja's passionately expressed view for saving trees. I certainly look forward to Mr Seselja joining us in the fight to protect the woodlands at Molonglo that are currently slated to have a shopping centre built on top of them. I look forward to the Liberal Party dying in a ditch with us over that set of significant and important trees that already provide substantial habitat. I was interested that Mr Stanhope felt that this was a motion directed at him—

*Mrs Dunne interjecting—*

**MR ASSISTANT SPEAKER:** Mrs Dunne, please!

**MR RATTENBURY:** I was interested that Mr Stanhope felt this was a motion targeted at him to gain some sort of political advantage. Frankly, in our own party room we are. Here comes the Liberal Party trying to wedge the Greens on trees. Perhaps it is not all about Mr Stanhope; it is also about us. Everyone is in on the action today—

*Members interjecting—*

**MR ASSISTANT SPEAKER:** Order, members! Mr Hanson, would you please turn the volume down. Mr Rattenbury, if you are going to continue to bait them, you will get a big fish.

**MR RATTENBURY:** Thank you, Mr Assistant Speaker. Let me finish by saying that I implore the Assembly to support Ms Le Couteur's amendment. It is a sensible amendment. I think it goes to the heart of what is being debated here, which is to ensure adequate resources for our urban forest renewal program at the time it is needed, when the commissioner for the environment has finished her current study. We should simply accept this and move on. The Liberal Party should acknowledge that Ms Le Couteur has made a positive contribution here.

The whole line of Mr Stanhope going down in history as Canberra's number one tree killer is one of the most preposterous things I have heard Mr Smyth come out with in this chamber since I have been here. You can fling all the insults you like. I have my disagreements with Mr Stanhope, but that one is really off the dial, Mr Smyth. I would urge you to support the motion. I look forward to moving forward on this issue in a positive manner.

**MR SESELJA** (Molonglo—Leader of the Opposition) (4.07): I thank Ms Le Couteur for engaging in the debate and bringing forward her amendment, which we will not be supporting. Before touching on the amendment, which I will do in a moment, it is worth looking at some of what Mr Rattenbury had to say. Again, we do not hear from the Greens on where they would take the money from. I suppose we are left to surmise where they would take it from because they said their budget would be different. You wonder whether or not, in the Greens' view, it would be better that this money came from, say, the roads budget.

We know Ms Hunter's views on roads. She believes that the Gungahlin Drive extension should never have been built. I am sure that the people in Gungahlin, west Belconnen and north Belconnen who rely on the Gungahlin Drive extension and are desperately waiting for it to be duplicated, as it should have been from the outset, would be interested to hear that they have got, on the one hand, a Labor Party who are about a one-lane road and, on the other, the Greens who are about no road from Gungahlin. We could assume from those statements that the Greens would be advocating that the money come from the roads budget. We can only assume that that would be the Greens' position. They do not want to say that and they also do not want to say where it would come from. They are in favour of the spending—

**MR ASSISTANT SPEAKER:** Order! Ms Le Couteur, Mr Rattenbury, Chief Minister: hello? Would you mind having the conversation in the lobby, please—thank you very much—or lower the volume a tad?

**MR SESELJA:** Thank you, Mr Assistant Speaker; well done. We can assume then, because they do not want to say where it would come from, that it would come from the roads budget, based on what Ms Hunter has had to say on roads funding in the past. It was interesting to hear that both Mr Stanhope and the Greens felt that they were somehow the targets of this motion.

**Mr Smyth:** Everybody's a target.

**MR SESELJA:** Everyone is a target of this motion, apparently. I can assure you, Mr Assistant Speaker, that this motion was not aimed at you in any way, shape or form. It was actually aimed at the people of the ACT who value their street trees. They were the primary target of the motion. The people who live in Tuggeranong, Belconnen, Gungahlin, Weston Creek, the inner south and the inner north—those who live right across the ACT—who value their street trees are the targets of this motion. Just like when we debated roadside drug testing today, the people of the ACT and road users on the ACT were the targets of that legislation, not Jon Stanhope. The targets of this motion are the community who value their street trees. I have never been referred to as a tree hugger before today. I think that was the first time. I do not know that that is how I would describe myself.

We do value our urban landscape. We do value what is wonderful about Canberra. I have said many times that I would not want Canberra to become one of those cities that do not have much open space and trees in their neighbourhoods. We see them around the world and they are ugly places. They are ugly, concrete jungles. I do not want to live in a concrete jungle and I do not think many Canberrans do, which is why they choose Canberra to raise their families. This is about protecting much of what is good about Canberra.

What we have in this amendment—and I think Mr Smyth has touched on it well—is, in fact, a failure to do the work. Mr Smyth pointed out that the estimates committee simply mentioned it as a summary item along with 1,000 or so other summary items that they identified in their report. There was no analysis about this. There was no position put by the committee, the Greens-dominated committee, on what they would want to do on street trees and the arboretum. There was nothing. So referencing that and saying that the estimates report raised it as a key issue is just irrelevant. It was a dot point on a page and nothing more.

The other thing about the amendment is that it talks about deferring this program, which we are told is urgent. That is what the government has told us. It endorses deferring it for a year. But the budget actually defers it for longer than that. There is no money in the outyears; the money has been taken out. That \$11.2 million has been taken out. It is not that it has just been taken out for this year and will all come back next year. That is not what the budget papers say. The government's own documents say there is a pressing need to commence—and we agree; there is a pressing need—but pulling \$11.2 million out does not reflect that.

We noted the Chief Minister's sensitivity. He mentioned at the budget breakfast—and he will forgive me if I have misquoted him, but I believe his words were to the effect that it is easier to close a school than to get rid of a tree. Mr Stanhope would know because he has done both now; Mr Smyth has touched on it. He is the tree killer and the school killer. He has got rid of the schools and he has got rid of the trees. He tells us that it was a far easier process to get rid of the schools, to rip the heart out of those school communities. Now he is going down the path of getting rid of the trees as well—the trees from our suburbs. No-one would be better qualified to make that judgement about which one is more difficult—killing a school or killing a tree. Mr Stanhope has form on both and he tells us that, in fact, the trees are much harder than the schools and the school communities.

Mr Assistant Speaker, we will not be supporting this amendment from Ms Le Couteur because it effectively endorses the government's "do nothing" approach. The government is ripping \$11.2 million out of the budget, the street tree replacement program. The amendment endorses it. That is why Mr Stanhope appeared so happy with it. He appears so happy to go along on his merry way. This amendment from Ms Le Couteur endorses that. For that reason we will not be supporting it.

**MRS DUNNE** (Ginninderra) (4.14): Mr Seselja has brought this motion forward today because we, the Canberra Liberals, want to dwell on the priorities in relation to trees in the ACT. Mr Seselja made the point that the government is well and truly out of touch on a whole range of issues when it comes to making decisions about where they should spend Canberrans' money.

As was said by members of the opposition in this place last night, we believe that if you are going to be spending money on trees and the choice is made in the context of a constrained budget, you should be looking at the must haves rather than the can haves. It is interesting here today to hear Mr Stanhope and particularly the Greens running this narrative: "What would the Liberals do about the arboretum?"

It is true that like the Greens and like Dr Foskey, particularly Dr Foskey, the Canberra Liberals opposed the introduction of the arboretum. We considered that the \$10 million allocated in the 2004 budget was an inappropriate use of money, and when you consider the amount of money that was going to be spent on land management, and tree planting in that budget, we thought it was an inappropriate use. We have always had the view that the arboretum fell into the can have proposition rather than the must have.

Ms Le Couteur and the Greens have tried to blur the issues and say, "Look, there are a whole lot of other tree planting initiatives as well, and we should not get hung up just about the urban tree renewal program." Yes, there are other tree planting initiatives. They include things like planting radiata pines on the other side of the Murrumbidgee in our forest areas, along with a whole lot of other projects around regeneration after the fires—a whole lot of things. But the thing that we know is that the urban trees across Canberra, whether they are in streets or parks or pocket parks or walkways, are under threat because of their age, and particularly they have been put under threat because of the changed climatic conditions and the drought that we have been living through.

Ms Le Couteur reminded me of the favourite word of the Labor Party. When things are big and important, they like to talk about a tsunami. The Minister for Health likes to talk about the tsunami in the health system, and the government has talked about the tsunami of decline in the street trees. And this is not just a one-off. It is not a one-off or an easy task. Everyone agrees that it is a difficult task. I recall standing in this place, I think probably in the budget debate last year, and reflecting upon how difficult this process would be and how much time would need to be taken to explain to our constituents why decisions need to be made and then to work with our constituents to collectively make decisions, perhaps on a street by street basis.

That will be difficult but, I am sorry, Mr Assistant Speaker, that is what they pay us to do—to make difficult decisions and to engage them on difficult issues—not to bulldoze over them; not to say, “Here we are, we are from the government, and we have made a decision and you are going to agree with it,” but to actually work with the community through this very difficult issue.

What we have seen in this budget is an almost complete de-funding of this program, for the life of the budget and the outyears. This cannot be swept away with, “Well we are waiting for the Commissioner for the Environment to come back with some advice and then we will crank it up again,” because, if that were the case, there would be money in the next financial year and the financial year afterwards. You could plausibly mount a case that we should perhaps put this on hold for this current financial year while we wait for the Commissioner for the Environment, but you cannot plausibly make that case when you look at the fact that this is de-funded into the outyears.

This is a minister who has lost interest in street trees, because he has his own particular tree garden that he is interested in. Mr Seselja has made light of the great big tree-killing plan of the Stanhope government, but we should not actually make light of it, because while ever we have a minister who has lost interest in the urban tree renewal program, while ever we have a minister who plays favourites with trees, the people of the ACT will be the losers. While Jon Stanhope is pouring \$26 million of taxpayers’ money into Dairy Farmers Hill, \$11 million is not being spent on the trees in the parks, on the streets, on the walkways of suburb after suburb after suburb in Canberra.

The minister talked about essentially what was chump change—about what they were going to do: \$150,000 for the revegetation of Mount Painter and \$200,000 for weed removal and tree renewal at Jerrabomberra. That is what he could refer to. It is interesting to note that, when I last asked this minister about weed removal at Jerrabomberra wetlands, he said that it could not be done, because if we took out the weeds there would be nothing left. So I do not know what it is; the minister needs to be a bit consistent here. But, in the context of what needs to be done, he talked about absolute chump change. And in the context of the fact that he has gutted a significant program, the offerings that he made today were risible and an insult to the people of the ACT.

And yes, it is a choice between trees. It is not a matter of de-funding the arboretum. It is saying, “Take the \$11 million, which you have clearly taken out of the urban tree

program and put somewhere else, and find the \$11 million in the \$26 million that you propose to spend on the arboretum.” That is \$26 million, on top of \$20-odd million which has already been spent there.

That tree farm on Dairy Farmers Hill has become a great big black hole. We have seen in excess of \$45 million go into it already—or be projected to go into it—and the people of the ACT in the meantime are seeing their trees die. They are seeing, by the Chief Minister’s own admission, increasingly daggy trees. But he is not doing anything about it. He has lost interest, and that is the problem with this whole issue.

The Greens, in typical Green fashion, say “Oh well, it is a big budget, it is nearly a \$4 billion budget, so we can find \$11 million somewhere else,” but they will not say where. They will not say where, and you add this to other things that we are going to see today, where the Greens are asking the government to commit to open-ended funding in other areas. How many times can you responsibly say, “Oh, we’ve got a big budget so we’ll be able to find it somewhere”?

This is the week we debate the budget, and unfortunately it is not the budget that the Canberra Liberals would have designed and it is not the budget that we would have brought through, but it is the budget that the Stanhope government has dealt us, and in the context of this budget that the Stanhope government has brought forward, we say “Take the \$11 million that you have gutted from the urban forest renewal program and put it back there and take it out of the already over funded arboretum.”

This is a simple issue, and it is actually the sort of thing that people in the ACT want. Remember that for the next three years there will be no money for even thinking about how we go forward with this issue. Lots of work has been done—it is commendable work, it is difficult work—and Jon Stanhope has decided in his declining years in this Assembly that it is all too hard and he does not want to take the heat and he would much rather spend the money on his personal legacy program.

Question put:

That **Ms Le Couteur’s** amendment be agreed to.

The Assembly voted—

Ayes 10

Noes 5

Mr Barr	Mr Hargreaves	Mr Coe	Mr Seselja
Ms Bresnan	Ms Hunter	Mrs Dunne	Mr Smyth
Ms Burch	Ms Le Couteur	Mr Hanson	
Mr Corbell	Mr Rattenbury		
Ms Gallagher	Mr Stanhope		

Question so resolved in the affirmative.

**MR SESELJA** (Molonglo—Leader of the Opposition) (4.28 p.m.): I thank members for their contributions. We are disappointed that the motion has been gutted by the Labor Party and the Greens. It is a fairly irrelevant motion now and we will not be supporting it in its amended form. We had the opportunity—

**Ms Gallagher:** Get used to it.

**MR SESELJA:** Ms Gallagher tells us to get used to it. I think that people are becoming used to the fact that, apart from the occasional break away, the Greens will agree with Labor on the vast bulk of things.

**Ms Gallagher:** Didn't you enjoy this morning? You looked like you did.

**MR SESELJA:** That will be the occasional reality, before they come home.

*Government members interjecting—*

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Order, members! We have one member on his feet speaking and six others speaking at the same time. Can we just allow the leader of the opposition the floor, please?

**MR SESELJA:** I do thank you, Mr Assistant Speaker. The constant interjecting from the likes of Mr Corbell and Ms Gallagher is difficult to stomach, I agree.

**MR ASSISTANT SPEAKER:** Mr Seselja, if you will bait them, I cannot help you.

**MR SESELJA:** I thank you for your excellent handling of the proceedings in the chamber, Mr Assistant Speaker. It is disappointing that the Assembly has missed the opportunity to send a clear message. As an Assembly, we could have said to the government: "These are our priorities. These are different priorities. These are better priorities. These are priorities that reflect the views of the community, reflect the concerns of the community and reflect the fact that there is limited money."

But it is not just about the fact that there is limited money; there are bad decisions that have been made, and this is one. And this would have been the opportunity for the Assembly to do that, to stand up and say, "We actually believe in supporting what our community is genuinely concerned about, rather than funding legacy projects." That, unfortunately, is not the case, but we now do have it very clearly on the record from the Greens and the Labor Party that they support gutting the street trees program in order to fund the arboretum. That is the result of this division. That is the result of this vote and that is the result of the debate in the Assembly today.

We will continue to stand up for what we see as the fundamental and important needs of the community. We will continue to stand up for fiscal responsibility. We will continue to stand up for better decision making that focuses on getting grassroots policies and getting local community concerns taken care of before other less important priorities are funded. We will stand up for that. Unfortunately, the Assembly, through the Labor Party and the Greens, has not stood up for the same things and has endorsed the warped priorities of ACT Labor.

Question put:

That **Mr Seselja's** motion, as amended, be agreed to.

The Assembly voted—

Ayes 10

Noes 5

Mr Barr	Mr Hargreaves	Mr Coe
Ms Bresnan	Ms Hunter	Mrs Dunne
Ms Burch	Ms Le Couteur	Mr Hanson
Mr Corbell	Mr Rattenbury	Mr Seselja
Ms Gallagher	Mr Stanhope	Mr Smyth

Question so resolved in the affirmative.

Motion, as amended, agreed to.

## Community legal centres

**MR RATTENBURY** (Molonglo) (4.34): I move:

That this Assembly:

(1) notes:

- (a) equitable access to justice is a cornerstone of a modern democratic society;
- (b) one measure of access to justice is the individual's ability to get the advice of a lawyer when faced with legal issues;
- (c) that unmet legal need occurs when people cannot secure the assistance of a lawyer and that the negative impacts of unmet need include:
  - (i) specifically, people being forced to self-represent themselves in court; and
  - (ii) generally, a lack of awareness of rights and how they might be enforced;
- (d) the important role community legal centres (CLCs) play in catching people who would otherwise fall through the cracks because they cannot afford a private lawyer and do not qualify for legal aid;
- (e) due to cramped office conditions, CLCs are not operating at capacity because they cannot supply a work desk for all funded staff positions and are forced to reject offers of additional pro bono legal work; and
- (f) the Survey of Legal Needs in Australia, due for release in September 2011, which was commissioned by Legal Aid Commissions to give a jurisdiction by jurisdiction snap shot of unmet legal need; and

(2) calls on the Government to work with CLCs to reduce the number of people falling through the cracks by:

- (a) implementing a CLCs office accommodation strategy that:
  - (i) in the short term prior to the 2011-12 budget enables all existing funded staff positions to be given a work desk and offers of pro bono assistance to be accepted; and
  - (ii) caters for future staffing and office requirements of CLCs in the long term; and
- (b) during the 2011-12 financial year, use the results of the Survey of Legal Needs in Australia to:
  - (i) quantify unmet legal need in the ACT; and
  - (ii) develop a funding plan to help close the gap.

I am pleased to bring on this motion for debate today. It calls on the government to take a series of practical steps to improve access to justice in the ACT. The government had their own plans for improving access to justice, with the creation of a district court. What the government are addressing with their proposal is court waiting times, which is one aspect of a just society. People are waiting too long to get their case heard in court, and that does reduce access to justice. There is an old adage that covers this work, and that is that justice delayed is justice denied.

The Greens' motion today addresses a separate aspect of access to justice, which is the ability to speak to a lawyer. Central to our system of dispute resolution is the ability to have a dispute resolved by an independent court. Following directly on from this is the importance of having access to the advice of a lawyer. As the rules of court and the pre-court procedures are becoming increasingly complex, the role of the lawyer has become more and more important.

So at one level our motion goes to the heart of the ACT's performance as a modern democratic society. The ability to speak to a lawyer is a fundamental measure of democracy. On another more practical and tangible level, the motion identifies steps the government can take to improve our performance. Access to legal assistance is, as my motion says, the cornerstone of a modern democratic society.

Lawyers are central to our system of democracy but they do not come cheap. It is an unfortunate fact that not everyone can afford a lawyer, and the government lawyers put in place to provide free assistance cannot help everybody. People are falling through the cracks because they cannot afford a lawyer or they do not qualify for legal aid or perhaps both. There are serious and negative consequences for people who go without a lawyer when they need one.

As I have noted in the text of the motion, unmet legal need occurs when people cannot secure the assistance of a lawyer, and the negative impacts of unmet legal need include, specifically, people being forced to represent themselves in court and generally a lack of awareness of rights and how they might be enforced. And I think that second point is an interesting one. Often people are unsure whether they even have a legal problem or not.

The prospect of some early advice, the prospect of an early intervention, may enable people to resolve a problem without it becoming a legal dispute or may avoid them spending a whole lot of time caught up in saying it clearly is a legal dispute. And I think that general issue of “do I have a legal problem or not?” is one that is perhaps less understood but is a significant issue for many people in our community.

This point brings me to community legal centres. The community legal centres are an important part of the legal structure in Australia. They provide a role of access to justice that is fundamentally important and provide a pivotal role in providing assistance to those who would otherwise go without advice.

The intent of our motion is to urge the government to support the five community legal centres currently operating in the ACT. Community legal centres provide an invaluable service to those people in legal need and, as with most in the community sector, they really do run on the smell of an oily rag and provide tremendous benefits to the community.

I would like to turn to the practical actions we think the government needs to take and that we have included in the text of our motion. Firstly, we think that community legal centres represent an incredible investment option for government, with research showing that every one dollar spent in a community legal centre can save \$100 at later points in the justice system. Community legal centres act in a preventative way that educates people about their rights and reduces their reliance on the courts and lawyers to resolve disputes, the point I was making earlier.

However, community legal centres are facing an accommodation problem in the ACT. It is forcing them to turn away offers of pro bono assistance and to operate at reduced capacity. And by “reduced capacity” I mean they are less able to offer legal advice and assistance for those people who are falling through the cracks, who cannot afford a private lawyer and who do not qualify for legal aid. And this is happening every single day. This is not some problem that is somewhere out in the future. This is happening right now.

In the paper that the Greens issued, which we have discussed in this chamber before, on community legal centres and access to justice, we provided some case studies of the sort of people we are talking about who desperately need help at a time in their lives when they are perhaps facing the biggest crisis they have ever known. Not being able to access a lawyer simply makes that problem so much worse. So helping community legal centres with the problems of accommodation is a very practical way the government can act to close the gap on unmet legal need.

I should acknowledge that the government have taken practical steps in the last month or two. We are told they have arranged and paid for a small amount of renovation work at Havelock House that now means the Street Law program can offer a work desk to its volunteer solicitors. This was welcome but very much needed assistance. It shows that the government can act on this issue. Our motion calls for more of the same approach.

I am aware that the government will be moving amendments to strike out those references in our motion that call on the government to act before the next budget. That is a shame, because I think they are selling themselves short. They have engaged with Street Law, identified their problems and found a solution. But there are other legal providers based at Havelock House who are facing the same problems, who could potentially find equally similar practical and deliverable solutions and who need that assistance from government to deliver the legal capacity that many in our community so desperately need.

The Greens' position on what is needed is that, firstly, all paid staff positions should be able to be provided a desk. It seems a fairly simple premise that anybody who has a job should have somewhere to sit, with a computer and telephone, to be able to do their job.

The second point is that offers of pro bono assistance should be able to be accepted. Again, this means the provision of sufficient space—perhaps even a hot desk with a telephone and a computer—so that private sector lawyers who are wanting to offer their skills and services on a free basis should be able to come in and have the capacity and the space to do that work and to be able to meet clients and the like.

Our third point is that the government should be able to act to ensure that the first of those two points is achieved. As I touched on earlier, it is a simple and sensible investment for government. Putting some money in now will make a real difference in the future and save money down the line.

The government's position in opposing parts of our motion appears to be that they do not want to open the floodgates to vast claims from community legal centres for office space. The government do not want to be forced into funding those claims. I do not accept those views. The government's position misinterprets community legal centres and what they stand for. Community legal centres are there for those people in need and they remain focused on providing legal advice. I simply do not think they are that interested in some sort of land grab or building themselves larger premises from which to operate. The simple fact is they are operating at reduced capacity and they need help to bring themselves up to full capacity. That is not because they want something. It is because they want to deliver the services that the community needs.

The Greens do not believe it is too onerous to require that the government engage with community legal centres and find practical solutions to their problems. It is not too much to ask that paid staff and volunteers have the space to work. The simple provision of a desk does not seem like too much of an ask.

The second aspect of what the Greens are calling for in this motion is action once the survey of legal needs in Australia is published in 2011. The survey will quantify unmet legal need on a jurisdiction-by-jurisdiction basis. This is an incredibly important piece of work, because what we know at the moment is there is a large amount of anecdotal evidence that there is unmet legal need in the community but nobody really knows what it is, how much there is and, therefore, by dint of those gaps in knowledge, how to tackle it.

The survey for the ACT will allow us to accurately quantify those people who are going without legal advice when they need it. The necessary follow-on work from there will be some form of government action to fund legal service providers to close that gap. Without that action, the survey itself will be pointless. We will have a document that says there is a huge amount of unmet legal need out there—we imagine they are the findings that are going to come out, that there will be a gap—and if we simply have that and leave it on the shelf collecting dust, it is going to be a tremendous missed opportunity. To quantify unmet legal need but then fail to act on it and attempt to close the gap is not good enough. To simply turn a blind eye is not the path that this Assembly and this government should be taking.

It is unfortunate that the government have indicated they will also move to amend the text of our motion to exclude that necessary second step. I find that somewhat surprising. The Greens will not let this opportunity for action go by, and we will move an amendment to the government's amendment, which I have circulated, so that we can reinsert the requirement to actually act on the results of the survey. That is the gist of it.

I have brought forward this motion in the spirit of saying that this is a community asset from which, by the government making an investment now, we can get so much return on those dollars. We can treat with a bit of respect the people who are working so hard in these community legal centres. We can actually provide them with the basic facilities they need to do their job.

I have a sense that across the Assembly there is a real acknowledgement and respect for the role of community legal centres. I think what we are asking for here is simply that we empower them to do even better the fabulous job they already do. I commend the motion to the Assembly.

**MR CORBELL:** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.44), by leave: I move:

(1) Insert new paragraph (1)(ea):

“(ea) that the Department of Justice and Community Safety has provided assistance through minor renovation works and the supply of furniture to create more workstations;”.

(2) Omit paragraph (2), substitute:

(2) calls on the Government to work with CLCs to:

- (a) provide assistance through the evaluation of accommodation options which assess space requirements and functional suitability of new accommodation identified by the CLCs with respect to future staffing and office requirements in the long term;
- (b) consider proposals for new improved accommodation in the 2011-2012 budget process; and

- (c) use the results of the Survey of Legal Needs in Australia (2011) to quantify unmet legal need in the ACT during the 2011-2012 financial year.”.

The government supports the broad thrust of this motion that has been brought forward by Mr Rattenbury this afternoon. I have moved a number of amendments which I think assist in clarifying what it is we need to do in relation to this matter. The government are committed to the improvement of access to justice across the community, and we recognise the important role of community legal centres in ensuring that people have access to legal services and representation, particularly if they do not qualify for assistance from other bodies such as the Legal Aid Commission.

The Department of Justice and Community Safety provides total funding of approximately \$1.2 million to five organisations for legal assistance, early intervention and related services in the ACT. In the most recent budget, the government is providing increased funding for the delivery of victim support services by the community sector and is delivering increased capacity for the Canberra Women’s Legal Centre to support access to legal services in the ACT for Aboriginal and Torres Strait Islander women. The budget initiative provides for an expansion of services through the employment of additional staff by the community legal sector.

I had the opportunity to meet just before the finalisation of this year’s budget with representatives of the community legal centres located at Havelock House. They took the opportunity to explain to me their concerns and the practical problems they faced with their accommodation that is currently in that location. I am, was and remain concerned about their accommodation at this time and the fact that it is a very cramped set of quarters in what is an increasingly old building.

Clearly, there are some constraints around what you can do in relation to a building of that age, particularly short-term or ad hoc measures, without significant cost and, clearly, there needs to be a longer term approach adopted by community legal centres to their future accommodation needs. For that reason, I indicated to community legal centres when I met with them a number of months ago that I would be willing to ask officers of my department to meet with them to discuss the issues at play, to take short-term steps, where feasible, to address the problems and to work with them and provide what assistance we can to them in determining their long-term accommodation needs.

It is, however, important to note that community legal centres are not government organisations. These are private, not-for-profit organisations that do a very important job. But it is not the government’s job to dictate to them their accommodation choices. We can, of course, assist them in evaluating alternatives, and ultimately governments will be called on, as we should be, to assist with the funding of long-term accommodation choices. But it is very much a matter for the community legal centres themselves to determine their future accommodation options.

What I have indicated to community legal centres is that we will provide every assistance possible in that task and work with them collaboratively. To that end, on

21 June, my department, including the chief executive of my department, met with representatives of the community legal centres to discuss issues associated with their accommodation. My chief executive has indicated to representatives of the community legal centres that she will make sure that the government, through the department, will provide assistance in a range of ways. First of all, in terms of long-term accommodation strategy, we will be providing them with the resources of the department when it comes to assessing capital works bids and projects and other issues associated with assessing alternative long-term accommodation options.

I am also very pleased to say that, prior to that meeting, other officers of my department had met with community legal centres and had already undertaken a number of steps, through the department's minor works budget, to provide additional workstations and, through some minor renovation work and supply of furniture, to create two new workstations for the Women's Legal Centre and the Welfare Rights and Legal Centre's homeless legal service known as Street Law. So the government has been proactive on this issue since the matter has been drawn to my and the department's attention.

I think, though, I do have to reject the claims made by Mr Rattenbury earlier in this debate—not today but I note some of his previous media statements on this matter—where he said that the government have simply said there is nothing we can do and the community legal centres have to wait until next year's budget. As Mr Rattenbury knew then, and as he knows now, that is not the case. As I have just demonstrated, the government have been proactive, since the matter has been brought to my attention, to assist community legal centres with short-term solutions, where those have been feasible and practicable, and assist community legal centres in developing longer term solutions. The government will continue to provide a range of support to community legal centres, and that is a matter which we will evaluate each and every budget, as should be the process.

