DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

20 SEPTEMBER

2005

Tuesday, 20 September 2005

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MR SPEAKER (Mr Berry) took the chair at 10.30 am, made a formal recognition that the Assembly was meeting on the lands of the traditional owners, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petitions

The following petition was lodged for presentation, by **Mr Stefaniak**, *from 1032 residents:*

Car parking—Nicholls

> To the Speaker and the Members of the Legislative Assembly of the Australian Capital Territory. The petition of certain members of the Australian Capital Territory draws to the attention of the Assembly community concerns about the insufficient number of car parking spaces available for patrons at the Nicholls Shopping Centre. The traders at this centre are constantly losing business because of the lack of car parking spaces. The situation is even worse of an evening and restaurant owners confirm the parking situation is so critical they will be forced to close their businesses unless urgent steps are taken to provide more car parking spaces.
>
> Your petitioners therefore request the Assembly to take all necessary steps to increase and improve the Nicholls Shopping Centre car park before traders are forced into recession.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Planning and Environment—Standing Committee
Report 15

MR GENTLEMAN (Brindabella) (10.32): I present the following report:

> Planning and Environment—Standing Committee—Report 15—*Draft Variation to the Territory Plan No 238—Macquarie Hotel Redevelopment Section 27 Barton,* dated 5 September 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, I table in the Assembly today the report of the Standing Committee on Planning and Environment, DV 238. Draft variation to the territory plan 238 was considered by the committee at meetings held between July and August 2005. At the meeting held on 12 July 2005, the committee as a whole decided to invite public submissions by way of public advertisements and correspondence. The committee met ith a number of interested parties in relation to this variation to the territory plan,

discussed current issues with the site and potential issues relating to the development. The committee was briefed at the Assembly by Ms Purdon, Director of Purdon Associates; Mr Colin Stewart of Colin Stewart Architects; and Mr Jure Domezet, Director of the Doma Group, on the proposed redevelopment of the site.

At this meeting there were a number of background documents, including a planning study and report on the consultation provided to the committee for consideration. Various consultations were undertaken by the proponent, including discussions with members of the former Manuka LAPAC, with residents of Barton Court and Macquarie Street, and with the chairman of the ACT Heritage Council. Additionally, a community information session was organised. All residents of Barton were invited and those in attendance were surveyed. According to Purdon Associates, these consultations found that there was strong support for the redevelopment. However, as with all variations to the territory plan, there were a number of related issues for the committee to examine.

Purdon Associates identified various issues in relation to DV 238. These included current traffic congestion along Macquarie Street; the levels of residential development in Barton; that the development should be sensitive to the heritage components of the area, including trees and setbacks; that commercial activities will provide a focal point in Barton and, as such, should be included in the development; and also that the gymnasium and other facilities in the development should be open to local residents.

Whilst it was identified that commercial services will provide a focal point in Barton, concerns of noise levels were raised in the provision of cafes, shops and personal services. As such, the committee recommends that noise abatement regulations be applied in relation to section 27. Further, various submissions highlighted traffic and parking issues, citing existing limitation in space availability and the potential increased traffic flow as concerns.

In recommendation 2 of the report the committee recommends that the relevant ministers ensure that parking policy officers in their respective departments support, in broad terms, the introduction of paid parking and/or other traffic reduction measures in Barton, Parkes and Forrest during consultations with the NCA. And further, that the ACT government introduces paid parking in the areas for which it has responsibility. The relevant stakeholders responded to all issues raised throughout the process, and those responses are provided in the report.

Subject to the recommendations, the committee considers section 27 an ideal location for a mixed-used development and recommends that DV 238 be agreed to. As committee chair, I would like to thank all those involved in the consultation process and, in particular, the committee office and the secretary, Dr Hanna Jaireth.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 16

MR STEFANIAK (Ginninderra): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 16, dated 19 September 2005, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 16 contains the committee's comments on four bills, 17 pieces of subordinate legislation and 16 government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Litter Amendment Bill 2005

Debate resumed from 30 June 2005, on motion by **Mr Hargreaves**:

> That this bill be agreed to in principle.

MR PRATT (Brindabella) (10.36): In the June sittings this year, the urban services minister, John Hargreaves, tabled the Litter Amendment Bill 2005. This makes a number of changes to the Litter Act—I will refer to it as "the act" hereafter—and its regulations, which came into effect in 2004. As the minister explained in June, currently under the act a range of penalties are applicable to a range of littering offences, and the power of enforcement has been given to the relevant authorities under the act to exercise the powers of litter enforcement under the said act.