Turning to some other aspects of Mr Rattenbury's motion, he raises the issue of the survey of legal needs in Australia, or SOLNA as it is known, which has been commissioned jointly by legal aid commissions across the country to give some assessment and analysis of unmet legal need. This is a valuable piece of work. Regrettably, it is taking a long time to be finalised by the body commissioned by the various legal aid commissions, and we do not expect to see the results of that work until next year. The government, though, look forward to seeing the results of that survey of legal needs. We will take into account that survey of legal needs in determining the most appropriate course of action by the government in relation to future funding of community legal centres.

Turning to my amendments, the government propose a new point (ea) in paragraph (1) to recognise that the department has already provided assistance to community legal centres in relation to these matters in the short term and, in a revision of paragraph (2), to recognise that the government will be providing assistance in the evaluation of accommodation options. The government will consider proposals for new and improved accommodation in the forthcoming budget process; and we will use the results of the survey of legal needs to quantify unmet legal need in the ACT.

The concept of unmet legal need is a difficult one to properly quantify. The survey will give us a much better analysis of that. I would hasten to add that unmet legal need is somewhat akin to asking how long is a piece of string. The more assistance you make available, the more cases will be progressed as a result. I am not saying that is a bad thing. Indeed, the more people who are able to get the legal advice they need, the better outcomes for them and the better resolution of the problems and disputes that they face. However, I think it would be unrealistic for members to expect that unmet legal need can be fully quantified and fully addressed through any process. There will always be some level of unmet need in the community, by the very nature of the types of issues that can be expanded into with expanded funding.

But that said, the government believes that this is a worthwhile discussion for the Assembly today. Community legal centres provide vital and important advice, assistance and advocacy for people in our community, particularly those people who face greater disadvantage because of their accommodation, because of their income, because of their employment or lack thereof, because of mental health or other health issues. These are centres that provide vital assistance to many people in our community.

The government are proud of the support we provide. We will continue to work to improve further support and funding to these centres and we will continue to work to assist them in providing the most appropriate accommodation so that they can deliver the services that are so valuable in our community.

**MRS DUNNE** (Ginninderra) (4:55): There is no doubt that community legal centres in the ACT provide a valuable service to those in our community who need legal help but often cannot afford to find it through commercial means. There is no doubt that there are people in our community who need legal help but who, for one reason or another, are unable to access those services or simply fall through the cracks, as Mr Rattenbury has suggested in his motion.

Indeed, even the government's own Legal Aid Commission is unable to meet the demand placed on it. For instance, in answer to a question taken on notice during the estimates hearings this year, the commission indicated that, for their legal aid application approval rates to go back to 80 per cent, which is where they were a couple of years ago, they would need additional funding of about \$788,000. As I said, \$788,000 would restore their approval rates to what they were prior to taking measures in 2008-09 to contain the cost of grants to within the budget allocated by this government and the federal government and from other sources. But even that would leave a yawning gap in the legal services available to the needy in our community.

Further, there is no doubt that community legal centres operate in cramped and inadequate spaces. The Women's Legal Centre is a case in point. In my visits there, I have noted—I think with some alacrity I had pointed out to me—the inadequacy of the space and equipment there. I also noted that they operate in an environment of questionable work safety, particularly in the area of the kitchen. But I understand that some of those issues have been addressed.

The kitchen that was available to the Women's Legal Centre and the other legal services in Havelock House was, when I first visited it, an absolute disgrace. The drains were not working and people had to carry buckets of water out of doors when they did their washing up. It is a bit like at the turn of the 20th century rather than a 21st century legal service in the capital of a first world country. Nonetheless, the Women's Legal Centre is not the only community-based operator facing these kinds of challenges. Such challenges are not limited to community legal centres either. Almost any community-based organisation faces exactly the same challenges and they provide no less an important service in our community.

For these reasons, the first part of Mr Rattenbury's motion sets out very succinctly the issues facing community legal centres. We can but acknowledge their pertinence, and we will be supporting them. The government has proposed an amendment to the first part of the motion. That amendment will ask the Assembly to note that some work has already been done to assist community legal centres with minor renovations and the supply of furniture. That assistance is also to be acknowledged, and we will be supporting the government's amendment.

The second part of Mr Rattenbury's motion, notwithstanding the comments I have made, and while supporting the premise put forward, the opposition cannot support in its present terms, because of the fiscal implications that it puts forward. I touched on this when I spoke in the previous debate—that there does seem to be a tendency in Greens' motions and amendments today to ask us to make either open-ended commitments to spending or not worry about where that money might come from. And it is not the way of the Canberra Liberals to do that.

No government should be expected to commit to funding of the unknown. We do not know the extent of the shortfall in resourcing or service delivery, and no government should be committing funding to any program until the unknown becomes clearer. Even this government, with its record of wild spending, its record of budget overruns, its record of poor delivery of projects on time, I would hope, would not run out and spend money on something it knows nothing about. As I have said before, there is some resonance between what was being proposed by the Greens in the previous motion and this one.

In short, we would not expect a government to make funding commitments on something it did not know about. The Greens, as partners of ACT Labor in this place, should not be expecting the government to do that. Further, should the Canberra Liberals be elected to government in just over two years time, we would not be willing to make such a commitment. Before any funding commitment is made, no matter how worthy an organisation or a group of organisations is, an analysis of the need and related costs should be undertaken. There is work being done in this area already.

Mr Rattenbury and the attorney touched on the survey being done by the Legal Aid Commission. The Legal Aid Commission told us in the estimates hearing this year that the report of the survey conducted by national legal aid into legal need in Australia will be published in September next year.

We also know that, in December 2009, the Senate's legal and constitutional affairs committee tabled a report on access to justice. In its summary, the committee notes:

Clearly, weaknesses in the legal [aid] system could be partially rectified, or rectified in the short-term, with increased, and targeted, levels of funding.

There will be more work required to be done in the ACT to discover the scope of need, the cost, the benefit and the outcomes before any government of any stripe can commit to funding to completely close that gap, which is what Mr Rattenbury's original motion asked for. I understand the motivation for Mr Corbell's amendment, which he has moved, to wind back the call for an immediate funding commitment. The government's amendment would require us to engage in the process of study and the process of discovery and diligently finding a way forward that would include appropriate funding, and we will be supporting that amendment.

I do note that the amendment that Mr Rattenbury has circulated is somewhat different to the amendment that we spoke about in my office at lunchtime. I understand that things have moved on since then and I will take the time to consider that amendment as it was first proposed to me about lunchtime or just before lunchtime. I thought that I could not support it but I shall give the wording, as it now appears, some more consideration in the course of this debate.

The work that is done by community legal centres in this community and elsewhere is laudable. It is hard work dealing with people with really troubling situations. When we set about the process of looking at the unmet need, we also need to be fairly rigorous about whether all of those services provide the sorts of services that we would expect, to the level that we would expect. We should be looking for those services that do the best work in ensuring that we fund those for the best outcomes for the community and we should be encouraging other organisations, which may not be completely up to the mark, to lift their game.

One of the things that I am a little disappointed about is that Mr Rattenbury, for all his good intentions in this motion, seems to have forgotten a very important piece in the puzzle, and that is the interchange between community legal centres and the Legal Aid Commission. The Legal Aid Commission does, for the most part, slightly different and slightly to the side work from the work done by community legal centres but they do work substantially together. I think that we, as a community, following the research done by the Legal Aid Commission, should be actually looking at this issue in the context of the funding for the Legal Aid Commission as well and how those fundings might interplay together.

I want to congratulate Mr Rattenbury for the sentiment, which I applaud, but I think that there are some things that his motion asks for that are not supportable in their present form and I am happy to work with the Assembly through that process to come up with a better and more reasonable consensus.

**MR RATTENBURY** (Molonglo) (5.05): I move:

Omit paragraph (2)(c), substitute:

“(c) use the results of the Survey of Legal Needs in Australia (2011) to quantify unmet legal need in the ACT during the 2011-2012 financial year and develop a strategy to help close the gap.”.

I will speak briefly to this. I touched on my views on this in my earlier comments. I understand it is the will of the Assembly to support Mr Corbell’s amendments as a whole. My suggestion is to simply insert a new paragraph (c). Mr Corbell’s wording is that the government work with community legal centres to use the results of the survey of legal needs in Australia to quantify unmet legal need in the ACT. I simply suggest we develop a strategy not just to work with them but actually say we are going to develop a strategy.

I do not know there is necessarily a significant funding attachment to that, picking up on the points Mrs Dunne has made. I think it is about saying that we need to do more than just acknowledge, that we want an actual plan. Once we have got the survey of legal needs, we are going to have a really clear understanding of what the gap is and I think that is the point—again I accept Mrs Dunne’s observations around legal aid and other players in this discussion, but we need a point—at which we can say to all stakeholders, “We have now quantified this. We know the nature of the problem. Now is the time to write a strategy in response. This is how we are going to tackle this now clearly identified need in our community.”

That is the purpose of this amendment and I commend it to the Assembly.

**MRS DUNNE** (Ginninderra) (5.07): Just before I stood up to speak, I was working on the basis that Mr Rattenbury’s amendment was going to reinsert the issue about a funding plan and I was not prepared to support that. On reflection, I am quite happy to support developing a strategy. Developing a funding plan calls on the government to commit to spending and I cannot do that. But developing a strategy is a community strategy and there may be other sources of funding not just government funding, and I am quite happy to support the words as they were circulated rather than the ones that we discussed in my office at about lunchtime. I am happy to support Mr Rattenbury’s amendment to Mr Corbell’s amendments and I am sorry for misdirecting Mr Corbell when we discussed it earlier in the day as well.

**Mr Rattenbury’s** amendment agreed to.

**Mr Corbell’s** amendments, as amended, agreed to.

Motion, as amended, agreed to.

## **Taxation—change of use**

**MR SESELJA** (Molonglo—Leader of the Opposition) (5.09): I move:

That this Assembly:

(1) notes that:

- (a) the ACT Government is claiming to have failed to collect the Change of Use Charge (Charge) properly since a mysterious arrangement or deal was entered into in approximately 2003;
  - (b) a massive increase in the Charge amounts to a massive tax on housing;
  - (c) urban infill is an important measure to address transport and climate change issues;
  - (d) a waiver of the Charge is being used to provide an incentive to redevelop suburban service station sites and that the increased Charge provides a disincentive to develop housing, which will reduce the supply of housing;
  - (e) the Government is seeking to codify the Charge;
  - (f) there is considerable uncertainty within industry about the future of the Charge, including the commencement date of codification, and the values that will be applied prior to codification; and
  - (g) this uncertainty is causing a rush for valuations and lodgement of applications, thereby causing significant delays and inconvenience in advance of the new system; and
- (2) calls on the Government to:
- (a) immediately inform the Assembly of the current arrangements for determining the Charge, including how it will be applied after 1 July 2010, and how this is affecting housing developments;
  - (b) provide clarity and certainty to the community by immediately informing the Assembly of:
    - (i) when codification of the Charge will take effect; and
    - (ii) which values will be used for codification;
  - (c) immediately inform the Assembly about how the 2003 Change of Use Charge arrangement came into being and outline who was responsible for the arrangement; and
  - (d) provide analysis to the Assembly of the impact of the Charge on urban infill by the end of the August sittings.

We are moving this motion today for a number of reasons. I do not ordinarily do this but I think it is important in this case to go through some of the individual parts of the motion. I guess I am getting out in front of the amendment that has been circulated by the Greens, but I think you will note from the wording of this motion that, whilst it is certainly putting our view of the world, it is fundamentally going through a number of statements of fact and calling on the government to clarify a number of points, to give some information to the Assembly.

There are a number of other things that we would like them to do—that is, to find ways of ensuring that they do not levy this massive tax on homes in the ACT—but they are for a debate on another day. This is about getting some information for industry and for the community because there is a lot of uncertainty there at the moment and there is no doubt that there is significant uncertainty about what is happening with this tax.

It is worth reviewing the fact that the government has for some time been moving down the path of codification. The codification in principle is supported by industry. It does remind one a little bit of the mining tax and the debate that is going on with that. The mining tax is, in principle, I think, supported by industry; it is just totally the wrong tax. The industry do support the idea of a profits-based rent tax, but how much and how it is levied is the problem. That is similar to what we have here, although there is added complexity here, so it is worth going through a number of the different aspects.

The motion notes that the ACT government is claiming to have failed to collect the change of use charge properly since an arrangement or deal was entered into in approximately 2003. That needs to be explained. The government actually needs to put the documents on the table that show that there was a deal or an arrangement entered into which apparently led to the ACT government not receiving the taxation revenue from the change of use charge that it apparently should be getting. That case, in our opinion, has not yet been made. It has not yet been made by the Treasurer; it has not yet been made by the government.

The motion goes on to note that a massive increase in the charge amounts to a massive tax on housing. That is a statement of fact. There is no doubt that, if you increase the charge significantly, as the government is proposing to do, that cost will be passed on somewhere. Indeed, we had Treasury officials confirming this during the estimates process. They confirmed that there are only three ways it can go, and they could not say where it would go. There are only three ways that this very large increase in tax can go. It can be wiped off the value of people's existing properties—that is, they will get less than they otherwise would have got as a result of this tax—it can be borne by developers and builders and in some way absorbed, or it can be passed on to buyers.

**Mr Barr:** Or a combination of all three.

**MR SESELJA:** Indeed. But they are the only ways that it can go, and the Treasury could not say to us whether all of it or part of it would go to buyers or all of it or part of it would be absorbed.

**Mr Barr:** The market is dynamic, Zed.

**MR SESELJA:** Indeed it is, but this is part of the uncertainty, in that the modelling really has not been done as to how it will go. But I think it is a fair bet to say that a significant amount will be passed on to buyers. I do not think that anyone would argue that buyers are not going to cop any of this massive increase in tax. The idea that developers can simply absorb it I think is fanciful, particularly given the lending constraints and the financing constraints that people are experiencing at the moment.

**Mr Barr:** But that applies equally to buyers as well. They have a capacity to pay issue too, so the market will adjust, Zed.

**MR SESELJA:** Mr Barr interjects, but there are differences there and we know this because of what has happened in the last couple of years in terms of financing. There has not been as much of a squeeze in terms of lending for residential property for purchasers; there simply has not. There have been some changes in the conditions. There has been a greater deposit required and the like, but we have not seen ordinary families in Australia having massively changed conditions in terms of lending practices. But we do know that lending practices have changed and have become significantly tightened for business and for developers. There is no doubt about that. The lenders and the financiers have to see a certain profit, so in that sense much of it cannot be absorbed. We can debate—

**Mr Barr:** Will that always be the case, or do you think that market conditions might change?

**MR SESELJA:** It may not, but that does not fundamentally change the fact that you cannot put in a massive tax increase like this and expect there to be no impact or no negative impact. There is this naive idea from the Treasurer that you can just increase it and no-one will be affected. But they will and they will be affected in one of those ways: either/or or a combination of those things. I think all of those will potentially be sluggish. But, as is often the case, it is most likely to be those with the existing properties, who were hoping to get a certain return, who see a drop in their value, and buyers—

**Mr Barr:** Isn't that a good thing for housing affordability, Mr Seselja?

**MR SESELJA:** and anyone who argues otherwise is naive. It is not a good thing if people are having to pay significantly more for units than they were.

**Mr Barr:** What if the land price falls, though, given that is a pretty—

**MR SESELJA:** If it is split, we know that their land price will fall, which will be part of the cost of the tax, and the other part will be the price of the units going up, and that will be greater because in the end that tax will be levied.

We have a situation where the government said there was a deal or arrangement which they claim to have been in existence since 2003. We have not seen the documentation which would back up that claim, and I would call on the minister to provide that information and to provide that information to the Assembly.

Under this arrangement, we are told, it appears that for all dual occupancy developments the uplift in value was calculated to be \$5,000, for multi-units, \$1,500 and for townhouses it was \$2,500. Khalid Ahmed told estimates:

Odd, but the process seems to have been followed.

So that is the first point. How did this deal come about? It is, in our opinion, a serious allegation—a serious allegation that there was a deal entered into which must have involved, at some level, if the government is to be believed on this, the Australian Valuation Office and indeed the ACT government, because in the end developers do not choose how much tax they pay in change of use; it is levied on them. They might put a case as to how much they should pay. They might put a case as to what kind of offset should be included and what is the value of those offsets. But in the end they do not decide; the government decides, through the Australian Valuation Office making a valuation and the advice that it gets.

So there is a serious allegation from the Treasurer, and she has not answered: what is the evidence for this allegation and who are the people who apparently entered into this deal?

The government actually acknowledge that change of use can act as a disincentive, because they say that by waiving it or by halving it it acts as an incentive. So we have got a program to act as an incentive for redevelopment where they cut the tax. By the same logic, a massive increase in the tax will provide a disincentive. This is fundamental to this debate.

**Mr Barr:** What about the distributional effects within the city, though—

**MR SESELJA:** The Treasurer believes that this kind of massive increase in tax—

**Mr Barr:** from a flat rate to a variable rate, depending on where the dual occupancy is?

**MR SESELJA:** If that is the case, if it is not going to have any impact, you could make the argument—

**Mr Smyth:** Why have it at all?

**MR SESELJA:** that it could be as big as you want it. If it is not going to have any impact, as the Treasurer would have us believe, you could double it, you could triple it, you could get unlimited revenue, it seems, for the government. But it does not work that way.

There is significant industry uncertainty about this process, and it is not just about codification. There are two aspects to this. There is the apparent deal which is now being rectified, we are told, by the government, and then there is the issue of codification. We have heard from industry that they are concerned about what the process is. It is worth quoting from a letter from the HIA, from Stuart Collins, to Katy Gallagher:

While we understand that submissions are currently being considered and the implementation of the codified system is being deferred to allow for additional input, industry is expressing its frustration with the lack of communication by government in informing it of its time-frames, interim arrangements and the process for the finalization of codification.

This is generating a wave of uncertainty leading to a mad rush for valuations and lodgement of applications causing significant delays and inconvenience in advance of the new system.

That is the process that we have at the moment. We have seen this mad rush, as described by Stuart Collins from the HIA. Then we have asked about costs under codification. Ms Gallagher has said in this place—and this is where a lot of the uncertainty lies, not just about whether there will be codification, not just about how much they will levy—that the increasing cost associated with codification is not significantly greater than what is outlined in the budget papers. What she is saying is that the \$50,000, \$60,000, \$30,000 and \$40,000 per unit that they are proposing to levy through codification are effectively being levied now. We need clarification on that as well. We need clarification on this point: what is the approach now, this new approach? How much per unit would a developer expect to pay? These are questions that have not been answered.

We can go through all of the different groups that have expressed concern. The Independent Property Group said:

The logic to determine these numbers appears to fail simple mathematics, and appears not to have taken into consideration the significant costs and lengthy delays a developer does ordinarily experience as they negotiate the planning system, public consultation and a possible ACAT appeals process.

The Australian Property Institute said:

It is becoming apparent that as the proposed system evolves there is a philosophical shift from capturing the value increment resulting from Crown Lease variations to a system of taxing development and urban renewal.

And that is another part of this debate: what impact will this have on urban renewal? I look forward to the wannabe-Treasurer, Mr Barr, getting up and telling us: “Actually, this will be a good thing for intensification. We will see more units on the back of this.” It is like the arguments that we see federally from the Labor Party that by slapping a big tax on the mining industry there will be more mining.

We are going to hear the same from this government—that by slapping a big tax on development, particularly on units, we are going to see more units. Well, no, that is not generally how it works. If you put massive taxes on things, it tends to act as a disincentive to development and, if anything, you will get less. Will you get none? No. Some will be able to wear the cost. But what kind of units will we get at the end of that? It will encourage developers to focus only on delivering high-end products. If you are going to have to absorb, to cop, taxes of around \$50,000 or more per unit, you are surely going to be more inclined to deliver a higher-end product.

So what we need is some certainty. That is what this motion asks for; it asks for information. I am surprised by what the Greens have circulated, and I would ask them to reconsider the amendment that they have circulated, because what, effectively, this motion does is simply ask for information from the government. It is information that industry is crying out for. It is information that would reasonably inform this debate.

It is information that is important so that we can get to the bottom of how and when and if this deal was arrived at. What kind of tax is being levied right now? Will that change on 1 July? Will that change when we have codification? When will we see codification?

These are the questions that need answering. They have not been answered by the government. The significant uncertainty of this massive new tax on units and on homes is causing great consternation. I commend the motion to the Assembly and I call on the minister to provide us with that information. (*Time expired.*)

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (5.24): The Greens do not support the motion as proposed by Mr Seselja today, and I will be moving an amendment so that the motion better reflects the current situation and pays due regard to the committee process.

On the change of use charge, the most important point to make is that the Greens support the revised and corrected application of the change of use charge. The move corrects an error and applies the law correctly, as was intended by this place when it was passed. We do recognise that there is an issue to be addressed in ensuring that we do not create an unreasonable disincentive or barrier to urban infill development, with the associated environmental benefits that can be achieved from higher density.

The original motion, as moved by Mr Seselja, is essentially a rehash of the Liberals' dissenting estimates report, and it is disappointing that, rather than engaging in the estimates committee process to achieve a productive outcome, the Liberals are now moving a motion to essentially the same effect as what would have been agreed to by the government in its response to the majority report.

**Mr Seselja:** Did you actually read the motion? That's an ignorant comment, even from you. That's a really ignorant comment, Meredith.

**MS HUNTER:** What they are doing here is trying to get a government response to the dissenting report and effectively saying that they do not support the committee process—

**Mr Seselja:** We are trying to get answers that you do not want to see.

**MS HUNTER:** Not just the estimates—

**MADAM ASSISTANT SPEAKER** (Ms Le Couteur): Ms Hunter, one minute, please. Mr Seselja, I cannot hear Ms Hunter because of your constant interjections—

**Mr Seselja:** On that point, on a point of order, Madam Assistant Speaker, for the first five minutes of my speech I had Mr Barr shouting me down. I could barely hear myself think, and I did not hear you intervene, so I would ask you to show due consideration to both sides when there are interjections and show the kind of courtesy to us as that you are showing to Ms Hunter.

**MADAM ASSISTANT SPEAKER:** Thank you, Mr Seselja. Ms Hunter, you have the floor.

**MS HUNTER:** Thank you, Madam Assistant Speaker. What they are doing here is trying to get a government response to the dissenting report and effectively saying they do not support the committee process. Not just the estimates process, but the committee process generally.

The government has agreed to the estimates committee recommendations in regard to the change of use charge. The purpose of any committee report is to report to the parliament on the merits of a proposal and, where appropriate, to provide a recommendation for improvements or ancillary action on the matter at hand. This is exactly what has occurred, and that is why I am disappointed that the Liberals are not prepared to wait for the outcome of that process.

That is where in the estimates report we do go to recommendation 2. Recommendation 2 actually states that the committee recommends that the Treasurer table in the Assembly a report into why the change of use charge was incorrectly applied and what steps have been taken to correct the error. That recommendation was agreed to by the government.

Then we go on to recommendation 3. The committee recommends that an evaluation of the impacts of the change of use charge be undertaken as part of the codification of the change of use charge process, to ensure that it does not create an unreasonable barrier to urban densification. Again, this recommendation, No 3, was also agreed to in the government's response.

I will go through a few issues that were raised in Mr Seselja's motion and a bit of an explanation as to why the Greens do not support the particular statements in it—apart from the fact that the language is a little poor in places and it does have a lot of hyperbole.

If we go to 1(b) of Mr Seselja's motion—this is on the issue of “tax on housing”—we heard from Treasury official, Mr Ahmed. He said during the estimates hearing that the charge could be passed on in three ways—three different ways—and that he could not assign a proportion to any of the three possibilities. I am not aware of any evidence to suggest that there is a particular allocation to purchasers, which appears to be the premise of the statement here in Mr Seselja's motion. If anything, I would think that the market price of the house is the greatest determinant and that to a significant extent the developers will have to absorb the charge. However, I would be very interested to read any evidence that properly addresses the issue.

If we go down to 1(e) of Mr Seselja's motion here, which is talking about the government seeking to codify the charge, which is absolutely true, and then (f) and (g), which talk about some uncertainty in the industry and so forth, to the best of my knowledge the industry have been participating in the codification consultations and discussions and, to a significant extent, have been receptive to codification, as it provides them with certainty and it moves away from the valuation process. I would be very pleased to have further representations from people in the industry on the issue of codification.

In fact, I have met with the Property Council and have had other discussions with individual developers since the budget was brought down, and people have said quite clearly to me that they do want codification to go ahead. It does provide certainty, but, of course, in many of these matters the devil is in the detail. That detail, I understand, is still part of dialogue and discussions and negotiations that are going on between government and industry around the particular schedule and what the rates on that schedule will be. So, as I said, to the best of my knowledge there is no evidence to the effect of the statement in the motion that it would therefore be inappropriate to support this line.

The motion as moved fails to take into account a number of factors. Firstly, the Treasurer said on budget day that the corrected application of the charge would be applied from budget day. Secondly, the discount factor applied in last year's budget as part of the stimulus measures will cease on 30 June. The motion fails to address these issues and appears confused about the practical application of the charge.

Further, on the question of the codification of the charge, as I understand it, there is no confirmed date for the implementation of any new scheme. Indeed, as I understand it the consultation has only just been completed. No report has been finalised or produced, and we are still quite a way off from being able to develop a position—or the government, I understand, are certainly in that position—of how that new scheme will look. Therefore, no doubt, once they release that, it will then be up to the Liberal Party and the Greens to take a look at that and see what our positions might be.

Further, it is up to the Assembly to amend the relevant act or acts, if there is to be a change, and we will no doubt have a comprehensive debate on the nature and scope of any proposed changes at that time. In relation to what we are asking the government to do, as I have said, I think it is reasonable to allow the committee process to run its course.

*Members interjecting—*

**MS HUNTER:** Madam Assistant Speaker, I cannot even hear myself talk.

**MADAM ASSISTANT SPEAKER:** Yes.

**MS HUNTER:** In relation to what we are asking the government to do, as I have said, I think it is reasonable to allow the committee process to run its course. The arrangements for determining the charge are set out in the legislation and, as I said, as far as I am aware, apart from the termination of the discount factor, the application of the charge is exactly the same today as it will be tomorrow morning.

In terms of modelling on how the correction will affect housing developments, the Greens have expressed concern, as did the estimates committee report, and the government has agreed to these recommendations, as I stated. The government has already said that it has not done this work—we all know that. That did come out quite clearly. So I would like to make the point that, thankfully—and I do acknowledge that—the government has no choice in applying the law correctly. I find it very hard to understand how it could be that anyone could argue that the law should be applied incorrectly and we should continue to carry on with this problem that has obviously—

*Mr Seselja interjecting—*

**MADAM ASSISTANT SPEAKER:** Mr Seselja, please, we need to hear Ms Hunter in silence.

**MS HUNTER:** And I am sure that nobody here would be arguing that we do not apply a law correctly. As I said, I have circulated an amendment which essentially notes the estimates committee recommendations and clarifies what the government have agreed to do. I understand that the government will be supporting the amendments and, anticipating that support, I thank them for it. The amendment clarifies the three documents that will be provided to members to aid their evaluation of any proposed changes to the change of this charge.

This is the most productive way forward. It recognises that the process to evaluate the proposed changes is still ongoing and also that the estimates process is underway and we should respect that process. So, Madam Assistant Speaker, I move the amendment circulated in my name:

Omit all words after “notes that”, substitute:

- (a) the Select Committee on Estimates 2010-2011 recommended that:
  - (i) the Treasurer table in the Assembly a report into why the Change of Use Charge was incorrectly applied and what steps have been taken to correct the error; and
  - (ii) an evaluation of the impacts of the Change of Use Charge be undertaken as part of the codification of the Change of Use Charge process to ensure that it does not create an unreasonable barrier to urban densification; and
- (b) the Government has agreed to:
  - (i) these recommendations; and
  - (ii) provide a full evaluation of the impacts of the codification of the Change of Use Charge, including an assessment of the impacts on urban densification, a cost benefit analysis and a regulatory impact statement.”.