The opposition will certainly support this amendment bill, although we will seek to introduce a minor amendment. The current amendment has now been tabled by the minister to correct an oversight in the original act. The oversight meant that, previously, not all littering offenders were required to produce identification on demand by authorised enforcers of the act—namely city rangers—and only those offenders who are "occupiers of premises" were required to produce identification on demand.

It is interesting that this oversight only came to light after a significant number of fines had been issued for charity bin dumping. The oversight meant that anyone on the street caught for littering, including charity bin dumpers, could not be fined if they refused to give their details. I wonder whether that means that the fines that have already been issued since the act came into effect in 2004, such as for charity bin dumping, or any other litter offence committed by someone on the street, are now null and void. I would not think so but it is just a question I ask. Perhaps the minister could clarify that that will not be the case. He is nodding that that will not be the case, which is very encouraging to see.

I doubt whether someone caught for littering would say, "You've caught me; no worries. Take my name and address so you can fine me." Now that we have seen that oversight fixed, I think the government will be in a better position to be able to execute the legislation we have in place. I am sure the city rangers would have asked the person for their ID, in any case. The minister is amending the act at section 17 to correct that

oversight. Rangers may now target any person suspected of committing a littering offence, whatever their location, and ask them to produce suitable identification. As I say, we support this and we think this makes the 2004 legislation that much more viable.

The minister explained in June that this will ensure that rangers targeting such offences as charity bin dumping will have the official powers to request that identification be produced so that a fine or infringement notice may be issued. However, I must say that that explanation by the minister is pretty much an admission that the fines have in fact been issued illegally to litter offenders. So, again, I would ask the minister if we are barking up the wrong tree here. If he can explain that we are, then that will make me much happier.

It seems that the crackdown on charity bin dumping was because of pressure from the opposition and community groups to do something about that issue. We have seen other issues too around the streets. Now that the minister has cleaned up this legislation and made it much more precise, will he now look at the other issues we are concerned about which relate to littering; that is, the littering of car bodies; the littering of shopping trolleys; the general untidiness around the place; the question about the number of garbage bins located in shopping centres; and whether it has been good policy to start reducing the number of those public bins in shopping centres in accordance with other environmental objectives which seek to be achieved?

In principle, looking at environmental objectives against other waste policy strategies, the reducing the number of those would seem to be a fine thing, but we are getting reports back from other shopping centres and residents that, because there has been a 10 or 20 per cent reduction in community rubbish bins across shopping centres, there seems to be an increase in the amount of rubbish lying around. The opposition questions whether this has been a smart strategy after all. We want to know what the government is going to do to rectify what appears to be a problem with increased rubbish in shopping centres.

The government, I must say, has pretty much ignored keeping this territory of ours looking as spick and span as it used to be. We have talked in this place about the government's failure to tackle graffiti properly and to follow up any strategies with meaningful measures to impede graffiti action. Their failure to do that means we still have a landscape that is looking deteriorated. While the government is now at least moving on the right track with littering offences, we would like to see them go the extra mile and start rectifying these other areas. As I was saying, there are car bodies lying around the place; there is too much rubbish lying around shopping centres; and the graffiti problem is simply not going away. We hope the government will show a stronger desire and a more fair dinkum approach to rectifying those sorts of problems as well.

We would like to express a concern that there is probably a gap in this amendment bill that the minister is putting up. We would like to see city rangers being required to demonstrate, display and produce ID as well. To that effect, we would like to table an amendment.

Mr Corbell: They do!

MR PRATT: Yes, but I do not know whether they are required to produce it on demand. If they are in the position of issuing on-the-spot fines, we would like to see that rectified. If the minister has that covered in legislation then perhaps my amendment will not be necessary. But should it be necessary, I am going to table it anyway. I seek to table the following amendment, which seeks to ensure that an authorised person is clearly recognisable as an authorised officer for the purpose of enforcing the act. So I hereby table an amendment that would seek to ensure that all city rangers who will be issuing on-the-spot fines will mandatorily be demonstrating, displaying and producing ID. I would hope the minister would be able to respond and tell me that that is not necessary; that that is covered. I seek leave, therefore, to table my amendment.

Leave granted.

MR PRATT: I table the following amendment:

Clause 5
Page 3, line 9—

omit subclause (3), substitute

(3) Subsection (1) does not apply to the exercise of a power by an authorised person under section 17(1) where the authorised person is clearly recognisable as an authorised officer for the purposes of enforcing the Act.

With the addition of that amendment, unless, of course, the minister comes back and says it is not necessary, I would otherwise commend the bill. But I would also encourage the minister to start rectifying those other areas the opposition has concern about relating to littering and the general look of our landscape. I would therefore encourage him to take further actions.