**MS GALLAGHER** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (5.35): The government will not be supporting Mr Seselja’s motion today, which I do not think should come as any surprise to the opposition. But we are happy to support the amendments of the Greens put forward by Ms Hunter. We believe they offer a good way forward in terms of keeping the Assembly up to date with the process being used to implement changes around the change of use charge, particularly around codification of the change of use charge, which seems to be of particular interest. I accept it is of interest to all in industry as well, and I thank them for continuing to work with the government as we finalise the process for full government consideration of the codification work.

The government will not be supporting the motion of Mr Seselja, because we believe it starts with an incorrect premise and a pretty unfair imputation, and the wording of the first paragraph goes to that. It asks the Assembly to note that the government are claiming to have failed to collect the charge because of a deal. We have not—

**Mr Smyth:** But that is what you said to estimates. Did you mislead estimates?

**MS GALLAGHER:** No, I did not mislead estimates. We are uncertain—we can speculate about what happened—about what led to the arrangement to institute a fixed flat fee for residential dual occupancies and apartments. That is essentially the issue over which the Minister for Planning has portfolio responsibility, and he will address that when he speaks to the motion. That work is underway, and we have already accepted that we need to update the Assembly around what that work finds when it is completed. We have sought to respond to concern around codification of the charge. Originally, industry came to us seeking codification of the charge; it was actually at their request—

**Mr Seselja:** Just like the miners, isn't it?

**MS GALLAGHER:** I think it was in the Property Council's—

**Mr Seselja:** Then you saw an opportunity where you could—

**MS GALLAGHER:** Sorry, Mr Seselja, I did not get the opportunity to interject all the way through your speech, but, you know—

**Mr Seselja:** Plenty of others did!

**MS GALLAGHER:** Poor Mr Seselja. It has been a long week for you, has it not?

**Mr Seselja:** Maybe you didn't have anything to say.

**MS GALLAGHER:** We have got a bit of a way to go so let us try—

**Mr Smyth:** Not quick enough to think of an interjection, is that the problem?

**MS GALLAGHER:** Let us try and—

**MADAM ASSISTANT SPEAKER (Ms Le Coureur):** Mr Seselja, Mr Smyth, please remain silent.

**MS GALLAGHER:** Let us try and work with each other here.

**Mr Seselja:** A bit slow on the interjections, were you, Katy?

**MS GALLAGHER:** It did actually come on a little faster than I expected on private member's day, but anyway. The Property Council originally put it in their budget submission for 2009-10—I can check that, but I am pretty sure that is right—and the issue they were responding to was more about the commercial use of the change of

use charge, as I understand it, and the uncertainty created by different valuations, interpretations in the valuations, developers' views around that and the other charges they had for their development proposals.

So they came to us and said, "We would like to see the change of use charge codified." That started off this work. A consultant was appointed to do the work, and that consultant identified an issue with the residential application of the change of use charge. Another piece of work is being done on that, and we have sought to rectify that in line with the intent of the legislation.

As to codification, industry had some responses to the draft report that was issued. We responded to that by allowing for another round of community consultations to be held. That has provided the opportunity for stakeholders to highlight concerns that they have from the draft report and to make suggestions on the way forward. The final report will also look at a cost-benefit analysis as part of government processes as well as a regulatory impact statement going into the issues of concern that have been raised by members in this place around the impact on housing affordability. It will go to issues of development and whether a codification will impact on urban redevelopment. That is something members in this place are very concerned about.

The issue about whether or not the change of use charge is an appropriate charge is the one that is being confused in this. The Liberals cannot have it both ways. They are seeking to oppose application of the change of use charge when it is a legitimate charge that has been debated in this place as part of legislative processes. Everyone has had the opportunity to comment on it.

**Mr Smyth:** Nobody was told it was going to be \$50,000 a unit.

**MS GALLAGHER:** Those prices were looked at in terms of the draft report, for which consultation has just finished. What the law says at the moment is that the change of use charge should be determined after appropriate valuation of the land in question. That has not been happening for residential dual occupancy or apartments for some reason unknown to anyone in this place. The change of use charge is a legitimate revenue stream to the ACT government. We have a legislative framework which outlines how we should be applying that charge. That has been in place for some time, and we have sought to remedy an anomaly that has been identified as part of this year's budget. As I understand it, individual valuations are now being done for residential redevelopments of dual occupancies, as has been the case for commercial—

**Mr Seselja:** Has the new arrangement been tested?

**MS GALLAGHER:** The codification, which is another part, has not been introduced. What we are doing at the moment is simply applying the law. As I understand it—

**Mr Seselja:** Prior to codification, has the new arrangement been tested? Has that new application been tested?

**MS GALLAGHER:** Perhaps Mr Seselja's interjections are more appropriately aimed at the Minister for Planning, who has portfolio responsibility for this. As I understand

it, as of budget day, applications and change of use charge outcomes are being done as we speak based on individual valuations for those residential redevelopments.

**Mr Seselja:** So they are paying \$50,000 a unit in Braddon.

**MS GALLAGHER:** Well, no. What they pay is dependent on their individual valuations. It is not codified; there is not a codified schedule in place at the moment.

**Mr Seselja:** Yes, I know that. But you said it would be roughly the same.

**MS GALLAGHER:** I have not seen any of the valuations or the developments for which applications have been submitted. As I understand it, the process is in place now and we have applications that have been considered as part of that. They will have their change of use charges determined along the lines that the legislation outlines.

The government strongly believes that the change of use charge is a legitimate revenue stream for the government. It is not a large revenue stream, and I draw to the attention of members the fact that it jumps around a bit if there is a large commercial redevelopment and when there are periods of buoyancy in housing activity. It does move around a bit. But the extra revenue we are estimating to come through the 2010-11 year is only \$10 million. That is what we estimate from individual valuations being done based on a five-year look over—

**Mr Smyth:** Why does it say 14?

**MS GALLAGHER:** I am looking at page 30 of the budget papers, which is the summary of movements from 2009-10. A part of that will be a movement from the previous system. We have outlined that we expect rectification of codification to increase the revenue to the territory as outlined on page 30 of budget paper 3. You can see that that is the movement we expect to see. A very small part of that in our forward estimates relates to the codification work, so I do not expect that codification will cause huge concerns for industry.

We will work with industry. The process in place is that the government will consider a very detailed submission around this, including a cost-benefit analysis and a regulatory impact statement. Obviously, we will make further decisions based on that. On the flipside, industry has also been asking for certainty, which codification offers them. Codification offers them the certainty that they have been seeking.

Obviously we want to work with industry, we want to update the Assembly, and we want to make sure that industry has its concerns addressed. We have already agreed to the recommendations 2 and 3, I think, of the estimates committee around this where we will provide a full evaluation of the impacts of codification and the change of use charge, including an assessment on the impacts of urban densification, a cost-benefit analysis and a regulatory impact statement as part of that. What more could the Assembly ask in terms of having an informed debate prior to debating legislation about the codification project.

**Mr Smyth:** You are going to provide all that to the Assembly?

**MS GALLAGHER:** That is what the amendment asks for.

**Mr Smyth:** No, it's not. What the amendment says is that you have already agreed to that, and that is not what is in your response to the estimates report.

**MS GALLAGHER:** There are two sections of the amendment, Mr Smyth. The first section is around what we have already agreed to. We will provide a full evaluation of the codification of the change of use charge to the Assembly. There is absolutely no reason for us not to do that, Mr Smyth. We will provide that update to the Assembly, there will be legislation introduced to implement a codified system, and then we will debate that in full with members.

The ACIL Tasman independent review of the 2010-11 budget does have something to say on the change of use charge. I am sure Mr Smyth enjoyed reading this, but it says:

The CUC has a very strong basis in economic theory. Economic rent is defined as an excess distribution to any factor in a production process above the amount required to draw the factor into the process or to sustain the current use of the factor. True economic rent can be collected by governments for the purpose of public finance without the adverse effect caused by taxes on production or consumption.

**Mr Smyth:** Mr Barr said any test—

**MS GALLAGHER:** This is ACIL Tasman; this is not me:

The CUC appears to be an attempt to isolate and tax economic rents. To the extent that it is successful in isolating and then taxing those rents, it should have no impact on production and consumption decisions.

The report goes on to state:

... from the standpoint of trying to isolate and then subsequently trying to tax the economic rents, its rationale is on the strongest economic policy grounds. The rationale for the CUC would be in keeping with the recent Henry Tax Review ...

There are views around the change of use charge, and I think the community has a view around the change of use charge. They want to see their government collect a reasonable return for the benefit of allowing developers to develop and make money out of what was a community asset. I think the community expects that. What we are seeking to do is take a reasonable revenue stream around those development decisions. If members of the opposition in this place thought about it long and hard and did not want to run a political campaign around it, they would not object to that.

I will watch closely for the Liberal Party's first election commitment—maybe it is their second or third—that they are going to abolish the change of use charge. I do not think you will have too many supporters for an approach like that. I think it is a legitimate revenue stream. Obviously the Assembly wants some more information before we move to a different model. That is fair and reasonable, and the government are very happy to provide that. The opposition are saying we are not doing enough

and that there is unmet need. They are questioning a legitimate revenue stream—that is, the change of use charge—which everyone in this place has accepted and supported for some time.

**MR SMYTH** (Brindabella) (5.50): The opposition will not be agreeing to the amendment because, again, it is just a lazy, compliant amendment. The amendment does not add anything to the debate. In fact, it stifles debate, which, of course, is what the leader of the Greens wants when it comes to holding the government to account. The Treasurer has already changed the government's response from the document which she tabled yesterday. Let us look at the amendment. The amendment says:

the Select Committee on Estimates 2010-2011 recommended that—

There are two recommendations—recommendations (i) and (ii)—and then in paragraph (b) it says:

the Government has agreed to:

these recommendations ...

That is true. It says “agreed” against (i) and (ii). Then, after “the Government has agreed to”, it says:

provide a full evaluation of ...

That is not what the response says. Nowhere on page 5 of the Treasurer's response to the Select Committee on Estimates does it say that it will provide this information. What it says in its response to recommendation 3—which calls for an evaluation of the impacts as part of the codification to ensure that it does not create an unreasonable barrier to urban densification—is that it will do this work. The government says:

Agreed.

A full evaluation of the impacts of the codification of Change of Use Charge is included in the project work plan.

Two rounds of community consultations have been held ... The final report from consultants will include the outcomes ... a cost benefit analysis and a regulatory impact statement.

It goes on to say:

In addition, further economic analysis and specific quantitative modelling is underway to examine the economic impact of codification on the Territory.

Then it says:

The Government will consider these reports later in the year, along with advice and analysis from Treasury on implementation options for codification.

Nowhere does it say, as Ms Hunter's motion asserts, that the government has agreed to provide a full evaluation of these impacts. It just does not say that. If I am wrong,

Ms Hunter, stand up and point to me in the government's response where it says that. We have just heard the Treasurer say that they will provide this information, but that is an entirely different thing to what the Treasurer said yesterday. The problem here is that, yet again, the Greens have not read the recommendation. They have not read the motion that Mr Seselja has tabled.

**Mr Seselja:** On a point of order, Madam Assistant Speaker, it is very difficult to hear Mr Smyth. I would again ask you, as you did for Ms Hunter, as you did not for me, to ensure that there be some quiet so we can hear Mr Smyth deliver his speech.

**MADAM ASSISTANT SPEAKER** (Ms Le Couteur): Clerks, please stop the clocks for a minute. Members, I totally agree with Mr Seselja's sentiments. Everyone should be listened to in peace. Mr Smyth, please continue.

**MR SMYTH:** Thank you, Madam Assistant Speaker. Yet again, it would appear that the Greens and the government have not read the motion and they just disagree with it. There is no case made as to what is wrong with the motion. Again, we get lazy words, ignorant words, compliant words, from Ms Hunter, saying that it is rehash of what we put in the report. It is not a rehash at all. What we have is enormous community concern. What we have are letters and communications from a number of groups, not the least of which is the Housing Industry Association—a small, lesser known organisation in the ACT, apparently—where they say, "We want some detail." In fact, they say, "If the government provides the information, HIA will ensure that this communicate is disseminated to its industry members." They want some information because, as of the passing of this budget—if it passes—as of tomorrow, 1 July, the government is going to collect from \$5 million to more than \$14 million and the industry are concerned. Somebody has to pay that.

Ms Hunter said, "Developers will have to absorb the cost." Ask a developer how they absorb \$50,000 a unit in Braddon and still expect those units to go ahead. The cost is passed on. Somebody pays for it in the end. Either the government loses—both federal and territory government—because builders will pay less taxes because they have got more costs, or it is passed on to the purchaser who, of course, will have to work out how they fund an extra \$50,000 for a unit, for example, in Braddon. Somebody pays for it in the end.

We have heard the quote from the Treasurer and when Mr Barr was quizzed about this in the estimates he said, "Any tax dampens demand." It must have some effect. Taxes have an effect. The federal government are putting a tax on cigarettes. Why are they putting a tax on cigarettes? It is to dampen demand, to price people out of it. Taxes dampen demand. I am not aware of a single tax that encourages people to go out and purchase: "We'll put a tax on that and then people will buy more of it because they want to give the government more tax." It is illogical.

If members had actually read through Mr Seselja's motion I do not think they would have been able to disagree with it. They just dismiss it. They do not disagree with it. Indeed, the Treasurer said, "Well, (a) is correct; the government has failed to collect the change of use charge and there is some arrangement that was entered in 2003. There is nothing wrong with that." Paragraph (b) states:

a massive increase in the Charge amounts to a massive tax on housing;

It does. If you do not think \$50,000 on a unit in Braddon is not a massive increase, go and talk to the real people. Look at the coat of arms: we are here “for the Queen, the law and the people”. We are here for the people. We are here for those that are struggling to get into the housing market. And what do you want to do? Tax them. I do not see how you can be so dismissive of (b). Paragraph (c):

urban infill is an important measure to address transport and climate change issues;

Everybody agrees with urban infill, except when it happens, except when there is a proposal. Today we hear that the Greens do not agree with urban infill on Red Hill. There is a little flyer going around Red Hill saying, “We’re against that.” Isn’t it funny that the Greens are in favour of the concept of urban infill and densification, except when somebody wants it to happen? I do not see how you can object to (c). Paragraph (d):

a waiver of the Charge is being used to provide an incentive to redevelop suburban service station sites and that the increased Charge provides a disincentive to develop housing, which will reduce the supply of housing;

It is taken away when we want to affect the market in a positive way. In 1995-96, when the housing market collapsed, and because of oversupply of land from 1992 to 1995 in the ACT, the Carnell government removed the change of use charge on the redevelopment of excess office space in the city. What did it do? It stimulated demand. What did it do long-term? It brought accommodation into Civic and it gave the government a long-term revenue stream through the rates and other charges that are paid—a long-term revenue stream, instead of a one-off spike. This is a short-term measure. Paragraph (e):

The Government is seeking to codify the Charge;

Why would you get rid of (e)? It is a statement of fact. “The government is seeking to codify the charge”—well it is. Paragraph (f):

there is considerable uncertainty within industry about the future of the Charge, including the commencement date of codification, and the values that will be applied prior to codification ...

Just read the letter from the HIA. I quote:

While we understand that submissions are currently being considered and the implementation of the codified system is being deferred to allow for additional input, industry is expressing its frustration with the lack of communication by government in informing it of its time-frames, interim arrangements and the process for the finalization of the codification.

What is the motion asking for? Exactly that. Paragraph (g):

this uncertainty is causing a rush for valuations and lodgement of applications, thereby causing significant delays and inconvenience in advance of the new system ...

It is hard to disagree with that. What is it calling on the government to do? Immediately inform the Assembly of current arrangements for determining the charge, including how it will be applied after 1 July 2010, tomorrow. Industry does not know.

**Ms Gallagher:** They do so.

**MR SMYTH:** They have asked for a communique. They have said that they will help you. The industry, the HIA, want to help you: "Give us the information. We will disseminate it to our members." I do not see how you can object to (a). Paragraph (b) states:

provide clarity and certainty to the community by immediately informing the Assembly of:

... when codification of the Charge will take place; and  
... which values will be used for codification;

Again, it is simply what the industry are asking so they can tell their members. This is about an information flow. I do not see how you can object to (b), but of course the Greens and the government do. Paragraph (c):

immediately inform the Assembly about how the 2003 Change of Use Charge arrangement came into being and outline who was responsible for the arrangement ...

It is seeking more information. Paragraph (d):

provide analysis ...

That, apparently, is now going to happen but was not going to happen yesterday, because only the government was going to get it, in the Treasurer's own words in her response to the estimates committee. It is simple. I do not see how you can object to that, unless as always, the Greens, being a patsy for the government, are defending the Treasurer. The Treasurer is quite happy to accept the Greens' amendment because it lets her off the hook. It calls on her not to do her job. It says, "Don't tell the industry." It says, "Let's not let the people know how we are going to affect them. Let's not tell them where the \$14.2 million is coming from as of 1 July, as of tomorrow."

This is a very sound motion. It is not a rehash. It is appropriate to pass the motion unamended. People need to stop being ignorant and moving stupid amendments that just stop the information flow. People need to stop being patsies for the government. People need to stop defending the government. The unique arrangement between the Treasurer and the convenor of the Greens where they stand up for each other really is stopping the flow of information and disenfranchising people in this—(*Time expired.*)

*At 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.*

**Sitting suspended from 6 to 7.30 pm.**

**MR BARR** (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (7.30): It is a pleasure to be able to speak in this debate this evening to indicate the government's support for the amendment put forward by Ms Hunter and to address some elements of the motion that was originally moved by Mr Seselja.

Actions do speak louder than words, Mr Speaker, and the opposition's action in putting up yet another pointless motion speaks louder than the words contained within it. As everyone in this place knows, Mr Savery, ACTPLA's chief planning executive, has commissioned an internal audit into the determination of change of use charges for lease variations relating to dual occupancies, units and townhouses.

Everyone in this place knows this because it was explained at great length through the estimates committee hearings. The opposition know that the audit is underway. They know that it will be made public in coming weeks and they know that it will be tabled in the Assembly. Everyone knows this because the government told the Assembly in their response in the estimates committee report. That is a process that Mr Seselja and Mr Smyth were involved in to varying degrees. I understand that there was a bit of work-to-rule going on in the estimates committee this year.

It would appear that through this motion the opposition has chosen to ignore the government position on these issues and instead make accusations ahead of that report being made available by myself and the Treasurer. The Leader of the Opposition has chosen, once again, to jump to his own conclusions with assertions that there was some sort of "mysterious arrangement or deal" entered into in 2003 that resulted in "a failure to collect the change of use charge properly".

The opposition talk of deals really is pretty grubby politics. The Treasurer and I have gone to considerable lengths to explain the processes that have been put in place to look closely at the issues. Mr Savery has explained, through the estimates committee hearings, that he has commissioned an internal audit of the determination of change of use charges for lease variations relating to dual occupancies, units and townhouses. The opposition knows that that audit is underway, but has chosen again to ignore it and to make unsubstantiated allegations ahead of the report being made available.

The report is expected to be completed by the end of July. The audit needs to be thorough and this will take an amount of time to complete because there are many files to examine and documents to review. A number of staff who were involved in lease administration back in 2003, as well as officers in the Australian Valuation Office who might have some first-hand knowledge, are unfortunately no longer employed in those roles. The auditors are trying to contact them, where possible, to interview them and piece together these valuation processes. I understand that the auditors have made contact with the AVO and hope to interview officers in that

organisation. All of that does take time, as I am sure even the Liberal opposition would acknowledge.

I restate the advice given to me by the chief planning executive when this issue was first raised. He wrote to the Australian Valuation Office directing them to ensure that all residential valuations were undertaken in accordance with the prevailing legislation and market conditions. That letter was sent on 30 April this year. He also advised lease administration staff to question valuations that did not demonstrate that they fully reflect market valuations for the suburbs in which the lease variations are being sought.

I should add that I find it curious on one hand that the opposition is accusing the government of not having collected enough change of use charge whilst on the other hand the Leader of the Opposition decries any resulting increase amounting to a massive tax on housing. He obviously wants it both ways. The codification of change of use charges is about a proper return to the community for an increase in rights passing to the lessee. In other words, it is a tax on windfall gains to developers.

It is about creating certainty for industry. It is about knowing what needs to be paid for what level of development rights and when. It is the position that any responsible government would take. The Liberal's motion is nothing more than low grade politics. It is an attempt to subvert good process around the review of change of use charge determinations on certain classes of residential leases that had their origins seven years ago. The Leader of the Opposition is aware that the proper process is underway and should respect that.

I do acknowledge and commend the Greens' proposed amendment to this motion. Unlike the Liberals who put politics ahead of good process, the Greens in this case appear to be interested in the substance of the issue. Their amendment suggests that they are generally interested in the facts and, more importantly, in the effect this policy will have on the community into the future. As I say, the government will support the Greens' amendment to the motion.

In the time remaining to me, Mr Speaker, I think it is worth reflecting on some of the observations of the Leader of the Opposition and the shadow Treasurer during this debate. It is a policy trade-off. I think the Macroeconomics report that the government commissioned, which looked into this issue, stated it well. It is a policy trade-off about those windfall gains to developers.

Of course, if the government chose to retain the entire windfall, as the report said, it would contribute to reducing incentive for property development. No-one is disputing that. If the government sought to retain the entire windfall, that would lead to a reduction in incentive for property development. However, on the other hand, the lower the change of use charge rate, the report says, the greater community benefit that in fact passes into private hands. This is the policy balance that you seek to strike in this particular debate. The Macroeconomics report says:

The task for policy makers is to find the right balance between these two competing objectives to maximise economic development.

That is the important issue as we move forward. It is how we settle upon the right balance, recognising that the community has a right to see some of that windfall gain—it should not all be privatised—at the same time as ensuring that the policy settings are such that they do not act as a disincentive to property development.

In some of their characterisations of this debate, the opposition have sought to align it with the debate over mining taxation. It is interesting that even those most ardently opposed to the federal government's original position in relation to the resource super profits tax at least accept the concept that some tax should be paid. There would appear to be a bit of confusion in the opposition's argument here. Are they suggesting that there should be no changes in this charge—

*Opposition members interjecting—*

**MR SPEAKER:** Order!

**MR BARR:** because their public arguments to date, running the lies, the great big new tax, straight out of the Tony Abbott book of politics—

*Opposition members interjecting—*

**MR SPEAKER:** Thank you, members. Mr Barr has the floor.

**MR BARR:** really do this debate no credit. Finding that balance will be an important task over the weeks and months ahead, recognising that it is not just a static analysis that is needed. This market is dynamic. There will be adjustments. Markets do adjust. The assumption, for example, that there is a fixed supply is one that is tested by draft variation 303 that is out for comment at the moment. It proposes a reduction in the minimum block size for dual occupancies that potentially makes another 25,000 blocks across the territory open for dual occupancy development. If that draft variation is supported through the consultation process, we will see a massive increase on the supply side in relation to potential dual occupancies. That will also need to be factored into that larger policy question in relation to where the incidence of this tax will fall.

As we discussed in the estimates committee, it will depend, of course, on the relative elasticities of supply and demand. It is a fairly simple economic concept that they cover in economics I at ANU. It is probably 20 years ago for some of us who were studying that. We would be aware of this concept. It is something that we will continue to work through with industry but it is an important policy issue that must be addressed.

**MR SESELJA** (Molonglo—Leader of the Opposition) (7.40): I did not think that anyone was going to match Ms Hunter for ignorance in this debate, but Mr Barr has. He is scurrying out the door now because he is so embarrassed. Mr Barr has just accused his Treasurer of engaging in grubby politics. That is what he has just said. He says that the claims of an arrangement or a deal are grubby politics. We did not make that claim; the Treasurer did. The Treasurer made that claim. This is what happens. No doubt his staff will be listening upstairs as he scurries away in embarrassment.

They will be listening to the fact that the planning minister, the wanna-be Treasurer, just came in here and effectively accused the Treasurer of engaging in grubby politics.

He did not do the work. He did not look at what was said. He shot from the hip and he had absolutely no idea. I think he demonstrated again why his party has chosen to overlook him for the leadership and for the Treasurer's job, because we see the constant job application. It was the Treasurer who claimed that there was a deal or arrangement. It was a mysterious deal that we do not know anything more about, other than what the government has told us. The Treasurer told estimates:

There is no document that exists that we have identified at this point in time that would indicate how this deal was made and who was involved.

Those are the Treasurer's words, Mr Speaker. The ignorance of the planning minister to come here and say, effectively, that the Treasurer has engaged in grubby politics in seeking to have a go at us—

**Mr Smyth:** Whose words?

**MR SESELJA:** They were the Treasurer's words. The Treasurer talked about a deal or arrangement. She went on. I said:

So it is a deal between who?

The Treasurer's reply was:

I do not know, Mr Seselja.

And later she says:

I cannot answer how this arrangement was entered into.

Ms Gallagher said that there was a deal or arrangement entered into. She cannot say who engaged in it. That is a serious accusation to make and Mr Barr has actually—

**Ms Hunter:** Did you say "mysterious"? I don't remember you saying "mysterious".

**Ms Gallagher:** No, although it is a bit—

**MR SESELJA:** It is mysterious in that we do not know who signed this deal, who did this handshake agreement that we refer to. Mr Barr has exposed, in fact, what the Treasurer was saying. He has called it grubby politics. If he does not have the evidence, if he cannot say who, if he cannot say whether it was the Australian Valuation Office, whether it was the developers or whether it was the government—which arm of the government that actually ticked off on this—it was an extraordinary contribution to the debate from the planning minister to talk about this deal or arrangement. But it does highlight the Treasurer's position.

Perhaps it was deliberate. Perhaps it was deliberate to highlight the fact that the Treasurer has made these claims about a deal or an arrangement. That was a particularly ignorant contribution. Like Ms Hunter, Mr Barr has not actually read the motion. That was clear.

**Ms Hunter:** We did. It was painful.

**MR SESELJA:** Ms Hunter interjects again. She was not actually able to deal with the motion. She engaged again in sweeping, broad generalisations. Mr Smyth highlighted it. He highlighted all the bits of our motion that they apparently disagree with—that the government is claiming to have failed to have collected the change of use charge. That is what they said. They apparently disagree that a massive increase in the charge amounts to a massive tax or that urban infill is an important measure to address transport and climate change issues. These are the bits they disagree with.

They disagree that a waiver of the charge is being used to provide an incentive and that the government is seeking to codify the charge or that considerable uncertainty is being caused and that this uncertainty is causing a rush for valuation. Ms Hunter could not oppose any of that. The only bit she tried to address was to say that the industry is comfortable with this process.

That was Ms Hunter's contribution to this debate, apart from agreeing with the Treasurer and getting plaudits from the planning minister and the Treasurer on this. You always know you are holding the government to account when they are just lining up to applaud. They are lining up to applaud. You always know that they are feeling the pressure when they line up to applaud what you have got to say, Mr Speaker. We see it time and time again with Ms Hunter.

I would have to say that she would be the government's favourite Green. I do not think there would be any doubt about that. There might be some competition there, but I would think that Ms Hunter would stand out as the favourite Green of the government. We see it; we see the smiles on the faces. We hear the plaudits saying, "Yes, keep scrutinising us in the way you are, Ms Hunter; keep doing it in the same way that you have been because—"

**Mr Hanson:** That rigorous scrutiny.

**MR SESELJA:** it is working very well for us. It is working very, very well for us." Ms Hunter's contribution completely ignored the facts.

*Members interjecting—*

**MR SPEAKER:** Thank you, members!

**MR SESELJA:** She is continuing with this obsession about—

*Members interjecting—*

**MR SPEAKER:** Order!

**MR SESELJA:** Thank you, Mr Speaker.

**Mr Hanson:** You are not interested in this, are you?

**MR SESELJA:** Continuing with this obsession on the committee report—

**MR SPEAKER:** Mr Hanson, you are not helping.

**MR SESELJA:** Thank you, Mr Speaker. The bit that we did hear from Ms Hunter that went anywhere near the motion was saying that industry is comfortable. So it is worth reviewing what industry has said. I refer to the HIA letter, where it said: “It’s generating a wave of uncertainty leading to a mad rush for valuations and lodgement of applications causing significant delays and inconvenience in advance of the new system.”

The Independent Property Group said: “The logic to determine these numbers appears to fail simple mathematics and appears not to have taken into consideration the significant costs and lengthy delays a developer does ordinarily experience as they negotiate the planning system, public consultation and a possible ACAT appeals process.”

The Australian Property Institute stated: “It’s becoming apparent that as the proposed system evolves, there is a philosophical shift from capturing the value increment resulting from Crown Lease variations to a system of taxing development and urban renewal.”

The HIA, in another contribution, stated that it will prevent development and redevelopment from occurring. We have the Property Council saying: “Increasing the CUC as proposed will stifle redevelopment activity, resulting in a significant loss of associated revenues, thereby undermining the economic and revenue rationale for the proposed codification.”

It is no wonder Ms Hunter did not want to get specific because on the only thing she got specific on, she was completely wrong. She said that industry is comfortable—apart from the Property Council, the HIA, the Australian Property Institute, the Independent Property Group. Apart from them, they seem all pretty comfortable with it. If we are going to have a debate, let us have a serious debate that actually looks at what is being said. What is being said in this motion is that there is a process at work. It has the potential to affect urban infill. It has the potential to affect a number of things. There is a codification process. There is also a change in the approach as to how the government collects the tax.

They say that is as a result of a deal or arrangement. Those are the Treasurer’s words. Those are the Treasurer’s words, which imply significant bad faith on the part of someone. I do not accept that that is true unless that is proven. It is the Treasurer who has made the allegation. It is the Treasurer who has made the allegation about a deal or an arrangement. We have got this situation and the motion reflects that. It reflects that the Treasurer claims that through the deal or arrangement they are not collecting all of the tax. It talks about the codification process; it talks about the uncertainty; and it calls on the government to provide the information.

Apparently, Labor and the Greens do not like that. As I say, judging from the contribution to the debate, particularly from the planning minister and the Greens’

leader, there is a complete ignorance of what is in the motion and what was said. Mr Barr is now back. He scurried out as soon as he had finished. I think somewhere, deep down, he knew that what he was saying was a load of rubbish and it has been exposed as such.

He has effectively accused his own Treasurer of grubby politics. He has effectively accused her of grubby politics because he says that using that terminology is grubby politics. Well, it is the Treasurer's own terminology. He did not bother to check. He did not bother to do the work. It does go, I think, to how disinterested he is as a planning minister in anything other than sloganeering.

Mr Speaker, we will not be supporting the amendment from Ms Hunter. As much as it may be applauded by the government—as much of what Ms Hunter does is applauded—how comfortable the government are with scrutiny is always indicative of how closely you are scrutinising them. If the government are applauding you for your scrutiny, chances are you are not actually asking the right questions. Chances are you are asking them exactly the kind of questions they want to have asked.

I think that Mr Hargreaves summed it up in the committee when he said that this is a wonderful report for the government. He said that it is a wonderful report for the government. The government could not be happier. This is an important issue. We do take it seriously. Industry take it seriously and they deserve answers to address this uncertainty. (*Time expired.*)

**MRS DUNNE** (Ginninderra) (7.51): It is ironic, actually, that when you come into the chamber with a motion, the second part of which just simply calls for information, you can get yourself into so much grief and have so much slanging, especially from the crossbench—the people who say that they are here to ensure openness and accountability.

Mr Speaker, substantial changes to a tax like the change of use charge will have substantial impacts in the community. There are no two ways about it. We heard the Treasurer before the dinner break actually make an argument which was pretty much like the argument that Wayne Swan made about the resource rent tax, when she said, “This will not stifle economic activity; it will encourage economic activity.” So, if you tax somebody, what they will do is say, “Oh, thank you Ms Gallagher, Treasurer, thank you for taxing me. You just encouraged me to go out and do more so that you can tax me ever more. Tax me and tax me again.” No-one realistically thinks that, if you wind up the taxes on something, people will continue in that area.

The classic example, of course, was in the late 70s, when the Thatcher government came to power in the UK, and the Thatcher government did something that caused the Labour Party and everyone on the left to go into paroxysms. They lowered the top marginal rate of tax. They lowered the top marginal rate of tax from 90 per cent to 70 per cent, and this was considered to be an absolutely appalling thing. What happened, Mr Speaker? All these people who had buckets of money, and had had their money offshore, brought their money home, because they no longer considered it worth trying to avoid outrageous taxes in the UK. As a result of lowering the tax rate, the UK government collected more tax. It was a direct measure.

What we have seen here today is Katy Gallagher, the Treasurer, trying to justify an unjustifiable increase in tax. What that increase in tax will do in relation to housing alone—you do not have to look anywhere else—is raise the cost of every dwelling built in a multi-unit development, depending on where you are, by tens of thousands of dollars. What the industry is wanting to know is, when this clicks over tomorrow, when the financial year changes tomorrow, what is the regime going to be? How long—

**Ms Gallagher:** They know that, Vicki.

**MRS DUNNE:** Well, if they know, why is it so hard for you to answer? If they know, why is there a problem with Mr Seselja's motion? If the minister thinks that the community knows, why is it so hard for this minister to deal with Mr Seselja's motion, and why was it necessary for Mr Seselja to bring this motion forward? It was necessary to bring this motion forward simply because the community is saying to us, "We do not know what the regime will be tomorrow, and we do not know how long that regime will be in place. We do not know what the situation is and we do not know how long that regime will be in place."

We discussed this in the party room this morning, and we actually thought that this would not take very long, because it would be straightforward. It is simply asking for information. If only the minister could bring herself just to provide it, without going through all this fancy stuff about always having to object, always having to amend and put her spin on things. Simply provide the information that the community is calling for! This is why we are here today—because the community is telling us that they need the information, but you are not prepared—

**Ms Gallagher:** You are getting more than you asked for.

**Ms Hunter:** It is all about information.

**MRS DUNNE:** The little mean girls natter in the corner—if you would just zip it for a moment, because you have had your turn.

*Members interjecting—*

**MR SPEAKER:** Order! Mrs Dunne has the floor.

**MRS DUNNE:** It would be really much better for the community if the Treasurer could just come to the party and provide them with the information that Mr Seselja has asked for, without all the fancy footwork of having to change things to suit her. What we actually have to do is to provide the community with certainty.

What we have seen—and Mr Seselja spoke about this—is people trying to get in and get valuations done before the end of this financial year. Every time you do this and make these changes and not give people certainty, people end up spending time forcing things through, trying to get in before deadlines, and people usually get it wrong. That is where we are going to get into trouble.

It does not matter what the industry is, what industry needs is certainty, clarity, honesty, and none of it comes from Katy Gallagher. I commend Mr Seselja for bringing forward this important matter, and I commend him for his persistence and his advocacy on behalf of an important industry in this town. Without that advocacy and without bringing forward these issues, the logical consequence will be that the cost of individual units and unit developments will go up, and that will knock on to freestanding houses, as is always the case. This will raise the cost of housing in the ACT. It will also raise the cost of doing business, because the change of use charge does not just apply to housing.

There is a lot this minister has to account for in this area. She is not prepared to come clean with the community and tell them how this unknown deal was done and who was responsible for it. Somebody must know. There must be something somewhere, and this minister has done nothing to account for that as well.

I commend Mr Seselja for the motion and I commend the motion to the place.

**Mr Seselja:** Mr Speaker—

**MR SPEAKER:** Mr Seselja, you have already spoken on this.

**Mr Seselja:** I do not think anyone else is—

**MR SPEAKER:** Do you want to close the debate overall?

**Mr Seselja:** Unless someone else is keen to speak, but I do not see anyone else getting up.

**MR SPEAKER:** No, I think you are right. Thank you.

**MR SESELJA** (Molonglo—Leader of the Opposition) (7.58): I thank members for their contributions—

**Mr Smyth:** Varied as they were.

**MR SESELJA:** Varied as they were indeed. There has been a real trivialisation of this issue by a number of speakers. This is an important issue to a very important industry in our territory. If we look at the major drivers of economic growth over the last few years in the territory, there is no doubt that the construction industry and the housing sector in particular have been critical to the state of the ACT economy, and members of the government and the Greens seem to have no appreciation of that. The Treasurer particularly seems to not have any care for whether or not that is the case and whether or not this tax will impact on that.

But today we are not actually debating the tax; we are simply asking for information. That is why we thought this would be relatively non-controversial. It is extraordinary sometimes what is controversial for the Greens and the Labor party. A series of statements of fact followed by a request for information are now controversial, because they do not want to give up the information.

I think it is worth again noting the contribution of the planning minister. This is someone who is charged with the planning of the territory, yet, for a speech in a portfolio area which does touch on his own portfolio, he came down here completely unprepared and was spouting falsehoods throughout. Mr Assistant Speaker, I think that that does bear some discussion.

I think the other thing is that, in the extraordinary economic analysis from the planning minister, what was not actually touched on was the fact that this is a tax that does influence behaviour. Putting aside how much it will impact on price, how much may be able to be absorbed by developers, how much will be coming off the bottom line of people's existing property rights, all of which will be part of the mix here, there are choices. There are choices for the property sector as to where they develop. They can develop outside the ACT, where there are now lower taxes in things like stamp duty. They can also develop in greenfields instead of infill, where they do not face this tax.

So, even if one were to accept—and I think some of the assertions that have been made by the Labor Party in this debate are highly dubious—part of what they said, it does not take account of the fact that there are choices to be made even within the ACT. So the question for the government would be, if that is the case, are you happy for there to be a greater proportion going forward than there is currently of greenfields development versus infill?

If that is the government's new position, I am interested to hear it, because I understood they were looking for a greater proportion of infill going forward. There is no doubt that, when individuals look at their options, a greenfield site suddenly looks more attractive than it did, when the tax on redevelopment of existing sites through change of use is ramped up. I do not know that anyone could actually dispute that that is the case. Likewise, when there are lower taxes in New South Wales, people will make those judgments.

We have not heard from any contributors in the Labor party about what impact that will have on those decisions, particularly when there is risk. There is risk in some of these developments. There is potentially a lot of delay. There is sometimes community opposition. All of these things need to be factored in. Now this is one great big giant increased tax to factor in, which will, of course, affect decision making. It will affect risk; it will affect the likely profit versus the potential downside. So again we have heard them ignore these facts.

Mr Speaker, it is disappointing again that the Greens and Labor have combined to effectively gut this motion. None of them have actually been able to speak to the substance of the motion. Of the ones who have tried, Ms Hunter, when she talked about industry, got it completely wrong and Mr Barr ended up having a go at his own colleague, the Treasurer, when he looked at a couple of words and did not realise that they were the Treasurer's words rather than the Liberal Party's words. It was an embarrassing performance.

Mr Speaker, we will continue to take this up, because it is important. It is important for home buyers, it is important for those looking to buy a unit, it is important for

investment, it is important for a very important industry which has been a key economic driver in the city. It is important to urban infill, it is important to how we develop the city in the future and to whether we do get the kind of critical mass in our town centres and in our city centre that will sustain a public transport system that is far better than what we have today. All these things are at stake. It is reasonable that we see some openness, it is reasonable that we ask the government to back up what they have said, and they have not been able to do it.

We reject the amendment but I do commend the motion to the Assembly.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): As I understand it, we will now put the question that Ms Hunter's amendment be agreed to. Those in favour say "aye", the contrary "no". I think the ayes might have had that.

**Mr Seselja**: The noes have it.

**MR ASSISTANT SPEAKER**: The noes have it. I do not think so. Division required; please ring the bells.

*A call of the Assembly having commenced—*

**Mrs Dunne**: It is not your place to say that.

**MR ASSISTANT SPEAKER**: I beg your pardon, Mrs Dunne? Have you got something to say, Mrs Dunne?

**Mrs Dunne**: Yes.

**MR ASSISTANT SPEAKER**: Well, then you can stand on your feet and say it.

**Mrs Dunne**: I will take a point of order.

**MR ASSISTANT SPEAKER**: Yes, do it.

**Mrs Dunne**: Mr Assistant Speaker, I think that your comments then were disorderly and inappropriate for someone occupying the chair.

**MR ASSISTANT SPEAKER**: Would you like to tell me what they were?

**Mrs Dunne**: When Mr Seselja said, "The noes have it," you said, "I do not think so."

**MR ASSISTANT SPEAKER**: No, I did not.

**Mrs Dunne**: All you have to do is call the—

**Mr Corbell**: Mr Assistant Speaker, on the point of order, I was just going to make the point that—

**MR ASSISTANT SPEAKER**: Thank you, minister. Mrs Dunne, I suggest you go and have another listen to the Hansard. What I said was "I think the noes have it" and

“I do not think so. Division required.” Now please resume your seat, and if you do not like it—

**Mrs Dunne:** I think that your comments were actually inappropriate for someone occupying the chair.

**MR ASSISTANT SPEAKER:** Mrs Dunne, I think that you ought to resume your seat and we will get on with it.

**Mr Corbell:** Mr Assistant Speaker, quite clearly Mrs Dunne has no sense of humour.

**Mrs Dunne:** It is not a matter of having a sense of humour—that from the most humourless man in this place.

**MR ASSISTANT SPEAKER:** Mrs Dunne, this is the last time.

**Mr Hanson:** Simon, you’re the most humourless—

**MR ASSISTANT SPEAKER:** Mr Hanson, it is not such that we can have a conversation across the chamber while the division is on, please. Please do not push me around.

**Mr Barr:** Didn’t you try to get a feed during the dinner break, Vicki? What’s going on—blood sugar levels dropping, what’s going on?

**MR ASSISTANT SPEAKER:** Mr Barr, please restrain yourself.

**Mr Barr:** It is difficult.

**MR ASSISTANT SPEAKER:** I know it is difficult, but please do the best you can—and Mr Hanson, one more and I will have to warn you.

There is a pairing in operation, Mr Coe and Ms Burch and also Ms Porter and Mr Doszpot, as I understand it.

**Mr Hanson:** I just noticed that the Chief Minister is doing the crossword. He might like to share any clues—

**MR ASSISTANT SPEAKER:** Mr Hanson, please resume your seat. One more of those and I will not warn you, Mr Hanson; I will name you.

**Mr Hanson:** Cannot be helped.

**MR ASSISTANT SPEAKER:** Yes, well, you may have a sense of humour, but it is not shared at the moment.

Question put:

That **Ms Hunter’s** amendment be agreed to.

The Assembly voted—

Ayes 9		Noes 4	
Mr Barr	Ms Hunter	Mrs Dunne	Mr Seselja
Ms Bresnan	Ms Le Couteur	Mr Hanson	Mr Smyth
Mr Corbell	Mr Rattenbury		
Ms Gallagher	Mr Stanhope		
Mr Hargreaves			

Question so resolved in the affirmative.

Question put:

That **Mr Seselja's** motion, as amended, be agreed to.

The Assembly voted—

Ayes 9		Noes 4	
Mr Barr	Ms Hunter	Mrs Dunne	Mr Seselja
Ms Bresnan	Ms Le Couteur	Mr Hanson	Mr Smyth
Mr Corbell	Mr Rattenbury		
Ms Gallagher	Mr Stanhope		
Mr Hargreaves			

Question so resolved in the affirmative.

## **Executive business—precedence**

*Ordered that executive business be called on.*

### **Appropriation Bill 2010-2011**

[Cognate paper: Estimates 2010-2011—Select Committee report—government response]

Debate resumed from 29 June 2010.

Proposed expenditure—Part 1.7—Department of Land and Property Services—\$8,610,000 (net cost of outputs) and \$24,708,000 (capital injection), totalling \$33,318,000.

**MR SESELJA** (Molonglo—Leader of the Opposition) (8.10): It is worth talking a little bit about the activities of the Land Development Agency in this line. We have looked at a number of areas in the past where the Land Development Agency has engaged in what we would regard as wasteful spending. I think that there is still evidence of some of that, although I would say that is not as egregious as we have seen in the past. We do see what is effectively a monopoly supplier of land engaging in spending significant amounts of taxpayers' money on things such as advertising.

We asked questions on notice of the government regarding what is the budgeted cost of the provision of IT services and what is the budgeted cost of marketing and advertising, and I would like to touch on that for a moment. In 2010-11, the LDA has budgeted \$2.5 million excluding GST to be spent on marketing and advertising. The breakdown is as follows: \$2.145 million excluding GST is allocated to marketing, advertising, printing, design promotions, events, advertising and signage; \$202,000 excluding GST is allocated to sales-related marketing activities, such as sales posters and event support; and \$153,000 exclusive of GST is allocated for community marketing, including community buildings and consultation.

We are critical of the LDA in saying that we believe that is a significant amount to be spending at a time when there is so much pent-up demand. We have seen that over the last couple of weekends—people are desperate for blocks, because the blocks have not been provided to them. You really should not have to spend too much to let people know. People are dead keen to find out about these ballots, these auctions and particularly the residential land sites. We can question the quality of some of that marketing, and \$2.5 million seems to us to be a significant amount to be spending on advertising and marketing in a market where the LDA is such a dominant player and where there has been such a squeeze on land supply in recent years.

That said, I will give the LDA a plug—at least the LDA can answer the question. The only reason we are able to give them a bit of a kick and say that they should look to shaving some money off that advertising is because they bothered to answer the question, which begs the question as to why so many other departments cannot. The LDA has done the work, and I will give them a plug for this. They have gone away and they have done the work. They have done what we would expect all government departments to have done at this stage of the budgeting process—that is, they have done their internal budgets.

When we asked the LDA a series of questions about the budgeted or forecast increase of costs for provision of IT services, printing, distribution, et cetera, we actually got answers. We got an answer about what has been spent to date in the 2009-10 financial year as at 27 May 2010—\$1.223 million excluding GST. We do see a significant increase, and we would ask that is the case. But I give them a plug for the transparency that they are showing so that we can have the debate and the discussion. They have bothered to do the work.

We get a lot of detail in some of these answers from the LDA. Why can we not get that from other departments? Why are we hearing from other departments that they have not done their internal budgets yet? That is unacceptable. If it is good enough for the LDA to do it, why is it not good enough for the other agencies? This would be a question for each of the ministers who have answered by saying that they simply cannot answer the question.

The LDA can answer the question. Whilst we will be critical of the amount they are spending on advertising, we will give the LDA credit where credit is due—it is a standout agency in that they are at least prepared to be transparent with the ACT Assembly so that we can see what they are planning on spending. I would ask each of the other ministers and each of the other agencies that have refused to answer similar

questions: if the LDA can do it, why can you not do it? We have not had an answer to that.

Again, we are going to be asked to pass a budget where the government refuse to tell us how they are spending the money. The LDA are telling us how they are spending the money, and, as I say, I give them credit for that. We see \$448,000 being spent on design and construction of the Bonner land sales office and \$567,000 on the Bonner display village landscape construction. There are areas where the LDA could get better value for taxpayers' money, but I will not further labour that point. I will make the point again that they have bothered to be transparent with the Assembly and, through that, with the community. They will stand behind their spending and justify it. But what we have in other areas is a complete lack of transparency.

The flipside of not being able to itemise how you are going to spend this money is that you are simply asking for a bucket of money and saying, "We'll spend it how we see fit," instead of saying, "This is how we are planning on spending it." There may be some variations to that as the year goes on, and that is why there is a Treasurer's advance and that is why there is some flexibility in the way that departments and agencies manage their budgets. But you should be able to say what you are planning on spending the money on. If you cannot, the logical question is: why do you need it? If you cannot tell us what you are spending the money on, why do you need it? It seems that it is just a bucket of money for agencies to spend as they see fit.

Mr Smyth touched on the issue of the whole-of-government office building. There are a series of unanswered questions in relation to this project. We learnt that the government is considering spending \$300 million to \$400 million on the whole-of-government office building for 11 departments and agencies, housing 3,745 officers. Now, that is a fair whack of taxpayers' money. In fact, I would suggest that it would probably be the biggest infrastructure project that has been embarked upon by the ACT government in the ACT's history. I think the dam would have been the biggest to date at \$363 million budgeted, but if this project stays within the range, it will be the biggest.

I suppose taxpayers will be asking whether this is the most important capital spend for the ACT government and for the ACT taxpayer. Is it worth while to spend more than we have ever spent on any other project on a government office building? Is it worth while to spend it at a time when we are projecting significant vacancy rates in the ACT commercial property sector and to add to that large vacancy rate? The economic case that has been put is brief. It talks about marginal benefits at best. That is, of course, if we accept all the government's figures. We have not been given all of the detail that would give us any confidence to say, "Yes, those figures are about right." They may be, but even if they are, it talks about a very marginal benefit at best.

Of course, that does not take into account some of the downside for the commercial property sector in the territory and the flow-on effects of that. For every dollar of economic activity that we see from this building being constructed, you could argue that you will not see that elsewhere, particularly when you are facing a 15 per cent vacancy rate. Of course there is the effect on outlying town centres—there is the effect on Gungahlin; there is the effect through removing public servants from places like Tuggeranong. I do not think these things have been properly considered, and at

this stage the case remains marginal or even seriously questionable. We will be asking a lot more questions as we go forward on why this should be the biggest ever spend by a territory government on a capital project. That is something that we look forward to getting some answers on. (*Time expired.*)

**MR SMYTH** (Brindabella) (8.20): There are a lot of other issues that deserve to be addressed with regard to the Department of Land and Property Services. On page 143 of budget paper 4, there is a dot point in the priorities called “Building an inventory of urban renewal opportunities”. What we were able to find out during the estimates is that this work will be done with TAMS; it is expected to cost \$150,000 and it will occur in the coming financial year.

I think it is very important in terms of the context of the future that we have this work done, so I look forward to seeing that report. The Chief Minister was not able to give us an actual time frame on when it might become available, but it will be done some time in the coming year. It will be done in conjunction with ACTPLA, and it is to look at vacant sites, infill sites and other opportunities. It really will become an important document in that much of the discussion about the future shape of the ACT and where people will live and work will be in the infill area. We look forward to the discussion that, no doubt, will commence.

There is an item worth \$50,000 entitled “A feasibility assessment for a general aviation airport”. I was interested to see this, because the general aviation sector have told me that they have had a number of reports done and they are quite sick of reports; they actually want something to happen. Upon questioning the Chief Minister, he reiterated that the probable site is at Williamsdale, although that is not confirmed. The allocation is to do a financial study, which apparently has not been done before, on this site. Again, we look forward to that being done expeditiously. If we are to have an enhanced general aviation sector in the ACT, having this work done such that we might make a decision is certainly worth while.

While we were discussing the issue of the general aviation airport, a number of the officers were being introduced as acting officers—we had an acting chief executive officer and we had an acting chief financial officer. I asked the question, “Did you announce at the beginning that you were acting,” to which all the officers said, “Yes, we are.” I find it quite strange that, after the operation of the department for six or seven months, all of the senior executives still seem to be acting in their positions. Given that we have got three different organisations looking at the use of land in the ACT—ACTPLA, LAPS and the LDA—it is important that, if the department is to go forward, those positions are filled so that people have some certainty in their jobs and they can actually get on with doing their jobs.

Of course, the big item in the budget for the Department of Land and Property Services this year is money for the arboretum—some \$26 million. We have canvassed it rather a great deal in the debates of recent days, but it does really go to the question of priorities—what is the government interested in and is it looking out here for the people of the ACT? We are reducing budgets in other areas, we are making savings, yet we still find \$26 million for the arboretum. It is for those outside their place to make their own decision on it, but it is a lot of money on top of the previous money spent. This is at a time when other services are stretched. Mr Doszpot is interested in

kids with autism and the long waits those people have to receive services. The waiting times for hearing services and disability services in general are a concern. It really is about your priorities and what you think is important, and the government will be judged on that matter.

Mr Seselja touched on the government office building. We had some discussion about this last evening, and I will not detail it again. But, again, the question has to be asked: what is the purpose of this building? From the data we received, it seems the case is marginal at best. Is that concentration in Civic to the benefit of the city? Is it to the detriment of group centres, particularly Dickson, which will seem to suffer particularly badly from this process? Does it help us in the management of employment in the ACT? The concept is an interesting concept. We have not seen a case for it, and it would be interesting to see that case.

There is another dot point in the priorities—that is, overseeing the implementation of national building projects in the ACT. Again, we have had a bit of a hit-and-miss relationship with the federal government on this. We got some money through building the education revolution and, by all accounts, we seem to have managed that reasonably well—far better than, for instance, New South Wales or some of the other states. But it still concerns me and others on this side of the house that our relationship with the previous Prime Minister could only be described as tenuous at best. I notice already we have got the Chief Minister in conflict with the new Prime Minister on issues of population.

It does concern me that we do not seem to have the relationship that previous chief ministers have had with the Prime Minister of the day, irrespective of their political parties, so that they were able to get action for the ACT and were able to get things rolling. It is nice to see that we have implementation of national building projects, but it would be nice to get some projects to be building. The Rudd government did not deliver a significant project for the ACT. The Rudd government was certainly able to complete some of the projects started under the Howard government, particularly the National Portrait Gallery. Ms Gillard and her government will now be able to open the National Gallery of Australia extensions and outdoor gardens, which, again, were started under the former Howard government.

We need to have that relationship. We need to have an ability to talk. We need to have a shared vision so that things—for instance, the centenary of Canberra—get funded. We need acknowledgment that the national capital matters. As a city we are perhaps not getting what we deserve to get in order to be the national's capital and to be our home, and that is a shame. Perhaps the government might detail how they are going to improve that relationship with the new Prime Minister.

Proposed expenditure agreed to.

Proposed expenditure—Part 1.8—Department of Treasury—\$49,741,000 (net cost of outputs), \$41,900,000 (capital injection) and \$27,722,000 (payments on behalf of the territory), totalling \$119,363,000.

Proposed expenditure agreed to.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): We now move to part 1.9, the home loan portfolio. The question is that the proposed expenditure of nil be agreed to.

**Mr Smyth:** No.

**Mrs Dunne:** What happened to Treasury?

**MR ASSISTANT SPEAKER:** It is gone. Mrs Dunne, I actually called it. I called each dollar value of it and I put it and I paused, and there was no response. I am sorry.

### **Standing and temporary orders—suspension**

**MRS DUNNE** (Ginninderra) (8.29): I move:

That so much of the standing and temporary orders be suspended as would prevent Part 1.8 being reconsidered.

If we have to have a debate about this, let us do that. We are debating the budget. It was obviously remiss of people to have, perhaps, fazed out for a moment on the Treasury line. This is the most important line in the budget and the Assembly needs to go back and debate it. It would be a farce for us to not debate the Treasury line in the budget.

**MR STANHOPE:** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (8.30): Thank you, Mr Assistant Speaker, for committing the government to a position on that. I think the point needs to be made that you called it quite clearly, Mr Assistant Speaker. The shadow treasurer and two of his frontbench shadow ministerial colleagues were here. None of them bothered to engage. You called it quite clearly. I heard you call it. I responded. The vote has been carried and the line has been supported. In the interests of actually continuing to exhibit the graciousness for which the government are known, we will, of course, concede.

But it does need to be pointed out, Mr Assistant Speaker, in defence of your ruling, that you were quite clear. You called the item. The shadow treasurer, the shadow minister for health and his colleague just simply dawdled on, dreamed on, and ignored you. But we will, of course, allow the debate to be recommitted.