MR MULCAHY (Molonglo) (10.45): I am pleased to support the amendment put forward by Mr Pratt. Obviously, the purpose of the Litter Act is to maintain the amenity and tidiness of the ACT's stunning public spaces. It is a purpose I support and one that I think is supported by the vast majority of Canberra's citizens. I would like to speak in support of Mr Pratt's amendment. I think the omission of a requirement to ensure that authorities with the power to enforce the act are unambiguously identified is an area of possible deficiency or concern. It is important because, if authorities are allowed to approach and potentially fine citizens without first identifying themselves, there is potential for situations to arise. The minister, by way of comment across the chamber, has decided that they will be identifiable. But we all see situations in various areas of enforcement where off-duty people, and sometimes people who have no authority, seek to enforce laws. So it would be a desirable requirement that identification be produced.

In a number of fields of endeavour—and taxation enforcement is one with which I am familiar, having worked in that field—it is a requirement straight up to ensure that there is clear identification, as one is exercising powers that are considerable and conferred under the federal law. The amendment would remove any doubt, unless the minister has some prevailing reason to suggest that the amendment put forward is redundant.

Obviously, it is important in a society such as ours to ensure that our rights are well established. This government has placed considerable emphasis on individuals being able to protect their own rights. It is also important to ensure that the responsibilities of officers who have powers to administer, and laws to enforce, are clearly defined and that their obligations to ordinary citizens are very clearly identified under the legislation that is determined in this Assembly.

People do, on occasions, exploit the community's gaps in knowledge of the law. We need to make sure the community is able to clearly identify people in positions of authority before complying with orders. From 11 years in the hospitality industry, I have had many examples and reports where people, when dealing with areas such as liquor licensing, have apparently had issues raised when employees were off duty, or in circumstances that have led to issues about the basis on which they may be enforcing laws. I think it is an area where governments of all persuasions need to be especially vigilant and ensure that identification is carried and always produced, to remove doubt. I think the amendment put forward by Mr Pratt is a commonsense amendment.

Mr Corbell: It is not!

MR MULCAHY: The minister says it is not, and we will be keen to hear why that is the case. If the response is simply that people are in uniform, then I am not sure that that is sufficient as far as experience would suggest. The Litter Act is obviously a very important measure in that it is a valuable device to ensure that the ACT's public areas, shopping centres and parklands are well maintained, clean and available for all to enjoy. There has been much discussion in recent times. Some of it seems to have coincided with self-government, the end of the NCDC some years back, and the "faceless men" as they were irreverently referred to when I lived here in my earlier life. There has been a lot of suggestion that our city has deteriorated.

Mr Hargreaves: The faceless men of the Labor Party!

MR MULCAHY: No, I am not talking about the Labor Party's faceless men; I am speaking, on this occasion, of the National Capital Development Commission that once existed. There were the faceless men of the Labor Party, but they are the subject of another chapter! I think this act does play an important part. Residents continually raise with me, anyway, the matter of graffiti and the state of our city. When I was at Kingston last week I was dismayed, when I started looking closely, at how many buildings had been vandalised with graffiti. There is certainly an argument for considering giving some additional powers to city rangers to enable them to impose on-the-spot fines to people who engage in this sort of antisocial activity. This is certainly marring the look of our city and is often a subject for comment by visitors to Canberra and also, more frequently, by residents. I especially hear a large number of complaints about the areas on Hindmarsh Drive through Weston Creek, towards Duffy and so forth. It has become an art form in that part of Canberra.

A secondary issue has been raised in Kingston that I will take this opportunity to flag. I am not sure if the minister is aware but I think we need to be a bit sensible in the manner in which we go about enforcing the Litter Act. For many years—indeed, in some cases, for 20 years—licensees in the Kingston area have stored empty kegs at the back

entrances of their establishments. A number of those businesses have indicated to me in recent times that storage of beer kegs has now been classified as littering by some well-meaning but perhaps overzealous employees of the territory government. This is an area where I think some measure of commonsense needs to be applied. These kegs are normally stored in back alleys that are, for all intents and purposes, for business use only. But it is since the introduction of the Litter Act that the kegs have been targeted and owners threatened with fines.