*Members interjecting—*

**MR ASSISTANT SPEAKER:** Order, members! Can we have a little bit of quiet so that we can have this vote. The question is that standing orders be suspended as would allow a recommittal of the debate on part 1.8, Department of Treasury, the question being that the proposed expenditure of \$49,741,000 as the net cost of outputs, \$41,900,000 as capital injection and \$27,722,000 as payments on behalf of the territory, totalling \$191,363,000, be agreed to. Mr Smyth, would you like to speak?

**Mr Smyth:** You've actually got to put it.

**MR ASSISTANT SPEAKER:** Sorry, members, we need to vote and we need to have a division on this particular question because I suspect that a quorum may not be present. The advice I have received is that we should have a division on it, because a quorum may not be present. The question is that the suspension of standing orders be agreed to. So ring the bells. We do not have an absolute majority present on the floor at the moment.

The Assembly voted—

Ayes 13

Noes 0

Mr Barr	Ms Hunter
Ms Bresnan	Ms Le Couteur
Mr Corbell	Mr Rattenbury
Mrs Dunne	Mr Seselja
Ms Gallagher	Mr Smyth
Mr Hanson	Mr Stanhope
Mr Hargreaves	

Question so resolved in the affirmative, with the concurrence of an absolute majority.

Proposed expenditure—Part 1.8—Department of Treasury—\$49,741,000 (net cost of outputs), \$41,900,000 (capital injection) and \$27,722,000 (payments on behalf of the territory), totalling \$119,363,000.

**MR SMYTH** (Brindabella) (8.36): I thank members for that. Sometimes you miss things, and I do apologise. Thank you for the graciousness. This is perhaps the line on which much discussion will be had, because at the heart of what we discuss is the Treasurer's strategy for the year, the decisions that have been made under the guidance of the Treasurer, how they will be achieved. It is really a statement about the future of the territory.

I think, if you were looking at this document for a clear path forward, you would be disappointed. You only have to go to pages 20 and 21, the budget plan assumptions and target. It is the same chart as appeared last year. That still shows the zero savings in the year 2009-10 and the targets for the forward years. It does not leave one with a sense that this is a government that knows where it is going. You only have to have seen the struggles during the year and, indeed, the last couple of months where, suddenly, it was announced that we were to lose a sum of money from the GST revenue. The number that has been touted is still subject to debate. We then saw sudden action from the government in the form of the staff freeze.

Upon questioning the government during the estimates process about what about the benefits of the staff freeze were to the bottom line of the budget, we were unable to get an answer really that gave us any confidence that there was any purpose in it at all. Probably the thing that is most common through the documents is the lack of sense of purpose of this government. This is a government that does not seem to know what it wants, does not seem to know where it is going and does not seem to know how to get there.

I think the Treasurer has a remarkable capacity for dithering when firm decisions are called for. She has proven that in the two budgets that she has presided over. She has failed to achieve budget savings, failed to impose her will on ACT departments and agencies and seems to be simply letting the world swirl around her. The Treasurer does not have a plan to reduce the budget deficits. All the ACT has is a sit-and-do-nothing approach while the world moves on. Indeed, we see that even Premier Keneally and her Treasurer Roozendaal in New South Wales have been able to deliver tax cuts and surpluses. The Treasurer will have her own take on how they achieve that. No doubt, she will repeat it. But at the end of the day—

**Ms Gallagher:** A gift from the commonwealth.

**MR SMYTH:** Maybe that is because of her relationship with the commonwealth, the relationship that we see there. The problem is that we really do not have a plan. From the time that the Treasurer has taken over, we have had statement after statement that does not engender confidence in her approach, that it was guesswork, that these were simply estimates, that they were somehow meaningless. But they are not. They are the estimated expenditures for the coming year. They are important, they are a sign, they are guidance.

Then we had, to back that up, that lack of sense of purpose and knowledge of the budget. Indeed, during the discussions we had a Chief Minister who did not know that he had made certain cuts, did not know that he had said certain things about the state of the economy. That, of course, does not leave us with confidence in the approach of this government.

Then we saw some belated announcements by the Treasurer in the 2010 budget of some measures to constrain spending. But really it is an admission of the failure of her 2009 budget plan. In May 2009, Ms Gallagher told the Canberra community that the fiscal environment meant that cuts to spending were required. But she was unable to provide any of these cuts until her announcement of 2 March 2010. What did she do then? She nominated a freeze on the employment of non-essential public servants which, I think, has proven to be rather a silly decision, a decision that is more akin to a blunt fiscal policy instrument than a carefully thought-out strategy. It is a strategy that was seeming to be: "We must do something. This is the only thing that we can think of."

It does raise further questions. What functions are performed by non-essential public servants, at what level are these public servants employed and what effect will this freeze have on the employment of those who are just starting out on their working journeys? Incredibly, in March 2010—that is, two months before the 2010 budget—the Treasurer suddenly realised that we cannot pretend that it is business as usual and continue on our merry way.

As the 2010 budget was being framed, the Treasurer had to work out how to explain that the savings that were anticipated had not been gained. This is not the way to develop and implement public policy and certainly not the approach for the most important public policy action in any year—that is, the annual budget. The Treasurer has failed, again, to provide any kind of budget deficit reduction plan. The Treasurer has failed to provide a new vision for the path ahead for the ACT and for its economy.

You have to question the effects of the GFC, the global financial crisis. Many have now said it is really either just a Northern Hemisphere economic crisis or perhaps a NATO economic crisis and perhaps even a North American economic crisis. So you must question the arguments used by the Treasurer to explain the effects of the global financial and economic crisis on the ACT.

We have to note the comments in the economic reports from respected economic commentator CommSec, where CommSec said that the ACT was insulated from the US financial crisis and all the issues that we see in the ACT economy and budgets are, therefore, home grown. If the claim is that the ACT economy is doing well, then you have to ask the question: "If the ACT economy is performing so well, why is the ACT budget in deficit and likely to remain so for a couple more years?" The answer is that we have got a Treasurer who is not able to do the job. There were times when, I think, the Treasurer nominated that making savings would be quite easy. But those savings have not been forthcoming.

Then of course we got to the GST estimates. It is obvious that the ACT Treasurer was completely unprepared for the Commonwealth Grants Commission recommendation to reduce GST payments for the ACT. Blind Freddy could have seen that the weight of evidence and argument had persuaded the Grants Commission to make a dramatic change to the way in which the GST funds are carved up. The draft report was quite clear on that. The sad reality for the ACT—

**Ms Gallagher:** The final report wasn't the draft report.

**MR SMYTH:** The Treasurer interrupts that the draft report is not the final report. That is very observant, Treasurer. That is very astute. The draft report was quite clear on that. The sad reality for the ACT is the failure of the Treasurer and, indeed, the Chief Minister to prosecute the case for the ACT to get a better deal from the determination of the GST relativities. The Treasurer admitted that she did not meet with the Grants Commission, and we have the result of that failure, although—and this is the good news—she has remained well briefed.

Then the Treasurer said that the ACT will lose more than \$80 million next financial year. There is a *Canberra Times* article of 27 February this year that quotes those numbers. What it says is:

ACT Treasurer Katy Gallagher said yesterday the Government had feared it would take up to a \$50 million hit, but instead would lose more than \$80 million next financial year. That meant a \$170 million deficit, and the negative impact of the changed formula would grow by more than about \$5 million annually.

We have the Treasurer saying that the ACT will lose more than \$80 million next financial year. This outcome was clarified in an answer to a question on notice, where the Treasurer advised that the actual loss in 2010-11, compared to the budget, would be \$84.7 million. Unfortunately, this estimate does not appear anywhere in the analysis provided by the Grants Commission. This is simply another instance of the Treasurer guessing about the answer rather than providing accurate information.

As an aside, I hope the Treasurer is not referring to the \$84.8 million in table 2 of the commission's report, because this is a per capita number and not an aggregate of the GST outcome.

**Ms Gallagher:** No, I'm not.

**MR SMYTH:** I am pleased that you are not, because we know that, in the end, the loss was nowhere near the \$80 million scare campaign that the Treasurer was putting out.

**Ms Gallagher:** It was.

**MR SMYTH:** The Treasurer insists, just building up the list of excuses for her ineptitude at managing the ACT economy. The very real issue for the people of the ACT is for the Treasurer to set out the details of her deficit reduction strategy and, in doing so, not propose increasing taxes, as this will place a cap on economic activity in the territory and retard growth. We really do not see a deficit reduction strategy. We have got a hope that it will come back a year earlier than outlined but that is all we have. We have hope. Given the unreliability of the estimates that this Treasurer, in particular, has put forward over the last couple of years, just about anything could happen.

It does then lead to: where does this money come from? There appear to be simply two sources to this money. (*Second speaking period taken.*) We get an enormous proportion of our funding from the commonwealth, we have some own-source revenue or we can look for new sources of revenue. What we have in this document is a total failure to provide for the economic diversification of the ACT.

The Treasurer said earlier this week that they were investing in business in the ACT. They have got a very strange way of investing in the business community in the ACT, because they have cut funding for business in the ACT. That is a very strange notion of how to diversify. Indeed, although it is not her portfolio she must have some feeling for how economic diversification would benefit the bottom line.

We cannot get a straight answer as to when, for instance, the document on the clean economy might turn up. We cannot get a straight answer on what are the other plans that the government are going to put together to enable the delivery of their economic blue print. In that regard, this is a Treasurer that has failed to provide any sense of vision or direction for the future of the ACT economy and continues, of course, the failure of the Chief Minister to articulate any sense of vision for the future of the ACT economy.

We have had the economic white paper, and this at least had some sense of vision for the ACT economy. Unfortunately, as that policy development was undertaken by former Treasurer Ted Quinlan and that heritage means that the paper is now redundant, there is now truly an effective void in terms of strategy for the ACT economy—a clear strategy with clear targets and a clear pathway to achieve those targets. Not much more can be said, other than to acknowledge the total failure of the government in this important area of public policy. If it is not enough that we do not have a plan

for the economic diversification of the ACT, we actually have a falling employment share in the private sector of the ACT economy.

I raised with the Treasurer during the estimates hearings the divide between public and private sector employment in the ACT. This follows analysis that shows that the proportion of the private sector in the ACT had fallen from 59 per cent in 2001-02 to 51 per cent in 2008-09. This is a dramatic reduction in the strength of the local private sector. If we are going to have diversification, if we are going to share the tax burden and if we are going to bring the deficit back under control and remain in surplus into the future, then of course growth in the private sector should be an important part of that.

But we have got a Treasurer who said in this place that she particularly was not interested in diversifying the sector and, in fact, did not believe that it was possible. That is clearly reflected in this document. We are not going to see a serious attempt by this government to diversify the ACT economy. Hence, the dramatic fall from 59 per cent to 51 per cent over the last decade. Its failure to encourage the growth of the private sector is an indictment of the actions of this government and now, in particular, this Treasurer.

The Treasurer has now provided an answer to explain the government's approach to this important matter. I suggest that the answer leaves a lot to be desired. For example, the Treasurer says that private sector employment increased from 49.7 per cent in the May quarter 2009 to 52.8 per cent in the February quarter 2010. This is a dramatic increase in an economic indicator—almost three points—that typically does not vary as much as this in a short period. I find it difficult to accept that such a substantial change took place in less than one year, let alone in one quarter.

The problem for the Treasurer, of course, is that it was 59 per cent in 2001-02. So even if we accept her 52 per cent, it is still less than what they inherited and what they should have worked upon. We do not have enough time to develop this theme further at this point. But I will be taking up this matter in due course.

This year, of course, for the first time, there was an opportunity for what was called a technical briefing before the estimates committee hearings proper. I commend the Treasurer for this initiative. It enabled committee members to understand some of the technical issues relating to the budget before the examination of the budget itself. I trust this initiative will be continued in subsequent budgets. It was a very useful opportunity to deal with some of the issues that would have been an unnecessary distraction from the formal hearings of the estimates committee. But it does bring us to the budget itself and what the Treasurer has delivered.

This is a budget that is not fiscally responsible, delivering massive deficits, despite record revenues and the recovery and despite the fact that we should and could be in surplus if this Treasurer had done her work properly. The problem for us is that we deal with numbers that are, in many ways, just unbelievable.

Of course, there was the Treasury recall day. The Treasurer did not attend because she was absent at that time, but the officials were brought back—

**Ms Gallagher:** Come on, say what you want to say.

**MR SMYTH:** I do not have to say it. If you are feeling guilty, you can explain your absence.

**Ms Gallagher:** I'm not feeling guilty at all. It's you guys that can't cope.

**MR SMYTH:** I was not going to go there but, if you want to throw yourself in there, go for your life.

**Mrs Dunne:** "Here's a bus. I shall throw myself under it."

**MR SMYTH:** Yes: "Here's a bus, this passing bus. I shall throw myself under."

The Chief Minister attended in the stead of the Treasurer and, of course, he left it to officials because he was not across the brief either. But what was uncovered, because the opposition has done the hard work in analysing the numbers, was that the numbers are unbelievable. In particular, the forecasts—

**Ms Gallagher:** Except ACIL Tasman does not agree with that.

**MR SMYTH:** The Treasurer says ACIL Tasman again. ACIL Tasman are dotted throughout that report—

**Mr Seselja:** She wasn't there when Treasury actually got it wrong.

**MR SMYTH:** She was not here to explain how Treasury had got it so wrong. ACIL Tasman actually says in many cases that these are way too conservative. ACIL Tasman question some of these numbers, and when you follow through with them the numbers do fall over.

The problem in particular with employment is that more up-to-date data was available before the Treasury was put to the printers, but that data was not taken up. What it does is it presents a much more dire picture of the state of employment in the ACT. You can do this for two reasons: you are conservative because you are afraid or you take conservative figures because you want to stage a miraculous recovery, maybe a year, maybe 18 months from now, to sweep into the election year. But the problem for people using this document to plan their business and to work out what they will do in regard to the ACT is that the document was flawed; the employment figures in particular had a massive decline in employment in the ACT.

To reach the estimate that the Treasurer put in the documents, we would have had to have a decline in employment when, month after month, the employment figures in the ACT were getting stronger. To see it go backwards by tens of thousands of jobs is just ludicrous, yet that is the proposition that the Treasurer would have had us believe in this document. This is why one can have no faith in this document. When the fundamentals are wrong, everything else that follows from it will also be flawed.

The other problem, of course, in the document is that it contains many instances of rollovers—yet again, the non-delivery of programs. Again, in this regard, you cannot trust this government's spending estimates. They quote so often the input as a sign of growth: "This is a sign of some sort of budgetary excellence. This is the biggest budget we have ever had." But of course it is. The budget grows every year. Over the last decade, the budget has almost doubled, so of course they are going to be bigger.

Then we get these furious comparisons to what was happening a decade ago. It is in many ways ridiculous the way that the Treasurer goes about her report. In that, this budget is not accurate. It has unrealistic, pessimistic and incorrect economic indicators such as the employment numbers, which did force a Treasury recall. It also contains precious little information about how the GST will be withheld by the commonwealth under its health reforms. And it is being withheld; the GST revenue goes out of our control.

It is a budget that is not transparent. Others have canvassed, and I will just mention again, the failure of ministers to answer questions; the inability of the majority of them to answer what the breakdown of the budgets was in the output classes. The LDA can do it. To their credit, as Mr Seselja just said, the LDA told us what the breakdowns were. No other minister has been able to tell us what the programs are inside the outputs, because they will be determined after the budget is passed. That is not how you put budgets together.

It is a budget that contains wasteful spending. We have got \$26 million on the arboretum. You have to ask the question: why does ACTPLA need \$100,000 to undertake a feasibility study into the ACT government shopfront in Gungahlin? These are promises that the government made. Get on with the job. It is a budget that contains higher taxes. We have had many discussions on the change of use charge, and I am sure that we will have more. All of the revenue lines have gone up. This is a government that is good at taxing; it is a government that is good at spending; it is not a government that is good at delivery.

This is a budget that is anti family; it is a budget that will adversely affect the people of Brindabella. (*Time expired*).

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (8.56): The Appropriation Bill provides for an underlying deficit of \$132.7 million or approximately 4.4 per cent of the total appropriation. At the outset, it must be said that at times it is appropriate for governments to spend more than they receive in revenue. I do not think anyone in this place would argue that this is not the case. The difficulty, of course, is defining the appropriate time and purposes for deficit spending.

The golden rule of public finance is that over the business cycle the budget deficit, defined as the net lending balance, should equal net capital spending. The rule is based on the distinction between current and capital expenditure. The practical application of the rule is that government should achieve a zero net operating balance on average over the course of the business cycle. This is agreed by most economists, including Dr Peter Abelson from the University of New South Wales.

I would like to turn to the ACIL Tasman report, which is, of course, the best independent economic analysis of the budget that we have available to us. The key finding on page 1 is that the budgetary position is sustainable but there are some emerging fiscal pressures, particularly the very large capital works program.

The particular set of economic circumstances that we face makes it somewhat difficult to define the budget as having a cyclical or structural deficit. We are in a period of low unemployment, below the five per cent threshold at which deficits can be said to be structural. However, given the particular nature of recent economic events, the recovery period that we are now in, and the fact that the reason for the deficit is the capital works program rather than service delivery, there is an argument that the deficit is consistent with cyclical activity.

The short to medium-term economic circumstances we find ourselves in appear to necessitate this level of spending to maintain employment and correct the cyclical activity we are experiencing. However, as the ACIL Tasman report notes, the large infrastructure program in light of the territory continuing to have a strong market needs to be justified.

The deficit will not impact upon our credit rating, which will remain at AAA. I note that our net financial liabilities to revenue are the lowest in the country. Whilst we did express concern about the repayment time frame for some of the bonds, we are generally happy with the proposed means to fund the deficit. The Greens do support the revised deficit strategy and are, indeed, very pleased that we will be returning to surplus sooner than previously forecast. We do agree that a measured approach should be adopted, and we recognise that there are still significant international economic uncertainties, as well as domestic ones, and, most particularly, commonwealth spending decisions that must be taken into account in the determination of our fiscal policy.

That said, I would take the opportunity to reiterate the ACIL Tasman report concern that the required savings to achieve a surplus have not been identified and whilst it is, as the government said in its response to the estimates committee report, appropriate that these measures are not incorporated in the published forward estimates, it is important to recognise that traditional savings measures such as efficiency dividends and staffing freezes may well be insufficient to properly address the situation. I note that one of the listed priorities for Treasury in the budget papers is to identify options to achieve savings to ensure that the budget returns to surplus in 2013-14.

The ACIL Tasman report finds that the long-term forecasts appear reasonable and that the outlined strategy eventually improves the fiscal sustainability of the ACT. The key concern expressed in the ACIL Tasman report is that the budget has gone into deficit to fund the capital works program. The beneficiary principle and intergenerational equity principles operate to some extent to mitigate these concerns. However, as I said earlier in the debate, the nature of the particular expenditure initiatives must be carefully considered to ensure that these principles are applicable and that the infrastructure does in fact represent a sustainable and desirable long-term asset for future generations.

The Greens have consistently made the point, and it is also expressed in the ACIL Tasman report, that, in applying the beneficiary-pays principle, particular care must be paid to recognising that needs will change through time and that without careful planning capital works may provide little to no benefit to future taxpayers.

We know that the economy is about to change very rapidly. Indeed, the government has committed to that change in adopting a zero emissions goal. We need, and the Greens wholeheartedly support, structural change that shifts us away from fossil fuel use and greenhouse gas emissions. We must be very careful to ensure that we are not burdening future generations with emissions intensive infrastructure.

In answer to my question on notice E10-009, the Treasurer replied that a cost-benefit analysis is undertaken for each project considered as part of the budget process and, further, that comprehensive business cases are developed for each new spending proposal. We would very much like to see some of these analyses. As I said, the ACIL Tasman report does raise the issue of the unsustainability of maintaining the current level of capital works. Given that this is a rare opportunity to provide for the infrastructure needs of the community, and it is unlikely that we will be in a position to do it again in the near future, the importance of getting it right and ensuring its long-term usefulness cannot be overstated.

I would now like to turn to some of the specific outputs in the economic and financial management classes. In monitoring and advising on the state of the ACT economy, I note that the ACT Treasury have consistently performed well relative to other states in the accuracy of their forecasts. In light of the fact that there are particular difficulties in forecasting the impacts of commonwealth spending decisions, this achievement deserves particular mention. I would also make the point that all the key forecasts were found to be “reasonable” by ACIL Tasman, and the unique forecasting difficulties we have in this jurisdiction were also noted in their report.

I must say at this point that it is most disappointing that the dissenting report contains the chapter title “The real state of the economy”, which suggests that the Treasury department is providing deceptive or blatantly inaccurate forecasts. At times they may be conservative, but I think they are certainly prudent, reasonable and rational.

I would also like to mention the reallocation of gaming machines and again make the point that the Greens’ view is that, in the process of reallocating gaming machines, overall numbers should be reduced. We currently have around 40 per cent more than the national average allocation of machines per capita. Given the acute and well-recognised social harms associated with gaming machines, it is our view that we should adopt a range of harm minimisation measures and reduce the prevalence of gaming machines in the ACT. This, of course, needs to be done in consultation with the clubs industry. The Greens acknowledge the important role that clubs play in our community and that their future viability and economic viability need to be considered as part of this conversation.

As to the presentation of the annual budget papers, there is a common criticism expressed in this place that the amount of information presented in the budget papers is insufficient. The first recommendation of the first Select Committee on Estimates in

this place was for improved provision of information, and this year's committee report made a similar recommendation.

The government, in its response to this year's estimates report recommendation on this matter, asserts that the papers are of a high standard and are consistent with those of other jurisdictions. Whilst relatively speaking this may well be the case, and I know that the papers are consistent with the relevant accounting standards, they do not provide anything more than a very superficial output cost. Whilst I do recognise that it is simply not practical to provide a thorough analysis of all initiatives in the papers, there must be some middle ground and means of providing supplementary information.

It is clear that members are unhappy with the amount of information they have available to assess the budget proposals. I have no clear answer for how this might be resolved but, as the estimates committee pointed out on page 21 of its report, the situation where the same amount of detail is provided for an expenditure of \$200,000 for a feasibility study as is provided for major projects at a cost of \$14.7 million does give rise to a significant issue. It is a good example and demonstrates the problem. (*Second speaking period taken.*) I hope that we can collectively and collaboratively move forward to achieve the best outcome.

Treasury is also responsible for the coordination and development of a range of cross-jurisdictional issues and COAG reforms. The most notable at the moment is, of course, the health reform, and I would like to emphasise the estimates committee recommendation No 14, that the Assembly be provided with updates on the process to ensure that to the greatest extent reasonably possible all members of this place are up to date with the negotiations and any subsequent changes to our budget. This is obviously a very significant issue that will be progressed in the coming financial year.

With the revenue management and revenue initiatives contained in this year's budget, the first point to note is that the overall revenue to the territory will decline from last year's outcome. This is primarily attributable to a reduction in revenue from the commonwealth and the wind down of the commonwealth stimulus package.

Taxation revenue provided for in the budget forecasts will rise by around two per cent. Whilst there are a number of charges—bus fares and parking, for example, that have been the subject of particular attention—it should be noted in relation to the total taxation collection that the wage price rise for the year to May was 4.3 per cent and the CPI annual change to March was 2.9 per cent. So it does appear that the forecast increase in taxation revenue is reasonable and that the real burden of the taxation will actually decline this year.

On the change of use charge, on which, of course, we have spent a lot of time today and during the estimates hearings, I would like to again make the point in the context of this debate that I do not believe that an argument can be put that the law should not be applied correctly, and I cannot believe that anyone would seriously suggest that the government could apply any law in a manner that was not consistent with the statute.

The rule of law upon which our system of government is premised is absolutely vital to the effective operation of our government. There has been a mistake, a very serious

one, that needs to be redressed—that is, of course, the mistake of what has happened with the change of use charge over the years. A mechanism has been put in place to look at how this happened; this was a recommendation in the estimates report that was reiterated earlier in the change of use charge debate. The Assembly has to get information about what happened, who was involved and what action has been taken to rectify it.

It is appropriate that the community receive the change of use charge revenue. One particular issue that has been highlighted as a result of the debate is the need for a waiver policy that clearly sets out the factors to be considered and the criteria against which any waiver request is evaluated.

As I said, the issue has already been covered at some length today and I do not wish to cover old ground again. The key points are that it is appropriate that the community gets a fair return on its resources, particularly a finite resource such as land, which is, in fact, our primary resource. We also support the correct application of the law, and I have explained at length how bizarre I find it that anyone could suggest otherwise.

We are concerned about the effects of the change of use charge on urban densification. As part of the codification assessment and development process, this should be an important part of the considerations when developing the schedule of costs that will form part of codification legislation. Part of my amendment in the debate this afternoon was about wanting full information on the sort of modelling that has been done to ensure that there are not barriers to urban densification.

The Greens are happy to support the other revenue measures. I will just quickly mention parking and bus fares, as they are perhaps the most visible in the community. Against a backdrop of increased investment in our public transport system, which needs to be paid for, we support encouraging a modal shift and providing people with other transport options that will help build a city where people can move around easily.

On the point that we need to diversify our revenue streams—this is a regular one, and I know Mr Smyth is very keen on this—whilst this is, in theory, a very good idea and the Greens agree with the premise, constitutional arrangements can sometimes make it difficult for us to raise other revenue. That is not to say that there are not options, but it is difficult and we would be very pleased to engage with any ideas or options that members of the community wish to raise.

For example, one of the main benefits of the feed-in tariff is that it supports the growth of new businesses and skills in our workforce and is a positive step towards a more diverse, adaptive and robust economy, and I guess those are the sorts of things we want to see as incentives to build the green economy, to build industries around renewable technologies, for instance, knowledge and so forth. We really do need to put a focus in there. Certainly, in response to the budget during that budget week, the Greens and I very much focused on the importance of looking forward, looking to the future, looking at diversification, ensuring that it is going to be viable and sustainable into the future and something that will put the ACT in good stead as far as being able to reduce our carbon footprint is concerned, but also looking at ways that we can really grow some fantastic innovative businesses, businesses that will be able to thrive and ensure we have a vital private sector.

Another matter I would like to raise is the land release program and the revenue to be raised from it. Whilst we recognise the need to provide more homes for Canberrans, as my colleague Caroline Le Couteur said, we have not even come close to achieving the fifty-fifty greenfields and urban infill development goal.

A further issue is reliance on land release as revenue, as I have said. It is very limited, and we are already significantly impacting on critically endangered ecological communities. That is why it is important to ensure that we have alternative options available to us so that we can smoothly transition to other revenue measures. They are the measures I was mentioning, with building that green economy, building those other businesses. Having been out talking to the business community, I know there is a real excitement, a real engagement, with it, because this is a well-educated town. This is a place that really does nurture innovation, and I know that there are many businesses that have recently established and that see the ACT as a great place to be and a great place to continue to do business.

We need to continue to look at what sort of incentives we can put in place, what sort of things we can do to meet their needs to ensure that we are attracting further business into the ACT and retaining those businesses. Of course, hand in hand with that, as I said during the budget week, is the importance of the skills—building those skills, teaching those skills—that are for tomorrow and tomorrow's industries, not yesterday's industries, and that is where we need to ensure that there is a good connection between the industries and our training institutions.

We will get to the CIT later tomorrow some time, and I note that they have got some great programs. The MBA are doing some fantastic training around sustainable building. So there is a lot we can capture. We have the ANU; we have the University of Canberra. We are very rich in our tertiary institutions, in our training institutions and so forth, so we need to ensure that there is a very good connection with industry on how we can diversify the economy and ensure that we build the skills of the people who will be employed in those businesses. These issues are the ones that I wanted to raise under this item, and the Greens will be supporting this appropriation.

**MR SESELJA** (Molonglo—Leader of the Opposition) (9.16): I think the health minister got offended when she was compared to Reba Meagher yesterday, and I suppose it would probably be a compliment if we were to compare her to Eric Roozendaal, because Eric Roozendaal has been able to deliver a surplus budget and tax cuts. It is extraordinary: New South Wales has —

**Ms Gallagher**: There are some tax cuts in this budget. Nobody has talked about them.

**MR SESELJA**: Yes, there are lots of tax cuts in this budget, but the New South Wales government, under the leadership of the extraordinarily talented Eric Roozendaal, has been able to deliver large tax cuts and a surplus. So, if I were to compare Ms Gallagher to Mr Roozendaal, it might be a bit unfair. It might be a bit unfair to the New South Wales government to be compared on economic management to the ACT Labor government.

I note that Ms Hunter did utter the word “deficit” in her speech, and it is good that we have been able to get over that little barrier, because in the report that she chaired I do not think deficit actually got a run. In a budget that was delivering a string of large deficits, the Labor-Greens report actually could not mention the word. It did remind me a little bit of the former Prime Minister Kevin Rudd, who a couple of years ago could not spit out the word “deficit”. But I suppose it is understandable when you are the government that is delivering a massive deficit. It is a little less understandable when you are sitting on the crossbench. So we did finally hear the word—

**Ms Gallagher:** Come on back to me, Zed. This is 10 minutes on me, mate.

**Mr Hanson:** It’s all about me.

**Mrs Dunne:** It’s all about me. What about me?

**MR SESELJA:** I have got 18 minutes left—

**MR SPEAKER:** Order!

**MR SESELJA:** There has been a recurring theme today. In earlier debates we heard that it was all about Jon and then that it was all about the Greens, and now Katy is saying, “No, actually, it is all about me.” Well, I will give—

**Ms Gallagher:** I think you are losing your way; that is all: I am your opponent here.

**MR SESELJA:** I did start on the Treasurer. She does like to be the centre of attention. I get the strange feeling that when we ask her a lot of questions in question time she does feel under pressure, she does not like it, but at one level she feels flattered that we are asking her all those questions, that we are paying her that attention.

**Mr Hanson:** She does. She loves it. She loves the attention.

**Ms Gallagher:** I think that’s for you and your psychiatrist to work out, Zed—why you do that.

**MR SPEAKER:** Order members! Mr Seselja.

**MR SESELJA:** Thank you. I am responding to interjections; I apologise, Mr Speaker. When there is a little bit less noise, I will try and get back to the—

**MR SPEAKER:** Yes, thank you, members. Let us get back to part 1.8 of the budget.

**Ms Gallagher:** One for his therapy couch.

**MR SPEAKER:** Ms Gallagher.

**MR SESELJA:** I will try and get back to 1.8. Thank you, Mr Speaker. I appreciate the guidance; it is very important.

But we get back to 1.8 and the word “deficit”. It is very important, because we are seeing some big ones, and it is worth touching on them. We said at the beginning that this budget is a fiscally irresponsible budget—as opposed, as I say, to even New South Wales and Eric Roozendaal, who has been able to deliver surpluses and tax cuts. Let us have a look at it.

Let us look at both the net operating balance and the underlying net operating balance, which has helpfully been provided. We have the net operating balance in 2010-11. It is minus \$83.9 million. So there is an \$83.9 million deficit—although in underlying terms that is \$172.7 million. In 2011-12, there is a \$135 million deficit—and in underlying terms \$152 million. In 2012-13, \$95 million—and \$97.5 million—and in 2013-14, there is a deficit in both underlying and net terms of \$50.3 million. These are large deficits that are being delivered by this ACT Labor government. Their fiscal irresponsibility is there for all to see. The figures do speak for themselves.

What we hear a lot from the Treasurer is excuses. We hear: “It is the GST; it is the GFC; it is not our fault; it is nothing we are actually doing; it has got nothing to do with our spending decisions; we are completely victims of external circumstances.” It was the GFC—and then, when things recovered, it was still the GFC, even though it is not.

We can look at the numbers. I know the Treasurer liked our charts in budget week. She liked our charts in budget week that showed the—

**Ms Gallagher:** That took about five seconds.

**MR SESELJA:** Well, the fact is it was another chart she could not refute. And the reason she could not refute it is that it was 100 per cent accurate. I will take her through the figures that put a lie to the claim that somehow they are suffering from this massive revenue deficit as a result of the GFC.

In 2008-09, the government was estimating that it would get \$3.7 billion, roughly, in 2011-12. In the 2010-11 estimates—so, post-GFC—we see that the actual revenue estimate is \$3.79 billion; that is up—\$3.79 billion. But then we go on to—

**Ms Gallagher:** Go to the next year.

**MR SESELJA:** The next year gets a lot better, let me tell you. In 2009-10, the estimates for 2012-13 were \$3.831 billion, and now the estimate—in 2010-11 for the 2012-13 financial year—is \$4.025 billion. That is a big increase. That is a big difference. That is a massive windfall. Then, of course, in the outyear, we have crazy stuff: \$4.234 billion. So we see the massive revenue increase. There is absolutely no justification for and no substance to the Treasurer’s claim. Yes, projections dropped for a year, but they were projections, and they have come back and they are actually better than what they were projecting before. So not only are they getting more money every year; they are getting more than they expected they would be getting now in the good times—so, before the GFC was thought of or known about, what they were projecting then. And we are actually expecting now that we will get more revenue than what they were expecting.

So the excuses from the Treasurer for fiscal irresponsibility are just that: excuses that are not genuine and are not backed up by facts. The Treasurer wanted me to get back to her, and I am very happy to, because in the end we have to make sure that it is all about Katy or Jon or whoever happens to be claiming that it is all about them on any given day.

The fiscal irresponsibility of this budget is worth focusing on, because we have not actually seen from the government how they are going to actually turn this around. If you are delivering deficits, even in the best of times, even when the revenue is going through the roof, something is wrong. You are not actually looking hard for the spending cuts. You are not looking hard for the savings. If you are fair dinkum, people in the community will accept that, in very difficult economic times, when there are sudden downturns in revenue, governments will sometimes deliver deficits.

But they would also equally expect that when economic times improve, when revenues come back, as they have in very strong terms, you then balance the budget and deliver surpluses. That would be the ordinary way of doing things. But this Treasurer is predicting that that will not be the case. Even as revenues come back to double—and in the outyears they are projected to be double what they were when this government first came to office—they are still projecting that they will be delivering deficits. That is poor fiscal management.

There is a lot to focus on in a \$4 billion budget. There are a lot of individual concerns. But in the end we have got a Treasurer and a government who are responsible for balancing that budget. And, as that revenue comes, they should be bringing it into surplus—and very strong surpluses—so that we can be protected from future shocks.

You look at why and you look at the taxation per capita, and the taxation per capita has gone through the roof as well. Per capita—so the population has been growing, so they are getting more revenue. But, on a per capita basis, in 2001-02 we have seen it go from around about \$1,800 per capita to, projected in 2013-14, more than \$3,500 per capita. (*Second speaking period taken.*) So again, even on a per capita basis, we are seeing that doubling.

And you do not have to look too hard to see where people are being slugged. Look at how much rates have gone up over the last decade under this government. In nine years of this government they have gone up roughly by 80 to 90 per cent in most suburbs—80 or 90 per cent! Is there anyone in the community who actually believes that they are getting 80 or 90 per cent improved services? Is there anyone who believes that or can say that the cost of living in that time has gone up by 80 or 90 per cent? In other areas, it has not, but, when it comes to paying for government services, that is the case for Canberrans.

Not satisfied, of course, Mr Speaker, with that amount of taxation—that amount of revenue—and still not able to deliver surpluses despite that, the government have decided that they need a new tax. The comparisons are interesting, aren't they, between federal Labor and ACT Labor? Federal Labor went and blew all the money, and now they need a mining tax to get it back. ACT Labor have blown all the money, and now not only have they increased taxes and charges across the board; they have decided that they need a really big new tax, and that is a big tax on housing.

It is worth looking through, because we hear from the Treasurer that apparently it is really not going to have much impact. It is a tax, and so what? It will get absorbed. We heard from the Greens that it will be absorbed. It is worth looking at just how much this tax that will not have any impact is proposed to be. We have got the current situation which we are told is very similar to what it will be if it is codified. But, to see what they are proposing if it is codified, let us look, for instance, at the suburb of Lyons.

In Lyons, for a dual occupancy—this is a tax that will not have any impact—it will be \$70,000. That is \$70,000 for a dual occupancy—and it will not have any impact, according to the ACT Labor Government. In Mawson, a dual occupancy will cost \$70,000; for four units, \$60,000 per unit; and in locality B in Mawson, \$72,000. Apparently, that will not have any impact, according to this government.

In Narrabundah, in locality A, if you want to do a dual occupancy—remember that Mr Barr said there were going to be lots more dual occupancies—\$100,000 will be the tax that will have no impact apparently: no impact on price, no impact on anyone. The developers might have to absorb something, but that will not be passed on. One hundred thousand dollars in Narrabundah—and, if you were to do four units in Narrabundah, the tax that, according to the government, will not have any impact: about \$60,000 per unit. We go on: O'Connor, \$100,000 for a dual occupancy in locality A, and in locality B, \$90,000; four units, \$60,000; 11 to 20 units, \$50,000 per unit.

So these are the taxes that apparently, if we are to believe the Treasurer and ACT Labor, will not really impact on things. That is not generally the way that taxes work, because, if it were, every government would simply campaign on the promise of more tax. Every party would say: "Look, you might have a \$4 billion budget, but we are going to have an \$8 billion budget. We are going to double taxes; we are going to triple taxes. We are going to have more taxes on property. You have got \$30,000 on stamp duty on an average property; we will have \$50,000, because it does not make any difference, but we get more revenue. So we can get more revenue, but it will not have any impact on investment or on people purchasing or on people's land values."

It is a really absurd proposition, and what we are being faced with now is this situation where industry, I think in good faith, said, "Yes, a codification would give us some certainty." That does beg the question, though: if there were a deal or arrangement in place, as the Treasurer says, which effectively said, "You get \$5,000 in this case and \$2,500 for a townhouse and \$1,500," why would they need certainty? It would seem to me that, if that was the case, if the deal arrangement was in place, they would have certainty. So that is unclear.

**Ms Gallagher:** It was not about residential dual occupancy.

**MR SESELJA:** So they were not asking for the massive tax on units? Okay, all right, now it is confirmed. So we have been getting—

**Ms Gallagher:** No, of course they weren't, because they had it so good. What a surprise.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Order, members! The volume is starting to go up; how about it goes down? Bring it down to a low roar.

**MR SESELJA**: Thank you for bringing the Treasurer to order, Mr Assistant Speaker.

**MR ASSISTANT SPEAKER**: That is a two-way sword, thank you, Mr Seselja. Both of you.

**MR SESELJA**: So, apparently, we are hearing now, they were not actually asking for \$50,000 on units in Braddon. They were not asking for \$100,000 tax on dual occupancies in Narrabundah or O'Connor. They were not asking for the \$30,000-odd tax.

**Ms Gallagher**: So you think we should give it away, Mr Seselja?

**MR SESELJA**: I generally take the principle that we need taxation but it should be reasonable. That would be my general starting point. Ms Gallagher's position seems to be "we will tax absolutely as much as we can possibly get away with". That is what these tables reflect. If you were to dream up what would be the most possible tax anyone could imagine for one individual tax measure on a property, I am thinking that \$100,000 from the ACT government would be right up there. I do not think that anyone would have said, "Yes, maybe \$1 million or maybe \$10 million." Most people would say: "\$100,000 is an extraordinary amount of tax for one unit. That is an extraordinary amount of tax for one dual occupancy—or \$50,000 in Braddon per unit, for a block of units."

So the Treasurer's position seems to be: "We are in a bit of a pickle; we can't control our spending. We haven't really got the departments to actually do that." They cannot actually tell us what their internal budgets are yet. We go through the QONs—I am sure Mrs Dunne, when she has the opportunity to speak, will go through some of those unanswered QONs. We have got unanswered QONs right across the board. The LDA can tell us—hats off again to the LDA for their work—but not so much the other departments.

So the question would be again for the Treasurer: was she interested in finding out how they are spending our money? Was she interested in actually getting savings? Was she interested in balancing the budget? No, because she had this cunning plan to slap a massive new tax on houses. The question again would be: what will be the impact of levying a tax of upwards of \$50,000 per unit on the shape of our city? How will that encourage people to invest, to take risks, to build the accommodation that we need—in our city centre and around our town centres in particular? We often hear about an accommodation crisis in Canberra. I want to see a range of accommodation provided. I want to see both the private and the public sector providing good quality accommodation. I want to see community sector delivery.

Every year at the beginning of the student year we hear about the shortages of accommodation and the need for more, about the exorbitant rents that many people have to pay as a result. The questions will be: how will this help that situation? How will this large massive tax on homes—on houses—help that situation? How will that

encourage more units to be developed? It will not, and no-one can credibly get up and say that it will. It will discourage development.

If you have a reasonable tax then it may have very little or marginal impact on development and on decisions and on demand. But, when you put a really, really large tax—and I think by any measure \$100,000 for a dual occupancy in Narrabundah; \$50,000 for units in Braddon; four units in Mawson for \$60,000; going through wherever you like in the inner north there; four units, \$60,000 a unit; right across the board; in Dickson, where we would want to see more people living, again \$60,000 for four units, \$55,000 for five to 10, \$50,000 for 11 to 20 units; these are very, very large numbers—you will discourage people from investing.

I will just very quickly finish and say this is fiscally irresponsible and they are desperately trying to get money back through this tax. (*Time expired.*)

**MRS DUNNE** (Ginninderra) (9.37): This is the most important line in the budget and it was remiss of me and others to have missed it the first time around, but we can admit these things. It would be good if other people could admit to their failings as well from time to time. The substantial failing that this government and this Treasurer need to admit to is the wastefulness of this budget and previous budgets. That wastefulness puts us in a situation where we are facing a long line of deficits, even though we are in comparatively good years.

During the dinner break I took some time to attend, sadly for only a brief period, a Rotary changeover dinner in my electorate. I spoke to as many people as I could, but I apologised that I could not stay. Mr Coe was also there; he got the pair before me and we did not think it reasonable to take two pairs on private members' day. When people involved in the community talked about the budget it was really interesting to hear what they had to say—Rotarians of long standing and long, hard work in the community. It was best summed up by one lady who said to me, "If I see the Chief Minister plant another tree or unveil another piece of artwork when my elderly friends cannot get respite for their disabled children, I think I'm going to say something really bad."

The people of the ACT are fed up with the wrong priorities of this government. Two or three of the conversations I had tonight could be pretty much summarised like that. We are sick of the arboretum. One person said to me, "I saw the plans. I think that it will be wonderful, but I cannot get the services that I need in the areas of health and disability. While ever those things are not being funded properly we should not be building the arboretum." This is not Vicki Dunne speaking. This is a Belconnen Rotarian saying, "If I see the Chief Minister unveil another statue I think I'm going to lose it." Tonight Belconnen Rotarians articulated better than I can the message about the wrong priorities of the Stanhope and Gallagher government.

I think you have to look at the record of Ms Gallagher. I was reminded of it today. We will go back. My favourite is that when she was the minister responsible we decided that we needed to replace Quamby—yes, we did have to replace Quamby—but that was a \$22 million project which became a \$44 million project. Ms Gallagher has always had the capacity to wheel a whole of lot money out of government, which is pretty good. It is, to some extent, a sign of her being an effective minister. But look at what we do with that money.

Quamby is empty most of the time, or close to empty most of the time. We have this large space which is underutilised. It ended up costing twice what was originally planned. We see it again with the move of the mental health facility to the old Quamby site. That mere process has seen a blow-out of \$3 million. It was instructive today to hear members of the opposition asking Ms Burch about the government's commitment to spend \$4 million on building two new childcare centres—that was the promise: \$4 million to build two new childcare centres—where they are needed. When I said, "Hang on, you're refurbishing an old building and calling that a childcare centre and it is going to cost you \$4 million," Ms Gallagher interjected and said, "Well, we've over-delivered on that one." We have over-delivered. It has cost twice as much. If your measure is the Stanhope Government's measure, which is how much money we spend on things, of course we have over-delivered: "You wanted a \$2 million childcare centre. Don't worry about that. We'll give you a \$4 million childcare centre."

The question is: where is the money going to come from for the other childcare centre? This is the tenor of the government. This is the tenor of the stewardship of this minister, who is presiding over budget blow-outs at Bimberi, over-delivering on childcare centres by spending twice as much on the childcare centre, and supervising budget blow-out after budget blow-out, deficit after deficit, in the good times. When it comes to the nitty-gritty of analysing the budget, there is a paucity of information around. I suppose part of the reason why the Stanhope government can only measure things by how much money they have spent on it is that they have not actually done any of the other work.

Mr Assistant Speaker Hargreaves, you and I have been in this place for a long time. You have been involved in estimates committees for longer than I have. I recall, year in, year out, the cry from estimates committees—not this one, I note—that we need more and better performance measures and that how much money you spend on something is not a performance measure. So this year the Liberal opposition went in search of performance measures. We went in search of how the money was being spent in departments. We asked questions of a variety of departments. The general approach that we discussed was to ask: "In relation to every output class, what were the programs that were underpinned? What programs came under that output class? How much money was spent in each of those programs and what was the staffing allocation for each of those programs?"

You have got output class 3.1 in a department—let us choose a department, DECCEW, so it has got a name attached to it—and it seems reasonable to ask: "Under that output class, what programs are actually delivered? How many people work there, what does it cost and what does it cost to run each individual program?" Time after time the answer that came back from a minister, in some form or other, was: "We do not collect that information in that form and it would be too hard to do." There is example after example:

Please provide a list of initiatives or programs that are run under each output.  
What is the budget cost for each in 2009-10 and 2010-11?  
How many staff (by ASL) work in each, and what is the level of each staff member?

What capital equipment is required by each?  
What specialist skills are required by staff in each, and what are the specialist levels?

The answer came back:

The ACT Government prepares budgets on an outputs basis.

Yes, we know. That is why we asked, “On the basis of these outputs, can you provide us this information?” The answer continued:

Data at that level is published in the Budget Papers—

yes, we just read that—

along with budgeted financial statements for agencies. Similar information—

in fact, almost identical information—

on actual performance is published in annual reports including audited financial statements. Certain figures you request will be publicly available on the LAPS Annual Report—

that is, Land and Property Services, so it is the LAPS annual report—

or are available on ACT Government Budget Papers.

“Certain information, but we’re not going to tell you what it is”—

Data is not available in the form in other questions and at the level of disaggregation requested in other questions without the diversion of significant resources from LAPS ongoing business that I am not prepared to authorize.

So said the Chief Minister. This was repeated over and over again. This is a government who, for any given output class in the budget, cannot or will not tell you what the programs are, how many people are employed, whether they need particular skills, and, if so, what are those particular skills, and whether there is particular capital equipment that they need to run this program. Mr Assistant Speaker, what is the government doing if it cannot, or will not, answer these questions? If it cannot, it is negligent. If it will not, it is in contempt of the Assembly. Either way I will take my second 10 minutes, Mr Assistant Speaker. (*Second speaking period taken.*)

That was the answer from LAPS. It goes on in different ways and in different forms all the way across. It shows that this minister, this Treasurer, has no idea what is going on in the department. It means that Treasury has no idea. If proposals come up for funding of a particular initiative there is no-one there to say: “I don’t think you need this money to do it. You’ve already got the staff to do it. I don’t think you need this much money.” There does not appear to be anyone in the chain of command under the Treasurer who is prepared to say, “No, this is not a very good idea,” or, “Could we be more prudent with this? Is this a priority? Is this the appropriate priority for the people of the ACT?” These are the questions which have not been asked.

What we see in this budget is ministers jostling for their vanity projects. We see it with the \$26 million for the arboretum. We see it with Mr Corbell. He said that, by his own admission, he gets quite excited when he talks about ponds: "I'm particularly committed to these ponds." The Auditor-General's report came back yesterday saying: "It wasn't on time. It's blown the budget. We're not going to get water when we were promised water. It's still on the never-never." Money that they thought they would be able to push off on to other people they have not been able to get other people to pay for and the territory has to recoup that money—all for a pilot program which has not been evaluated, but we are committed to the next phase anyhow. That is Mr Corbell's own little vanity project in one department. The Auditor-General has come back with a whole lot of question marks about that one.

Then we have Mr Corbell's virtual court—the court that is not there, the court that can have no-one have a good word to say about it. There is no rigour in this budget. There is no-one saying no. There is no-one questioning the value of it. I shudder to think what goes on in budget cabinet. There is no rigour. This is borne out by the best reading of the answer to the question: "Please provide a list of initiatives or programs that are run under each output." If the ministers cannot answer the questions, they are not in control and they do not know what is going on. That is the best gloss that you can put on it. The other one is that they know and they hold this place in contempt by refusing to answer. Either way, they are knaves or they are fools. The people of the ACT are being served either by knaves or by fools and they deserve much better.

**MS GALLAGHER** (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (9.50): Let that be a lesson to us about recommitting votes and suspending standing orders. I think we have learnt our lesson—next time the opposition are asleep when they are all present, we will just press on. The *Hansard* would be a lot better for it.

We have heard a lot tonight from the opposition trying to whip up a storm over the budget; a storm that is not being bought or agreed to by anyone else in the community. I have not had one letter of complaint about the budget, much to the dismay of the Liberal opposition. I have not had one complaint from an industry group. I have had a number of meetings with industry, and they have actually congratulated the government on continuing with our program of investment in this budget and not slashing and burning. I have not come across one supporter of the Liberal opposition's position on this budget—that is, of shock and alarm. They do not buy it.

**Mr Seselja**: You should be fiscally responsible.

**MS GALLAGHER**: The Leader of the Opposition interjects that we are not fiscally responsible and that only he is. Just because everyone disagrees with Mr Seselja, we have all got it wrong. I would say that the community are pretty smart, and the community reaction to the budget has been good. It was not everything to everybody, but the community understood the constraints and pressures on the budget, the need to invest in core services, the need to push forward with our capital program and the need to restrain our spending in order to bring a surplus around as soon as possible. That is exactly what this budget does.

It is a measured and responsible budget. It invests in key services—those core government services that the opposition are always asking us to invest in, except when it comes to budget debates when they all ask us to wind back. It has a new policy spend of \$23 million a year and growth in the order of \$42 million. There is \$238.2 million over four years offset by a small and modest growth in some revenue initiatives. When you look at the large part of the new spend in this budget, you see that it is related to growth in our departments, it is related to growth in human services, it is related to growth in health and it is related to the growth of our city in terms of land release, infrastructure demands and creating additional bus services. They are all things I have not heard the opposition opposing, even though they try to oppose the budget in its entirety. Obviously they agree with some of the spending in this budget, but they do not actually want to see any spending; they want to see smaller budget deficits.

The budget has been endorsed by a number of independent analysts now. We have got ACIL Tasman supporting the fact that our balance sheet is strong and that it can withstand small periods of deficit budgeting. We have got Standard & Poor's coming out and saying that the ACT government's budget and balance sheet remain one of the strongest in the country. The AAA credit rating is endorsed and, if we continue on this path, there is absolutely no question that our AAA credit rating would be put in any jeopardy. That is what Standard & Poor's are saying, so I think I will accept Standard & Poor's interim assessment on the sustainability of the budget—I meet them in the next couple of weeks to go through the budget in more detail—as opposed to the political campaigning from the Liberal opposition.

This budget includes quite significant savings from government, and this is going to be a challenge for our departments to find. They have found the savings that we asked of them last year, and we thank them for working cooperatively with us. We have a further efficiency dividend imposed in this budget. We have sought to reduce the Treasurer's advance and exert discipline in that area.

**Mr Seselja:** I thought that wasn't a genuine saving.

**MS GALLAGHER:** It is not a saving when you halve it, then spend it all on your little election commitments. It is actually a genuine saving when you reduce it and do not spend that money.

**Mr Seselja:** I didn't spend it.

**MS GALLAGHER:** You did spend it; you spent it to pay for your outrageous election commitments. You did not spend it in the end because the Canberra people saw sense and did not elect you. The proposal was to reduce it by 50 per cent and then use it to pay for your election commitments. That is not what we are doing. We are reducing the amount of the Treasurer's advance and we are not spending it; we are returning it to the budget. I am sure Mr Smyth has poured over the end-of-year Treasurer's advance figures. He will have seen the discipline that has been exerted this year. We have returned to the budget more than the \$9.6 million we will be seeking next year in the reduction.

We have also exerted wage restraint, and I expect a very positive outcome on our bargaining with our public sector colleagues in the next couple of days. That will ensure that those budget projections remain largely intact, which is where we have sought to ensure that our wages outcome in terms of the recurrent spend comes in under three per cent. I think there will be some positive news about that in the next few days.

This was a challenge for the government to put together just in terms of last year's budget, but I would also say that every budget is a challenge to put together when you look at the expenditure requests that come from agencies and ministers around new spending by the ACT government. I have to say almost all of those initiatives that come forward are worthy, and it is a hard job to go through and cull them, pare them back and ask people to make savings or find internal ways of funding those programs. In terms of trying to find the balance, this budget does it. It allows us to continue to invest in the growing city, and you will see that from our land release program, the infrastructure spend that we have put in place, the continued investment in health facilities in terms of additional health services and also in terms of the growth of the education system.

That demonstrates the growth of our city—the growth in the number of children enrolled in our schools, the need for more teachers and the need for more schools in both the public sector and increased enrolments in the non-government sector as well. All of that demonstrates exactly what we have been talking about.

In terms of the future, I am very confident that we will deliver on our budget plan. Obviously I stand by the projections Treasury has made. There are concerns that they are at times too conservative. Again, I go to the independent analysis provided by ACIL Tasman, where the repeated and common comment—much to Mr Smyth's dismay—is that the estimates, the forecasts, appear reasonable. That is said on about six or seven or eight occasions.

**Mr Smyth:** Katy, Katy, Katy.

**MS GALLAGHER:** They do, Mr Smyth. You would have loved a typo or something so that what appeared was “unreasonable”, but it says they appear reasonable. It also goes to the difficulty of forecasting in an economy where the largest player and its budget decisions are unknown to the ACT Treasury. That creates some concern in terms of how you put those forecasts and projections together. But, even with 53 per cent of the economy attributable to the commonwealth government's activity, Treasury perform very well when measured against other jurisdictions when it comes to the accuracy of their forecasts.

I do not think the opposition understand the amount of work that goes into putting a budget together and the amount of work that goes into trying to provide the Assembly with all the information it needs for coherent and comprehensive discussion on the financial performance of the territory. I hear what Ms Hunter has said about the need to constantly look to improve the way we present our budget papers, but budget papers are merely one way that the government provides information about the performance of agencies. There are also the quarterly performance reports and the

annual reports that are provided to give additional information. The territory budget is there to perform a certain function; it is not there to provide to members all the information about every aspect of every program and every output class to members. There are other ways that that information is available to members.

There is a genuine commitment from Treasury to constantly look at how they present the budget papers. I think you will see that this year we did the reader's guide to the budget and did not do the budget at a glance. We changed that so people could use the reader's guide and then apply that to the budget papers and hopefully navigate them in a way that was easier for people who do not routinely use budget paper 3 and budget paper 4 as conversation topics, unlike people in this place—which is an indication of where our lives have gone.

This budget gets the balance right. I understand that there will be criticism of every budget. It does not seek to impose unreasonable or significant increases in revenue. We could do that. Those decisions come to budget cabinet for consideration. When you are looking at deficits in the order that we are looking at for the 2010-11 year of \$83 million, of course cabinet considered increases to rates over and above the wage price index. But we did not agree to it because we felt a measured and longer term approach to solving the budget deficit was achievable without imposing unreasonable revenue initiatives on the community. We sought to minimise those.

We could come out of deficit a lot earlier if we sought to slash the public sector, if we sought to not pay our staff any increase, if we sought to increase revenue across our revenue lines. Would that be a reasonable thing to do? The budget cabinet decided it was not. It decided to pull forward the budget plan by two years, and we can do that without imposing additional revenue. That is something governments have to consider every year, and the opposition would be no different. If they were in government, they would be looking at all of these issues as well, because they would be faced with the same dilemmas as we are. Just because we are a Labor government does not mean that the initiatives and the demands from government change or become greater than they would if there was, God forbid, a Liberal government in place.