Apparently, owners of these establishments have met with officials from urban services in an attempt to come up with a solution. I am aware that at least one of the major breweries has increased their pick-ups to twice a week, but I think we need to temper our enforcement of some of these arrangements with a degree of reality, instead of creating an unnecessary impost on businesses and utilising an act that is really designed for the purpose of ensuring that our streets and public places are in a tidy state. The act is designed to ensure that people do not take a reckless attitude towards the disposal of litter. A number of these establishments simply have no space within their properties where they can store kegs. From my observation, I do not believe this situation poses either a safety risk to anyone in our community or reduces the amenity of an area that is used primarily for waste disposal. It makes no sense to impose fines and inflexible regulations on businesses that are attempting to do the right thing. I would hope, on that last issue, that the minister would try and solve that problem, because a legitimate concern is being expressed. I support the proposed amendment.

DR FOSKEY (Molonglo) (10.53): I rise to say that the Greens have no concerns with this amendment; it seems to be perfectly logical and, in fact, probably necessary. I am unsure as to whether Mr Pratt's amendment adds anything to the government's amendment but I will listen to Mr Hargreaves's response and vote accordingly.

MRS BURKE (Molonglo) (10.53): I think Mr Pratt's amendment is necessary; and I know that the minister is saying it is covered in section 17. However, I would like to point out to members that section 17 (3) on page 3 of the Litter Amendment Bill that was tabled states that, "The person may ask the authorised person to produce his or her identity card for inspection by the person." I suggest Mr Pratt's legislation does tighten up this requirement.

I believe it should be done as a matter of course. When a person approaches another person to say, "Look, you are illegally doing something wrong, " that person may not be in uniform so may not be easily identifiable as a ranger; he may be whoever. I think that officer, who is authorised to act on behalf of the territory, should provide that ID without prompting. It should be a matter of course. It should not be incumbent upon the person being sought after to ask—or may ask—the authorised person to produce his or her identity card. I really do not think that is good enough. I think that, in this day and age, people in positions of authority need to show ID before they ask somebody to do something. That is the one thing I would say. I certainly support Mr Pratt's amendment. I do not think it is amending for the sake of amending; I think it is tightening a loophole in the legislation. I am sure that, if members think about it, they will see that it is quite sensible and reasonable.

Referring to the minister's tabling statement or presentation speech, it is regrettable that the government spends more than $1.6 million a year on cleaning up illegally dumped

items. It is good to see that this has been tightened up. I have to say that I believe it was on the part of the opposition that this was brought to the fore, but one would have to say that it had a double-edged sword effect. We have removed the problem to an extent; however, in travelling around the traps, one still sees large amounts of rubbish collecting around charity bins. It is unfortunate and, as the minister says, regrettable that some members of our community continue to persist in disposing of all manner of items around charity bins. Of course, this has had the effect of many organisations removing those bins that people used as drop-off points to drop goods that could be recycled back into the community.

We will obviously support the bill. I also support Mr Pratt's amendment because I do not believe the bill is tight enough under section 17. I do not know whether it has been circulated yet, but I believe the words in the amendment will cover the carrying of ID by inspectors and inspectors being required to automatically show that ID. Any move to keep our city clean and tidy is welcomed. I welcome the government's change on this and commend the opposition for putting the amendment forward. I ask members to support that, in the interests of sensibility.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (10.57), in reply: I signal to the opposition, in case they wish to reconsider, that the government will not be supporting the amendment. I want to address a couple of the points made by Mr Pratt in his support for the bill, and I also want to express the appreciation of the government to the opposition for supporting the thrust of the bill. This is actually rather mechanical. Every now and again, when one decides to lift one's game in any area, one finds that mechanical legislative amendments are needed. This is one of those.

Firstly, can I say that it was not in response to pressure from the opposition that the charity bins blitz was commenced. It was the fact that I got the absolute angered irrits at seeing it around my own electorate and decided that we were not being tough enough. The day I respond to opposition pressure is the day I will cease to be a member of this place.

Mrs Dunne: What a stupid thing to say!

MR HARGREAVES: Mrs Dunne, I suggest a Bex and a good lie down; it is a really bad start to the week. If you do not like what you hear, bad luck to you!

Mrs Dunne: I worry about the electors of Brindabella!

MR SPEAKER: Conversations across the chamber are disorderly. Just direct your attention to the matter under discussion, please.

MR HARGREAVES: I do not appreciate having the word "stupid" put across the chamber at me by Mrs Dunne. Let the record show that she demeans herself.

MR SPEAKER: It was disorderly.

MR HARGREAVES: One of the things this amendment bill talks about is when people are suspected of having littered by putting things outside charity bins, dumping stuff on the road and all that sort of stuff. There are two offences under this legislation. One is when you are caught red-handed. Our rangers have done that and they have given on-the-spot fines. One of the questions from Mr Pratt was whether or not those fines were legal. He cast some doubt on whether people have the authority to require people's names and addresses. The answer to that is that they are legal. The reason for that is that the people who were handed on-the-spot fines by the rangers volunteered their names and addresses at the time. It is no wonder, when they are caught red-handed doing it, that people, generally speaking, will comply with that, but we want to tighten up that particular area.