These are the hard decisions that governments have to make. They are hard, and the government considers them at length. While you can pick and choose little projects, like Mrs Dunne has done tonight referring to the things she would not support and things she does, you cannot operate like that in government. It is all about trying to get the balance right. Every department has needs; they are all different. Some ministers prioritise their own areas above those of other ministers because they want to get a better deal for their own areas, but that is not the way it works. What you get at the end is a consensus document of compromise, and that is what a budget is. It is not everything we wanted to do and probably not everything we could do, but it was everything that was reasonable to do this year. Whilst we are facing the budget pressures that we are facing, that is a reasonable approach, and I think the community understands and believes that it is a reasonable approach.

We have big risks to our budget in the future. We have concerns, which are outlined in the budget, in terms of the outlook and summary of major risks. They largely rest on the commonwealth's action taken to recover their budget and what that means for the ACT. That remains our biggest concern, and this government will continue to lobby the commonwealth on that issue alone.

I thank members for their contributions. I do listen and I do take on board sensible suggestions, and Mr Smyth knows that, because, from time to time, I have accepted things that he has put to me. But, overall, I do not accept the criticism of the Liberals. In time, they will understand that the decision we have taken in this budget and the one before to put the budget on a sustainable footing, to recover it in the short to medium term, to exercise restraint in our own expenditure, to improve modest increases, to try to keep our wages under control and to deliver more to the community was a good approach.

Proposed expenditure agreed to.

Proposed expenditure—Part 1.9—Home Loan Portfolio—nil.

**MR SMYTH** (Brindabella) (10.06): The home loan portfolio shows a number of loans that we currently have as being wound down. The portfolio seems to be managed carefully and responsibly. I also note the capacity of the management of the asset in the portfolio to generate revenue through investing in growth assets. That is a sound approach, particularly as rates and return are increasing on various asset classes after the global financial crisis.

There are no particular issues with this agency, but it is interesting that the Treasurer goes to the ACIL Tasman report, and it is interesting that she only seems to have penetrated one or two pages into the report. If she moves further into the report, in a number of areas the report actually identifies problems. A large number of these problems were reflected in the questioning in the estimates process and some of the recommendations in the dissenting report. For instance, at page 10 of the report, there is this statement:

We have identified a number of issues regarding the feasibility of this goal as stated in the Budget Papers.

They are the long-term fiscal projections. The bottom line is talking about the land release program, and we know how well the government has been able to bring in capital works on the land release project. It says:

Even a modest fall in this one revenue source would mean that there will still be an underlying deficit in 2015-16.

The report goes on to say:

If the Government is committed to expenditure restraint it seems curious that they see the need to fund \$23 million in new initiatives in 2010-11 as well as a significant amount of new capital works which are unrelated to underlying population growth or the replacement of old assets ...

Such expenses are essentially discretionary as they are aimed at increasing the overall level of service provided by the Government to the community.

Again, what we have got is a government that is good at spending but not a government that is good at budgeting. It goes on to say, for instance:

The savings in this year's ACT Budget are primarily made up of an efficiency dividend commencing from 1 July 2011 and a reduction in the Treasurer's Advance in 2010-11 and across the forward estimates. The 2009-10 Budget sought to achieve savings through wage restraint and an efficiency dividend. These are rather crude and blunt instruments imposed from a whole of government perspective. This may suggest the ACT government has difficulty in reprioritising its spending.

This is true. The report continues:

There is probably a limit as to how much reliance the ACT Government can place on such whole of government savings measures in the future, and it will have to look at reprioritising its spending by either cancelling or cutting specific programs to achieve future saving targets.

The Treasurer, of course, did not get up and mention that little paragraph, did she? It is a reasonable report and some members did use the ACIL Tasman report to assist in their questioning and in guiding the information that they sought from the government. But that paragraph, I think, sums up this government's approach. What it basically says is they do not have a plan; they have taken a few crude measures; they have crossed their fingers; and they are hoping to deliver.

But at the end of the day—and I will repeat it:

There is probably a limit as to how much reliance the ACT Government can place on such whole of government savings measures in the future, and it will have to look at reprioritising its spending by either cancelling or cutting specific programs to achieve future saving targets.

And there you have it. I guess the Treasurer just forgot to read out that paragraph, because it truly does point out the fact that we are not out of the woods yet, simply because of the economic mismanagement, the nine years of reckless spending. The reckless spending continues, and at some time there will be a reckoning. The reckoning, according to ACIL Tasman—and indeed it is mentioned in the budget papers—will come where two factors might come back to haunt the government and the risk to the economic outlook.

The first is the continuing concern over the level of debt and the possibility of default in Greece as well as other European nations such as Portugal, Italy, Ireland and Spain. For those who do not know, there are about 330 billion Euros of short-term loans that the 1,200-odd European banks have borrowed from the Central European Bank that come due close of business on 30 June. That would be today. And there are tremors in the markets.

The second risk is rising concern over the existence of a speculative property bubble in China. That speculation seems to be coming to fruition and, if you check any of the on-line records, they will say that Chinese stocks have softened again today. The problem is as ACIL Tasman points out in the sections that the Treasurer forgot to read, did not understand or has not taken into calculation. By using the blunt instruments that the government has used and, as I have said before, by not having a proper plan

and by continuing the years of reckless spending, the government is leaving us in deficit far longer than we should.

You have to remember that, before the last election, the Chief Minister asked what did the business community want. They wanted leadership and confidence and they wanted surpluses. And we have had nothing of that since. That is the problem with this budget. It leaves us in deficit, with the Treasurer's fingers crossed in the hope that she will be able to achieve it.

If you want an indication of the inability of this Treasurer to achieve, you only have to look at the fact that almost \$19 million of the Treasurer's advance was spent last week to prop up departments that cannot live within their budgets. They could not do it in 2009-10. They are being asked to do it in 2010-11, with an efficiency dividend and a quasi tightening of the belt. But you only have to look at last week when yet again we had the end-of-financial-year splurge, more reckless spending, instead of making sure that the departments live within their means. As this report says, if you have a modest fall in just this one revenue source, there will still be underlying deficits to 2015-16 and, because of the way that this government has used such blunt instruments and such a poor plan, they will eventually end up cancelling or cutting specific programs to achieve future savings targets. And that is the reality.

I am sure the Treasurer will come back in and agree with me that ACIL Tasman got it right or perhaps it will be like it always is when we have got the selective quoting. Again we saw it from the Chief Minister last night. The Treasurer sat at the feet of the master for selective quoting. She has learnt his bad habits. But if you want to delve through this report, Treasurer, I am happy to delve through it all night, because it says a whole lot more about your budget. And if we are going to use ACIL Tasman as the reference guide, let us use it properly.

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (10.14): The home loan portfolio consists of two staff and currently manages approximately 175 loans, which, by the end of the financial year, is anticipated to have reduced to 135 loans. As well as the ongoing management of the loans, the scheme also manages a number of investments that back up the liabilities and manage the deferred assistance scheme.

During the estimates hearings, evidence was given that 27 loans are in arrears and that 22 are receiving deferred assistance. This is a significant reduction from last year. It appears to be a positive sign for the operation of the portfolio, especially in light of the economic period we have just gone through. I made the point during my speech last year that it is essential that there is a scheme in place for those who are unable to make payments and would ultimately face foreclosure and that crisis accommodation be available for families who unfortunately might find themselves in that position.

It should also be noted that the costs of the scheme remain fairly constant, even though there are fewer loans as a result of the relatively fixed administration cost, which means that the per loan cost will be significantly higher this year. However, there is an overall reduction in this year's appropriation for this item. And that is all that the ACT Greens wish to say on the home loan portfolio.

Proposed expenditure agreed to.

Proposed expenditure—Part 1.10—Superannuation Provision Account—\$140,534,000 (capital injection) and \$5,272,000 (payments on behalf of the territory), totalling \$145,806,000.

**MR SMYTH** (Brindabella) (10.17): The superannuation provision account is an important part of the budget, and I would certainly like to acknowledge the excellence and the management of most aspects of the superannuation provision account. The effect of the reduction in asset valuations is a consequence of the global financial and economic crisis. We have seen the concomitant increase in the value of liabilities that are outstanding.

If we recognise the issues in managing the superannuation provision account when such major external influences are being experienced, it is disappointing that the proportion of liabilities that are funded has been reduced to 52 per cent. At least this is an improvement from the recent low point of 45 per cent that was reached in the financial year 2008-09.

During the hearings we explored the strategies that might be followed to improve the funding of liabilities even further, and there will be a significant report on this matter in the 2012-13 financial year. At least by that time there should be a bigger restoration of the underlying asset values held in the SPA.

I also raised during the hearings the application of the accounting standard AASB101. I noted that this standard has been revised, such that there was no longer any need for entities to write off losses in unrealised values of assets against the revenue. I wonder whether the Treasurer could advise the Assembly whether this standard now applies to the SPA and, if so, how it is affecting the SPA.

In the hearing we also covered investment principles. These are important, not only to ensure that such areas as environmental and associated matters are taken into account but also to ensure that other relevant factors are also taken into account. And I raised the matter of organisations such as ESG Research Australia in that context. There is a recommendation in the dissenting report. This area was largely ignored in the main report. It is particularly important that we do get the research right. If we are going to take in environmental sustainability and governance factors and if there are organisations that we can join and be part of, then I think it is appropriate that we do. I look forward to the advice from the Treasurer as to whether or not that will be followed up by the government in this case.

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (10.20): The superannuation account liability is now around 52 per cent funded, still significantly down from 2008 but improved from 2009. The Greens' major concern with the operation of the account, and the matter I will focus on this evening, is ethical investment.

I was very pleased to hear the Treasurer say that a review of the principles of responsible investment has finally been undertaken and that we will be provided with

a copy of that report. I look forward to seeing it. It remains an ongoing issue, particularly given the amount of money involved, that we move away from the idea that investing ethically compromises the ability to maximise returns.

This is of course not the case and one only has to look at the returns on ethical funds both in Australia and around the world to see that over time they consistently perform as well as other funds. Further, it would be fair to say that in fact during economic downturns ethical funds have historically done better than other funds.

The question also remains, even if in some circumstances or instances it might be more profitable to make money out of particular investments, whether we want to be involved with and profit from companies that make money by building and selling weapons designed to kill people and things like tobacco companies, whose product actually costs the rest of the community many millions of dollars in health expenses, not to mention the suffering of cancer victims in the community. And they are just two examples of where that issue around ethical investment becomes an issue.

**Mr Hanson:** What's wrong with those companies?

**MR ASSISTANT SPEAKER** (Mr Hargreaves): Mr Hanson, please! You can stand and speak when your time comes.

**MS HUNTER:** Thank you, Mr Assistant Speaker. I have no idea what Mr Hanson is trying to say.

The other issue that was raised during the estimates hearings as a reason why we could not move to more ethical practices was that it would mean that we could not invest in a number of managed funds that we have historically invested in and the difficulty in drawing a line and researching the activities of each of the companies. Evidence was given during the hearings that we would need a discrete fund managed exclusively for the account to achieve an ethical portfolio. And the ACT Greens do not believe that this should be the case.

As Treasury said, we already invest in a range of funds tied to the ASX 300. There is no reason that we could not move that money into other funds. The fact is that there are a range of fund managers and companies that do all the work. They research and screen out companies that do not meet the required ethical standards. For some funds, it is even open to the investor to select the types of activities that are screened out. It would be no more difficult for the superannuation provision account to invest in these funds than it is for them to invest in any others. It is no more costly, no more time consuming and no less profitable.

Whilst I do welcome the Treasurer's indication that the government is open to discussion on this issue and that progress is being made, I must express some frustration at how long it has taken and the very reasons that have been put forward for inaction to date. The ACT has a superannuation liability that must be funded. Many in our community will depend on this money and, whilst we do support the appropriation and the stated aim of fully funding the liability by 2030, as I have said, the account should be managed differently and we should be investing differently so that public money is used for ethical purposes. This is not an unknown thing. It is

used by other governments around the world and I would put on the record that New Zealand is one government that certainly is investing ethically.

**MR HANSON** (Molonglo) (10.24): I was not intending to speak to this but, just in response to Ms Hunter's discussion about ethical investment—and I have no problems with investing ethically, absolutely not—to include companies that are associated with manufacturing weapons in your list of companies that we should not invest in, I think, is not something that we should consider ethical or unethical. When you look at those sorts of companies—Boeing, Raytheon, Australian Defence Industry, Thales, General Electric, Australian Submarine Corp and so on—and if you actually look at the list of companies that either directly manufacture weapons or are associated with componentry for weapons, be it submarines, be it aircraft, be it any form of weapon or weapon delivery system, I think you will find that a lot of companies are associated with that. Remember that, in the Australian context, the people who are actually supplied with those weapons are the Australian Defence Force, our police forces and other services here.

I am not going to turn this into a debate about cluster bombs but I do think that, if you are going to say *carte blanche* that ethical investment precludes businesses that manufacture weapons, then that is wrong. If it is going to be weapons that have been outlawed under certain conventions that Australia has signed up to, to do with mines or cluster bombs, then that is fine. But *carte blanche* if you are coming in here with some ideological agenda that we should outlaw the investment by the superannuation account in companies that are associated with manufacturing weapons, I think that you have taken ethical investment a step beyond and really you need to consider what you are actually saying there.

Proposed expenditure agreed to.

Proposed expenditure—Part 1.11—Territory Banking Account—\$214,000 (capital injection) and \$11,839,000 (payments on behalf of the territory), totalling \$12,053,000.

**MR ASSISTANT SPEAKER** (Mr Hargreaves): I call Mr Smyth.

**MR SMYTH** (Brindabella) (10.26): I thank you, Mr Assistant Speaker.

**MR ASSISTANT SPEAKER**: Before you go on, Mr Smyth, I noticed in your commentary on the home loan portfolio that you did not mention the home loan portfolio at all in that dissertation.

**MR SMYTH**: I did.

**MR ASSISTANT SPEAKER**: I will just ask you, please, to at least mention the territory bank account once or twice in your speech.

**MR SMYTH**: I will read my home loan portfolio opening statements again. I said that the number of loans that have been whittled down—

**MR ASSISTANT SPEAKER**: Mr Smyth, I am just—

**MR SMYTH:** I said that the portfolio was—

**MR ASSISTANT SPEAKER:** Mr Smyth, I am just putting a plea under the standing orders. I am just trying to be helpful.

**MR SMYTH:** Mr Assistant Speaker, I would normally take—

**MR ASSISTANT SPEAKER:** If you do not want the help, that is fine.

**MR SMYTH:** your advice, but I thought I did make quite a stirring speech about how well it was being managed responsibly and that they have got a sound approach. I am sorry you missed that speech. I will speak slower, perhaps, for you.

**MR ASSISTANT SPEAKER:** That would be good.

**MR SMYTH:** In regard to the territory banking account, it is a very important banking account, Mr Assistant Speaker. The territory—

**MR ASSISTANT SPEAKER:** Just being helpful; your call. Before you start, Mr Smyth, Clerk, could you please start the clock again because that conversation should not be at Mr Smyth's detriment.

**MR SMYTH:** Thank you, Mr Assistant Speaker. You are protecting so well today. We notice the lift in the performance. It is fabulous.

The territory banking account is very important but unfortunately for those that seek to find some guidance as to the performance of the territory banking account, the budget papers only provide a very high level of detail. Over the last couple of years we have asked for further detail. I have asked for reconciliations of the ins and outs that lead to the position and particular variations in the size of the balances held at 30 June each year in the projected year and the outyears.

It is important to know what is happening with that movement of funds so that we actually do come to a clear picture of the trends. Of course, I do not believe there are any recommendations about the territory banking account in the main report of the committee but in the dissenting report there is a recommendation that the budget papers provide an analysis of the various aggregates particularly for the TBA as set out in the table in the relevant budget papers.

This is important. It is important to know where the money has come from, where the money has gone and the movements that make up that transition of the funds through the account. It is important because it is a real eye on the holdings of the territory and the capacity of the territory into the future. With that, I commend this line of the budget to the Assembly.

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (10.29): The territory banking account essentially manages the investment decisions of much of the consolidated revenue of the ACT. The account manages the general government investment assets and debt liabilities. This year will present a range of challenges for

investments and debts. Interest rates are forecast to rise and there remains a significant level of volatility in a range of markets. The Greens accept that the strategy outlined is prudent and provides for the appropriate financing of our debts.

In relation to investments, I would like to reiterate my comments in relation to the superannuation provision account, that all ACT government investments should be ethical. This year's budget provides for a modest increase in payments for expenses on behalf of the territory. This increase appears reasonable and, given the nature of the service provided and the need for the effective management of the account, the Greens support this appropriation.

Proposed expenditure agreed to.

Proposed expenditure—Part 1.12—ACT Health—\$826,910,000 (net cost of outputs), \$196,981,000 (capital injection) and \$710,000 (payments on behalf of the territory), totalling \$1,024,601,000.

**MR HANSON** (Molonglo) (10.31): There has been a certain amount of discussion tonight about priorities. The health minister, in her capacity as Treasurer, talked about compromise. It would be characteristic to say that the people of the ACT are certainly having to compromise when it comes to delivery of and access to health services in the ACT. It is quite clear that the budget—not just this one, but the preceding ones—has not served the people of the ACT well when it has come to health. It is not necessarily the amount of money that has been appropriated but simply the way that it has been managed by this government and the directions to which it has been put.

I just want to say up front tonight, before I make any comments, that anything that I say is not actually an attack on doctors. It is not actually an attack on nurses. I am not having a go at health administrators. Yet a characteristic of this government, particularly the health minister if she is under criticism, is to spin it so that this is simply an attack on doctors.

I believe that when our health system is providing us a first-class service it is an excellent service. We have many of the best doctors, nurses, allied health professionals and health administrators in the country that we could ask for. The problem comes through the management, the minister, the ministerial oversight and the inability of Canberrans to properly access the health system. If you can get into it, that is great, but actually accessing it is increasingly difficult.

I will just go through, very briefly, some of the examples I am talking about. Elective surgery is one that I will go through in more detail later. Elective surgery has become absolutely atrocious under this government, and we will go through that further. I accept that GPs are not this government's responsibility in their entirety—a fair share of responsibility must be taken by the federal Labor government—but there is no question that, under this government, under this denial that there is anything that it can do to appropriate money to support GPs, we have seen GP numbers in this territory declining to a point where we have the lowest number per capita. We are 70 short in FTEs, relating to 140 doctors.

As well as that shortage of GPs, bulk-billing rates are the worst in the country. According to the latest Australian Institute of Health and Welfare report, we have the most inefficient hospital system in the country. We have seen other problems across health relating to bullying, both in obstetrics and generally. We know that we have serious problems in our emergency departments, particularly in categories 3 and 4. We have seen the debacle with the Calvary purchase—an atrocious process that started before the last election and dragged on for 18 months. We have seen the concerns with people trying to access cancer services. We have seen the staff shortages. We have seen breakdowns in communication. We have seen the mismanagement of serious incidents such as the TB exposure and the management of the first swine flu death. We have seen the very poor negotiation over the national health and hospital reforms that were agreed to at COAG and the misleading of this community relating to the GST amounts. In this budget, we have seen an absolute neglect of mental health and an absolute neglect of preventative health.

If we look at the latest report out today, which is *The state of our public hospitals June 2010 report*, we find, when we look at how long patients waited in emergency departments, that we are the second worst. In the ACT, the median wait is 38 minutes compared to an Australian average of 23 minutes. It is nearly twice as long in the ACT as anywhere else. When it comes to being seen within clinically recommended times, we are the second worst.

When I say the second worst, the worst is the Northern Territory, which has some unique circumstances both in terms of its geography and its demographics. It is only a minute longer than the ACT, which is way behind the other jurisdictions. In fact, you wait twice as long as you would if you were in an emergency department in New South Wales.

When it comes to elective surgery, for category 2 we are the worst in the nation. For category 3, we are the second worst and, when it comes to the total, we are the worst. But, surprise, surprise, when it comes to the urgent category, at 94 per cent, we are coming second. I think we have had a fair bit to say about the way the figures are being recorded for the urgent category and I probably do not need to repeat that, unless the minister would like me to.

Looking at the big picture, though, the appropriation for health is \$1.024 billion. It is an enormous amount of money, and it is growing every year. In fact, according to the calculations that we have done, it is 7.8 per cent growth in 2010-11, six per cent in 2011-12, 6.9 per cent in 2012-13 and 7.3 per cent in 2013-14. Katy Gallagher said yesterday that costs were growing at nine or 10 per cent. I have got other data from ABS that says it is 11 per cent. Regardless of that figure, what we see is a delta between the figure that is in the budget of six and seven per cent and the actual growth in costs of nine or 10 per cent. So that delta is simply building into this budget structurally an underinvestment in health. What has to happen is that money needs to be made up by grants or it has to be made up by somebody, and that is creating real problems for the ACT in moving forward.

Let us recognise that delta of \$40 million is in that order of magnitude this year, but when you extrapolate that out through the forward estimates, when you compound

that growth, it is a significant amount of money. It is in the hundreds of millions. When you extrapolate that over the next 10 years and when you look at what we are facing here by that structural underinvestment, it is in the billions of dollars. That is a problem for the future. It will be a problem for the Liberal Party to sort out. Right now the concern is that the government is right here and now failing to provide the services that it should for the people of the ACT.

I think the most obvious at the moment is that of elective surgery. It has had great prominence in the media, and rightly it should. We are waiting longer for elective surgery than anyone else. In actual fact, on the news tonight it showed the list. It showed that the ACT is the worst performing jurisdiction. It is twice as bad as the national average. It is 75 days for a median wait, and that has deteriorated from previous figures. It is getting worse.

The same applies for the majority of people who are waiting. It is a figure that has got worse. You now wait 158 days longer than the national average. As the minister has said previously, she is targeting long waits. What we know as well is that the figure for people waiting over a year for their elective surgery has again worsened. According to an answer to a question on notice, there are now 848 people waiting, which represents 15.46 per cent of those people who are waiting for elective surgery. That is an atrocious figure. It is a figure that is the worst in the country. It is a figure that continues to deteriorate. The question of patients being downgraded has been well canvassed in this place.

One of the concerns I have is in relation to the national health and hospital reforms that we have seen. They really are not reforms at all but are simply a change in the figures, so we give up 50 per cent of our GST and get it sent back to us through a bureaucracy. At least it is only one bureaucracy, because one of them has been taken away; it fell over, mysteriously. How are we going to achieve the benchmark targets that we have been set that, in part, our funding is dependent upon? If we cannot meet them now, how are we going to meet them going forward, and how, therefore, are we going to guarantee the performance targets that are required?

We have seen problems in cancer services, in access to screening for cervical cancer and breast cancer. We have seen some real problems with radiotherapy and people accessing that service and being sent interstate. I understand that there have been staff shortages. The problem I have is the way that people were communicated with. There seems to be a trend within ACT Health in the way in which communication is conducted between the department and patients. There is a recommendation in the dissenting report that the minister review the way the communication occurs within the department, and I strongly urge her to do so.

Moving on to capital infrastructure, this budget has \$50 million that is rolled over on the back of \$57 million in the previous year. Some of the projects that will be rolled over include: the bush healing farm; the car park for the Canberra Hospital—that debacle that has gone from, I think, \$23 million to \$45 million; the women's and children's hospital; the adult and mental health in-patient facility; the secure adult mental health unit—which I think Simon Corbell promised about five years ago; and the Gungahlin health centre. (*Second speaking period taken.*)

During estimates, the minister provided us with some vague ideas that, “Oh, well, this rolled over because of a particular reason.” But there is nothing that gave anybody any assurance when I was in those committee hearings that she is actually on top of her portfolio when it comes to delivering major infrastructure—and that the capital asset development plan will be delivered on time or on budget or on scope.

In terms of capital investment, of course, a future capital investment relates to the Calvary hospital purchase. Throughout this year, we have seen the most atrocious process. It started in secret before the last election, when Katy Gallagher said that all of our deals are on the table, and that was simply not true. We have seen this deal collapse. We saw Clare Holland House being used as a sweetener, and we have still got this ridiculous situation where the government are pursuing this deal where they want to make the books look better to the tune of \$145 million over the next 20 years and it is going to cost them \$160 million in cash to do that. Regardless of the fact that the deal has fallen over and that they are not now going to take Calvary over, they still want to do that, and that is going to have a significant impact on our budget—the cash element of our budget in particular.

The consequence of Katy Gallagher’s process has been a number of concerns that have been raised by the medical staff council and others at Calvary hospital. Again, a recommendation from the dissenting report was that Katy Gallagher immediately investigate those concerns and report back to the Assembly with what those concerns are and how she is going to address them. I again urge her to do so.

Access block this year has been certainly reported on in the budget as a significant, ongoing problem. Another problem that is unique and has come out this time is the fact that the reporting of access block may have been misreported by Calvary hospital. I believe that issue is being addressed, but I would certainly urge the minister to make sure that any reporting of figures that occurs within her department is a true and accurate reflection of the statistics—in this case, emergency department waiting times.

If I can reflect on bullying and the incidents of bullying that we have heard of that are systemic across the portfolio, and the culture surveys that are being conducted, I appreciate that there are some commercial-in-confidence elements with the whole report, but certainly we need to see the results of that, so that we can be assured that our staff, our doctors and our nurses are working in a safe and productive environment.

In terms of the review of obstetrics, I would ask the minister to make sure—and we will be looking at this one very thoroughly—that anything that is released with that report is done so by an independent body, not through a political process. I will not rest until I make sure that that has occurred. In terms of bullying, both from the obstetrics and from the more general concerns that we have had, I do believe that, until we have a full review across health of the aspects of bullying that have been brought to our attention, this is something that is going to go on; this is something that will not be addressed. I know that the minister will not agree with that recommendation that was in the dissenting report, but I again call on her to look at that dissenting report recommendation and consider a full review of bullying across health, because we know it is happening. You know it is happening and I know it is happening.

Moving, if I could now, to the national health and hospital reforms in general, as I said before, I do not think that these are a significant reform; I think they are simply a reshuffling of the money, Mr Speaker. But what was quite remarkable was the fact that we went from 30 per cent GST, which was the national average, to 50 per cent of our GST being handed over. And the minister was really at a loss to explain, I think, comprehensively to the estimates committee why that was. I am still awaiting the briefing that I requested literally months ago on those reforms—to get that in detail. I think the reason for the delay is that the minister simply does not know. She signed up to a plan that is either half-baked or she simply does not understand it, because, despite the fact that I asked for a briefing some months ago, my office has still not been provided with that briefing to explain the details. And when you see things like the National Funding Authority fall over—just disappear—it is quite clear. But then maybe when you look at federal Labor—at the absolute chaos that they are in and the leadership problems that they have had—perhaps that is the reason that nothing is actually coming forward to explain what these reforms are: because they are in such chaos.

But I do ask the minister to provide us with a briefing as soon as she is able. I put it on the *Hansard*: as soon as you can, provide us with a briefing on those national health and hospital reforms, so that we can actually understand what is going on and the people of Canberra can understand what is going on.

The national health and hospital reforms talk about “planned capital”—and say that 60 per cent of planned capital would be provided now by the commonwealth. I am still unsure about what they mean; hopefully, that will be provided in the brief that I have asked for. But I do make the point that, if it means that part or all of the capital asset development plan is going to be provided by the commonwealth, it does put a big hole in the government’s argument for Calvary. It means that their rationale that says that they have got to own Calvary before they invest further money in it and their whole Treasury analysis would now basically not add up and they would need to redo that.

So I just say, until we have that answer, until I have that surety about what is happening, particularly with the planned capital aspect of the plan, although we agree perhaps ideologically or fundamentally about the Calvary process, let us just wait until we actually understand the impact of these hospital reforms before we go ahead with that purchase, because otherwise we could be committing the territory to \$160 million of cash over the next 20 years which is a complete waste of money in reality.

The areas of the budget that I have real concern about, in terms of emission as well, relate to mental health funding and preventative health funding. I would just like to take this opportunity to applaud the announcement by the federal opposition of \$1.5 billion in mental health funding today. I will quote from the *Australian*. I noticed that the Chief Minister was doing the crossword earlier, so he may have read this, but it says:

Labor called out on mental health as Coalition commits \$1.5bn to the sector

The Federal Government must reveal its plans for mental health after Opposition Leader Tony Abbott committed \$1.5 billion to the under-funded sector, the Mental Health Council of Australia says.

The council has also called on Labor to promise to implement all recommendations in its own health commission reform report.

Under a plan launched today, Mr Abbott promised a \$1.5 billion investment in mental health services if the coalition is elected to government.

That includes 60 new headspace youth mental health centres, 20 new Early Psychosis Prevention and Intervention Centres and 800 acute and sub-acute early intervention beds.

“These are significant measures that are desperately needed to address the chronic underfunding and under-resourcing of mental health services across Australia,” MHCA said.

The group said it had been vocal in its disappointment with the Government approach to mental health.

And so on—and the AMA also came in and said it welcomed the coalition’s substantial funding commitment on mental health services. It is quite clear that not only have the federal Labor government let down the mental health sector—and we have seen their own adviser quit and we have seen strong criticism from the Australian of the Year—but the ACT government in this budget has let down the sector. I am sure that the crossbench—Ms Bresnan—will discuss this in more detail as well, and it may be a point of agreement that we have when it comes to this budget.

Another area that I have concerns with is a lack of priority in terms of preventative health. I think there is universal agreement that we need to have a stronger focus on preventative health in the ACT, and across the country, if we are going to prevent everybody simply ending up going to hospital. So where is the expenditure for preventative health in this budget? What is the strategic plan for preventative health? I see no commitment from this government for preventative health.

In summation, Mr Speaker, this is not a good budget for health. It is a budget that is lacking vision. What we have seen is almost \$1.1 billion of our money being spent on health. Although I applaud the amount of money that is being invested, when you look at the underlying results, when you look at what we are getting in the territory in terms of value for money, when it comes to the service delivery and the access to health services here in the ACT, quite clearly we are being let down by this government and we are being let down by this minister.

**MS BRESNAN** (Brindabella) (10.51): The growth in government health budgets has been a topical issue of late, with the previous prime minister’s announcement that the commonwealth would pick up six per cent of state and territory hospital costs. The ACT Greens acknowledge that the ACT health budget is growing at a rate at which the ACT government will not be able to fully resource in coming years. While the federal changes will address this growth, to some extent, particularly in the acute sector, the ACT Greens question whether this really constitutes a reform in health

policy, for, either way, the budget will be paid and it will be paid by taxpayers. It is therefore unfortunate that governments have not had the actual debate about whether it is acceptable for the health budget to continue to grow at a rate of some nine per cent per annum.

Big health organisations, including the AMA, and health experts, academics and policy makers have expressed disappointment in the direction that the health debate has taken and the missed opportunities to invest in preventative and primary health care, as well as mental health and dental health. The heightened focus on acute services almost serves for its demise as, while the focus is on investing more money in the hospital system, we can still expect to see the same or a greater level of demand for its services.

It is the acute end of our health system that attracts the most attention, as it is where we typically see the crisis occurring—or the pointy end of health problems. We know, as each of those peak groups and experts do, that, while investment in preventative health is required to address growing demands, it does not show immediate effects and can be more difficult to quantify—as can be done with waiting lists. Investment in preventative health is more difficult to sell politically and does not attract media attention, which is very unfortunate, because it is where the real difference can be made and where investment must increase if we are to address the ever-increasing demands on the hospital system. The focus on the acute end can lead to those health problems that are more hidden—and inequities within our health system—not being addressed. It is often people who experience the greatest inequities who have the smallest voice.

When approaching health policy, there is much to be said for greater utilisation of the equity models, such as the social determinants of health, as there are strong links between income and health outcomes. The Greens do acknowledge that our hospital capacity needs to expand, but in doing this it is important that there is a view beyond the outputs and boxes which can so neatly attribute moneys and accountabilities. Many of the accountability indicators say very little about outcomes, and we need to know if the programs being funded are making a difference to the lives of those people they are intended for.

With regard to output 1.2, mental health services, the Greens continue to call for greater investment in this area, especially for services provided by non-government organisations. The parliamentary agreement calls on the government to move towards allocating 12 per cent of the health budget to mental health. In the first year of this Assembly, there was some movement on this issue, as funding went from 7.8 per cent in 2008-09 to 7.7 per cent in 2009-10. However, in 2010-11 the figure appears to have dropped down to 6.96 per cent. The minister claimed in estimates hearings that mental health funding had moved to eight per cent, but it is unclear how the government calculated this figure. This may include funding from departments other than ACT Health, but it would be good to have clarification on this figure.

The Greens acknowledge that we cannot get to the 12 per cent figure overnight, but each year we need to see a reasonable level of funds appropriated to mental health from the new moneys that are allocated to health generally. Last year \$2 million was provided and was split fifty-fifty between ACT Health and non-government

organisations. This year there is only \$1 million. The parliamentary agreement also calls on the government to commit 30 per cent of mental health funds to non-government organisations providing mental health services.

Despite some new funds being allocated to this area, the government's achievements on this target have remained at 13 per cent over the last two years. I note the strategic oversight group was not used this year to assist in advising on mental health budget priorities. I would hope to see the oversight group better utilised to examine funding options for mental health in the next budget.

There is certainly not a lack of ideas about where the gaps in services are. Those facts are well known and have been documented by the Greens in our discussion paper from last year and have been documented by community organisations in their budget submissions. We need specialist mental health legal services, community-based and provided after-hours crisis services, expansions of programs such as the housing and accommodation support initiative and a strengthened community sector workforce.

The ACT community sector has the highest turnover rate of any jurisdiction, and steps must be taken to address this. Peer support programs that seek to support people transitioning out of intensive acute and other mental health services, as proposed by Woden Community Services, are highly worthy of funding, and it is disappointing that this proposal was not successful this year.

The Greens are hopeful, as are many people in the mental health sector, that the government will apportion a significant number of the commonwealth's grant of \$26 million for an additional 22 sub-acute beds as community-based step-up, step-down beds. We want and expect to see a continued movement towards the target of 12 per cent for the health budget for mental health. This target is reflective of the level of need in the community. The recent discussion nationally has highlighted the neglect of mental health by successive governments across Australia over a number of years and we need to increase the focus on mental health as a priority if we are to make any difference to the lives of consumers and their carers and families.

The estimates committee report provided two recommendations with regard to mental health, which were: that the ACT government build growth funding into the formula for mental health funding, which is consistent with the reported growth in national mental health demand; and that the percentage of overall mental health funding allocated to community organisations be reported in the annual budget papers.

The government responded to the first recommendation, stating that it has made significant investment in mental health, which is true, but it has mainly been in capital works for acute services. It is now time to start turning attention to those services provided by the non-government sector and assisting in preventing the cycle of crisis which results from a person with a severe mental illness going in and out of hospital.

The government also noted that a fixed annual increase is not the most appropriate approach. This recommendation states that funding be determined in relation to the demand, which in fact is not a fixed amount but an amount which addresses the needs of the community at a point in time and is based upon what the need is. I am pleased to see that the government has agreed to the second recommendation, which will see

government report via budget papers the percentage of overall mental health funding allocated to community organisations. This will be a very helpful measure for people working in the community sector in mental health services.

ACT Health's commitment to providing quality health services to prisoners at the AMC needs to be commended. The provision of health services to detainees can be costly, as Medicare benefits are not available from the federal government and prisoners often have very complicated health matters to address, ranging from dental health and mental health to drug and alcohol addiction. For many prisoners, it may be the first time they have access to any sort of health-related service, including a GP.

The next big step will be the review of whether a needle and syringe program should be trialled, a discussion which the Greens have a keen interest in. We are concerned about whether there will be accurate data on transmission rates within the prison. I understand that exit planning is under-resourced and not all prisoners are encouraged to have blood tests on exiting the prison, nor perhaps is the purpose of the testing explained to them. This needs to be rectified if we are to get a true picture of whether transmission of blood-borne viruses is occurring within the AMC.

Significant work has been undertaken by ACT Health in developing a regional hub for cancer services and generally I believe the government does well in its provision and coordination of services. There have been problems in planning for staff turnover. However, we acknowledge that attempts are being made to improve customer relations through improvements in communication and training of front-line staff and that the situation does appear to be improving. I would like to stress the importance of working with key consumer representative groups in keeping them informed. When problems occur people are normally more willing to work with you if you explain what the problem is and how you are trying to fix it.

One outstanding area of concern that remains with cancer treatment is the subsidy that patients receive if they must travel interstate for treatment. The estimates committee recommended that the next ACT government review of the interstate patient travel scheme be approached with a view to meeting real costs and providing an appropriate level of assistance where required.

The government noted this recommendation, stating that the commonwealth government provides policy principles for states and territories. Administrative principle 1 states that the scheme should provide a subsidy for travel and accommodation expenses to assist with access to specialist medical care. (*Second speaking period taken.*)

During estimates hearings, the minister told the committee that the ACT government meets all the costs for treatment and a \$30 per day subsidy is offered to support some of the additional costs. This \$30 per day subsidy does not seem to go very far towards meeting travel and accommodation expenses and, although it may be more than other jurisdictions pay, we need to assess whether or not this is adequately assisting people at a time of great need.

The Greens are also aware of a budget submission from the prostate cancer support group, requesting funding for three prostate cancer support nurses at the Canberra

Hospital. While this request was not successful this year, I hope it will be considered next year in the context of the overall picture of cancer services provided to different sectors of the community.

With regard to aged care and rehabilitation services, I wish to recognise the efforts that have been made by the government over the last year to accommodate the concerns raised by people with a disability with regard to the relocation of disability assistance services to Village Creek. Further consideration is being given as to whether the independent living centre should move to the site and steps have been taken to improve wheelchair accessibility at the Village Creek site.

An area that the Greens have found to be lacking from the budget papers relates to the indicators regarding the health status of Aboriginal and Torres Strait Islander people. There are indicators on general life expectancy in diabetes, but this is not separated out for Aboriginal and Torres Strait Islander people. Given the commitments made by governments at all levels to closing the gap, we hope to see the government improve its Aboriginal and Torres Strait Islander indicators in budget papers and annual reports in the very near future.

While the ACT Aboriginal and Torres Strait Islander population is small it is nonetheless a significant population that is often over-represented in a number of areas, including health, and the provision of services must acknowledge and address this as a priority.

Finally, in regard to the health and community care program funding, it was, I have to say, quite disingenuous for the government to announce the growth funds as a new initiative, and a preventative health initiative at that, in its budget media releases when in actual fact the government was already required to provide those funds. HACC is also most certainly not a preventative health program.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

## **Adjournment**

Motion (by **Mr Corbell**) proposed:

That the Assembly do now adjourn.

## **Cancer Council fun run CEO sleep-out**

**MR SESELJA** (Molonglo—Leader of the Opposition) (11.04): I want to speak briefly on a couple of issues. I was reading the *CityNews* from a couple of weeks ago. It had articles about what the MLAs do in their private time. I noticed that there was a piece on Mr Hanson and me. Mr Hanson was in this place a week or so ago talking up his running ability. I will read this bit out, because Mr Hanson was bragging about the second time he beat me, and I did not even know he was in the race. It said:

The Liberal MLAs will next go head-to-head at the Cancer Council's Canada Fun Run on June 20.

Mr Hanson did not show up. I just wanted to get on the record that Mr Hanson actually did not show up. So I look forward to the next opportunity to have a—

**Mr Coe:** You are lucky I didn't show up.

**MR SESELJA:** I am very lucky Mr Coe did not show up—that is for sure—and Mr Rattenbury indeed.

Mr Speaker, I would like to make mention of some of the CEOs I did not get to last week who participated in the CEO sleep-out: Mr Robert Smith-Saarinen, Director of Milestone Financial Services; Robyn Hendry, Chief Executive, Canberra Convention Bureau; Eoghan O'Byrne, General Manager Canberra FM Radio; Ian Hayes, Director, Milestone Financial Services; David Mayo, Airport Manager, Canberra, Qantas; Eugene Nolan, Managing Director of mbits Pty Ltd; Frank Pompeani, Director, LJ Hooker, Tuggeranong; Mario Sanfrancesco, Director, LJ Hooker, Tuggeranong; Claire Connolly, Creative Director, Papercut; Colin Doery, Partner, Duesburys Nexia; Michelle McCann, Interim CEO, Spark Solar Australia; Ken Nichols, General Manager, *Canberra Times*; Garry Murphy, Partner, Duesburys Nexia; Dino Augusto Vido, Chairman of Partners, Duesburys Nexia; Donna Cox, CEO, Mantra Training and Development Pty Ltd; Rod Drury, Vice-President, Strategy and Business Development, Boeing Defence Australia Ltd; Gary Nairn, Chairman, VEKTA Pty Ltd and former member for Eden-Monaro; Gustad Boman, Director, F1 Solutions; Frank Quinlan, Executive Director, Catholic Social Services Australia; Tim Davenport, Group General Manager, New South Wales, Southern Cross Media; Catherine Carter; Executive Director, Property Council of Australia; Lynne Harwood, CEO of Galilee; Chris Faulks, CEO, Canberra Business Council; Cheryl Cartwright, Chief Executive, Australian Pipeline Industry Association; Adrian Marron, Chief Executive, CIT; David Pembroke, Director, contentgroup; Pierre Johannessen, CEO of Big Bang Ballers; Rod Harvey, Managing Director, Alive Health and Fitness; Frank Lopilato, Director, RSM Bird Cameron; Jeremy Flynn, General Manager, TV Operations/Group Production Manager, Southern Cross Media; Rod Hattch, Managing Director, WISDOM Learning; Ursula Stephens, Parliamentary Secretary for Social Inclusion and the Voluntary Sector and senator for New South Wales; Ken Gutterson, Managing Director, Cordelta; John Miller, Executive Director, Master Builders Association; Senator Kate Lundy, senator for the ACT; Carrie Graf, Head Coach for the Canberra Capitals; Phil Vernon, Chief Executive Officer of Australian Ethical Investments; Rose Stellino, Social Sector Specialist Banker, Westpac Banking Corporation; Jeff Boyd, CEO, Brindabella Airlines; Nick McDonald Crowley, Managing Director, CB Richard Ellis; Ben McDevitt, CEO of CrimTrac Agency; Ara Cresswell, Acting CEO, Reconciliation Australia; Paul Turner, Best Western Parkland Apartments; Michael Costello, Chief Executive Officer, ActewAGL; Paul Kane, Regional Leader, St George Bank; Simon Butt, CEO of Manteena; Loc Luu, CEO, Havelock Housing Association; Chris Taylor, Area General Manager, Telstra, Tony Muckle, Private Client Executive, nabprivate wealth; Mark Bramston, Managing Director, Aerial Capital Group; Richard Bialkowski, CEO, Home Help Service ACT; Charles Bishop, Director, O2C—Building Organisational and Personal Resilience; Ray Dennis, CEO, Calvary Public Hospital; Diane Hinds, Director, Old Bus Depot Markets; Uwe Boettcher, Principal, Boettcher Law; John Lawler, Chief

Executive Officer, Australian Crime Commission; John Falzon, CEO, St Vincent de Paul Society National Council; Pawl Cubbin, CEO of ZOO; Duncan Paterson, CEO, CAER—Corporate Analysis; Cindy Young, Manager, National Convention Centre; Andrew Fagan from Brumbies Rugby; Andrew Sykes, Director, RSM Bird Cameron; Ged Stenhouse, Director, RSM Bird Cameron; Rodney Miller, Director, RSM Bird Cameron; and Bob Wilson, CEO, St Vincent de Paul Society. All of those participated in the sleep-out.

Not on the list was Joy Burch, but I understand she also participated; I saw her there, so well done. To all of those who participated and raised a lot of money for a fantastic cause, well done, and again well done to all those who donated money and to all of those who work for St Vincent de Paul doing such a fantastic job in our community.

### **Reserve Forces Day**

**MR COE** (Ginninderra) (11.10): I rise tonight to commend former and serving reservists in the Australian forces. I have the utmost respect for the men and women who sacrifice so much in order that we might enjoy the freedoms we have in this country. On Saturday, I had the privilege of laying a wreath on behalf of the opposition at the Reserve Forces Day 2010 62nd anniversary commemorative ceremony at the Australian War Memorial. Unfortunately, the ACT shadow minister for veterans affairs, Jeremy Hanson CSC, MLA, and the Leader of the Opposition, Zed Seselja MLA, were unable to attend.

At the service we were welcomed by Colonel Joe Johnson, CSC, AAM, RFD, ED (Retired) and heard a message from the Prime Minister read out by Senator Lundy. Senator Gary Humphries was also present. A prayer was read by Pastor Wayne Lyons of the National Servicemen's Association, and Sergeant Nigel Webster of the 4th/3rd Battalion, Royal New South Wales Regiment, addressed the service.

Rear Admiral Ken Doolan AO, RAN (Retired), National President of the Returned and Services League Australia, gave the commemorative address. I congratulate him on the work he does and wish him, the National Secretary, Derek Robson AM, and the rest of the national executive well for the upcoming national congress in Dubbo, New South Wales.

I would also like to thank the band of the Royal Military College of Australia, the Australian Rugby Choir, the tri-service flag party and Lance Piper Geoff See from the Australian Federal Police Canberra City Pipes and Drums.

The service was an opportunity to thank, commemorate and celebrate the commitment of so many fine men and women that have served in the reserves. Like previous years, 2010 will see parades taking place at many locations across the country, including in each state and territory capital and many regional centres.

This year it will be just over 60 years since the part-time forces were re-formed after World War II. In those 60 years reservists have been volunteering to serve overseas, from the early United Nations missions in Korea to the current overseas operations.

The Reserve Forces Day Council will give special recognition this year to those members who, when as reservists, volunteered to serve overseas in operations or humanitarian missions and who have been awarded a medal for that service.

The stated purpose of the council is:

The objective of the Reserve Forces Day is to raise the profile of the Navy, Army and Air Force Reserve, to recognise former and serving Reservists (including those who served in the Citizen's Military Forces, and Citizen's Air Force) and to thank partners and employers for their support.

Reserve Forces Day is celebrated across Australia and is the annual recognition for serving and former members, 1.25M Australians who have served in the nation's Reserve Forces. These public parades would not be possible without the wonderful support of our sponsors.

I would also like to recognise the many employers that support reservists and their decision to serve our country.

This coming Sunday, the parade in Sydney at the Domain will be reviewed by Her Excellency Ms Quentin Bryce AC, Governor-General of the Commonwealth of Australia, and His Excellency Mr Michael Bryce AM, AE. In particular, I wish any Canberrans travelling up to Sydney to take part in the parade well for their journey.

Anyone interested in serving the reserves should call 131901 or visit [www.defencejobs.gov.au](http://www.defencejobs.gov.au).

Again, I thank all those Canberrans who have served and continue to serve in the reserves.

Question resolved in the affirmative.

**The Assembly adjourned at 11.13 pm.**

## Schedules of amendments

### Schedule 1

#### Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009

##### Amendments moved by Ms Bresnan

1

Clause 4

Page 2, line 20—

*omit*

while impaired by drug or blood drug concentration exceeded

*substitute*

with prescribed drug in oral fluid or blood

2

Clause 4

Page 2, line 23—

*omit*

- s 22B (Refusing to undergo drug assessment)

3

Clause 5

Proposed new section 5 (2) (a)

Page 3, line 14—

*omit proposed new section 5 (2) (a), substitute*

- (a) is designed and made to indicate, when a sample of oral fluid of a person is collected in the device by the person chewing or sucking on it (or a particular part of it), whether a prescribed drug is present in the person's oral fluid; and

4

Clause 5

Proposed new section 5A (2) (a)

Page 4, line 13—

*omit*

and can record the concentration whether by a particular figure, level or percentage

5

Clause 7

Proposed new section 11 (1) (b)

Page 5, line 18—

*omit everything after*

indicates to the police officer

*substitute*

that a prescribed drug is present in the person's oral fluid.

6

Clause 7

Proposed new section 11 (4) definition of *prescribed concentration*

Page 6, line 11—

*omit the definition*

7

Clause 7

Proposed new section 11 (4) definition of *prescribed illicit drug*

Page 6, line 15—

*omit*

*illicit*

9

Clause 11

Proposed new section 14 (1)

Page 10, line 14—

*omit*

, to provide a sample of the person's breath or oral fluid for analysis under section 12, or to undergo an assessment of drug impairment under section 12A,

*substitute*

, or provide a sample of the person's breath or oral fluid for analysis under section 12,

10

Clause 11

Proposed new section 14 (1)

Page 10, line 18—

*omit*

or the assessment under section 12A

11

Clause 12

Proposed new section 14 (3)

Page 10, line 22—

*omit*

, to provide a sample of the person's breath or oral fluid for analysis under section 12, or to undergo an assessment of drug impairment under section 12A

*substitute*

, or to provide a sample of the person's breath or oral fluid for analysis under section 12

12

Clause 13

Proposed new section 14 (3) (a)

Page 11, line 5—

*omit*

, to provide the sample or to undergo the assessment

*substitute*

or to provide the sample

**13**

**Clause 14**

**Proposed new section 15 (1) (a), (b) and (c)**

**Page 11, line 10—**

*omit proposed new section 15 (1) (a), (b) and (c), substitute*

- (a) a police officer does not, because of section 14 (3) (a) or (b) require a person to undergo a screening test or to provide a sample of breath or oral fluid for analysis; or
- (b) because the analysis instrument available is not in working order or an approved analysis instrument is not available, it is not practicable to carry out the breath or oral fluid analysis;

**14**

**Clause 15**

**Proposed new section 15A (1) (b)**

**Page 11, line 27—**

*omit*

the concentration of drugs in the blood

*substitute*

the presence of a prescribed drug in the blood

**15**

**Clause 16**

**Proposed new section 15A (2) (a) (ii)**

**Page 12, line 5—**

*omit*

the concentration of drugs in the blood

*substitute*

the presence of a prescribed drug in the blood

**16**

**Clause 18**

**Proposed new section 16 (1) (a) (i)**

**Page 12, line 12—**

*omit*

, to provide a sample of his or her breath or oral fluid for analysis or to undergo an assessment of drug impairment

*substitute*

or to provide a sample of his or her breath or oral fluid for analysis

17

**Clause 20****Page 12, line 21—***[oppose the clause]*

18

**Proposed new clause 20A****Page 13, line 2—***insert***20A New section 18B***in part 2, insert***18B****Permitted use of blood or oral fluid samples**

A sample of oral fluid or blood given or taken under this Act may only be used for the following purposes:

- (a) analysis of the sample in accordance with the Act;
- (b) research relating to drivers of motor vehicles affected by drugs, but only if identifying information about the person who provided the sample cannot be ascertained from it.

19

**Clause 21****Proposed new section 20 heading****Page 13, line 5—***omit the heading, substitute***20****Driving with prescribed drug in oral fluid or blood****20****Clause 21****Proposed new section 20 (1)****Page 13, line 7—***omit***21****Clause 21****Proposed new section 20 (2) (b)****Page 13, line 18—***omit*

a concentration of drugs in the person's blood equal to or more than the prescribed concentration.

*substitute*

a prescribed drug in the person's oral fluid or blood.

22

**Clause 21****Proposed new section 20 (3), definition of *prescribed concentration*****Page 14, line 2—***omit the definition*

23

**Clause 22 heading**  
**Page 14, line 12—**

*omit clause 22 heading, substitute*

**22 New section 22A**

24

**Clause 22**  
**Proposed new section 22B**  
**Page 15, line 1—**

*omit*

25

**Clause 23**  
**Proposed new section 27 heading**  
**Page 15, line 15—**

*omit*

**s 22B,**

26

**Clause 24**  
**Proposed new section 27 (a)**  
**Page 15, line 22—**

*omit*

- section 22B (Refusing to undergo drug assessment);

27

**Clause 27**  
**Proposed new section 41 (1) (ca) and (cb)**  
**Page 18, line 10—**

*omit*

28

**Clause 28**  
**Page 19, line 13—**

*omit*

, to provide a sample of the person's breath or oral fluid for analysis under section 12 (Breath or oral fluid analysis) or to undergo an assessment of drug impairment under section 12A (Assessment of drug impairment);

*substitute*

or to provide a sample of the person's breath or oral fluid for analysis under section 12 (Breath or oral fluid analysis);

29

**Clause 30**  
**Proposed new section 42C (2)**  
**Page 20, line 21—**

*before*

drug  
*insert*  
 prescribed

**30**

**Proposed new clause 30A**

**Page 20, line 21—**

*insert*

**30A New section 47A**

*insert*

**47A Stopping, search and detaining—Crimes Act, s 207 and s 209**

For the *Crimes Act 1900*, section 207 (1) (Stopping, searching and detaining people) or section 209 (1) (Stopping, searching and detaining conveyances), it is not reasonable grounds for suspicion in relation to a person, thing or circumstance if the suspicion is formed on the basis of the result of a screening test under this Act only.

**31**

**Clause 37**

**Page 22, line 3—**

*[oppose the clause]*

**32**

**Clause 38**

**Proposed new definition of *disqualifying offence*, paragraph (b)**

**Page 22, line 13—**

*omit the paragraph, substitute*

(b) section 20 (Driving with prescribed drug in oral fluid or blood); or

**33**

**Clause 38**

**Proposed new definition of *disqualifying offence*, paragraph (e)**

**Page 22, line 17—**

*omit*

**34**

**Proposed new clause 39A**

**Page 23, line 5—**

*insert*

**39A Dictionary, new definition of *prescribed drug***

*insert*

*prescribed drug*—see section 11 (4).

**Schedule 2****Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Bill 2009**Amendments moved by Mr Hanson**1****Clause 7****Proposed new section 11 (4), definition of *prescribed illicit drug*, new paragraph (ba)****Page 6, line 17—***insert*

- (ba) N,α-Dimethyl-3,4-(Methylenedioxy)phenylethylamine (MDMA); or

**2****Clause 7****Proposed new section 12 (1A)****Page 6, line 25—***insert*

- (1A) The police officer taking a sample of a person's oral fluid under this section must ensure that—
- (a) part of the sample is stored and sealed in a container; and
  - (b) a label is attached to the container that—
    - (i) is signed by the police officer who took the sample; and
    - (ii) states the name of the person from whom the sample was taken; and
    - (iii) states the time and place when the sample was taken.

**3****Proposed new clause 7A****Page 7, line 23—***insert***7A New section 12AA***after section 12, insert***12AA Analysis of oral fluid at approved laboratory**

- (1) This section applies if the result of an oral fluid analysis under section 12 (3) shows that a prescribed drug is present in the sample.
- (2) The approved operator must ensure that the sample in the container mentioned in section 12 (1A) is taken to an approved laboratory for confirmation of the result.
- (3) An analysis of the sample in the container must be carried out by an approved analyst to confirm whether a prescribed drug is present in the sample.

- (4) The analyst must take reasonable care to ensure that a part of the sample sufficient for analysis to be carried out by or for the person who gave the sample (the *tested person*) is protected and preserved until—
    - (a) if a request is made under subsection (5)—the tested person receives the part of the sample; or
    - (b) in any other case—6 months have passed since the tested person gave the sample.
  - (5) Within 6 months after the sample is given, the tested person, or another person authorised by the tested person, may request that a part of the sample sufficient for analysis be made available to the tested person as soon as practicable.
  - (6) If a request is made under subsection (5), the analyst must—
    - (a) ensure that a part of the sample sufficient for analysis is made available to the tested person as soon as practicable; and
    - (b) give reasonable assistance to the tested person to ensure that the sample is protected and preserved until it is analysed.
-