Mr Pratt talked about car bodies. Mr Pratt knows that we have a program that identifies and removes car bodies in this territory. I think the urban services department, through the rangers and through arrangements with the police and the community, do a fine job of it, quite frankly. Mr Pratt knows the procedures only too well; I will not go through those. He knows only too well that car bodies abandoned on the side of the road are removed fairly quickly and that there is always an attempt, using the VIN numbers and any registration details, if they are around, to track down the people responsible for the dumping. Action is taken against those people when we can determine who they are.

In respect of shopping centre trolleys, Mr Pratt misses one of the significant points about shopping centre trolley stuff. It is not litter only; it is theft. When people take a shopping trolley away from the shopping precinct to put stuff into their car, or wherever else, they are required to return it. If they do not return it and dump it in the lake, that is theft, not only litter. He would know that the rangers regularly pick up trolleys. We also pick them up from our waterways and we pick them up from elsewhere. I was out at the Phillip depot just the other day, in my journey around the department, and I noticed a great big skip. It was the biggest skip I have ever seen, I have to tell you. It had all manner of things in it—milk crates, shopping trolleys and things. They are recovered. I think they do a reasonably good job of that. I consider the dumping of trolleys to be both theft and littering. If we can catch anybody doing that sort of thing we will deliver the same treatment to them as anybody else caught littering or dumping stuff outside charity bins. I think that was an unnecessary comment and rather silly.

Mr Pratt was vocal about the state of garbage bins in shopping centres. It shows a fundamental misunderstanding of the responsibility the community must take for the cleanliness of this city. It is not a job for government only. Shopping centres are owned by people; they are not owned by the government; they are private premises. If the shopping centre management want to put more garbage bins or skips around the place, ACT No Waste would be delighted to hear from them. Of course, this crowd over here would have us believe that it is totally the government's responsibility. That is the furphy they want to put out there—that, if you see litter around the place inside a shopping centre, it is the government's responsibility because they have not given them enough bins.

I think they should go and have a chat to some of the shopping centre managers, use the influence they purport to have on them and ask them, "How about putting some more bins around?" We will provide them; all they have to do is ask. Most of the shopping

centres have a caretaker or cleaning person on staff. Certainly the Erindale shopping centre has one, and that guy does a great job. If they think there are not enough garbage bins around a shopping centre, they can take it up with the shopping centre management.

While we are on those sorts of private premises, I will address Mr Mulcahy's beauty: that is an absolute ripper. Mr Mulcahy is encouraging people to litter outside the rear laneways of premises by asking, "Why don't you let them put their kegs there?" The reason why they are being asked to remove the kegs is because they are not on their land; they are on unleased territory land. They are on a roadway, which is an access area. I am looking across at those opposite and I do not see any who might have ever driven up a back lane in Kingston in a heavy vehicle, but I have. I drove one of the paper recycling trucks—nine tonnes unloaded—up one of those alleyways and had to dodge the very kegs that he is talking about.

Mrs Burke: What's the solution?

Mr Pratt: What's the solution?

MR HARGREAVES: They yell to me, "What's the solution?"

MR SPEAKER: The yell is out of order. You need not respond to that, just direct your attention to the matter before the chair.

MR HARGREAVES: I know. I make the point, though, that it is the problem of the business; they can sort it out for themselves. Do not ask me—do not ask this government—to condone putting kegs out on unleased territory land just because they are in a laneway when it is not necessarily safe to do so. Furthermore, these are empty kegs and they are litter. I applaud the inspectors for telling these people to make alternative arrangements. I have no problem with that. You hear from this mob over here, "What's the solution? What's the solution?" I am waiting for the "oh wise one" on the end, because they do not have a solution. They never have had a solution.

Mr Pratt: We have given it to you!

MR HARGREAVES: Mr Pratt is suggesting that we just let them go for it and have the kegs—as much as they like—out the back of these places. Good luck! I just hope that, one of these days when someone has a prang there, you will stand up and say you were partly to blame for it. Mr Pratt and Mr Mulcahy talked about graffiti.

Mr Pratt interjecting—

MR HARGREAVES: We all recognise that as an issue, but I have to say that we have a strategy, and we have legislation. I would love to hear, one of these days, what those opposite have by way of strategy—

Mr Pratt interjecting—

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: other than Mr Cornwell's idea of stopping people under 18 from having spray cans. I would like to know from that side at some stage what it is—

Mr Pratt: It is on the record, John.

MR HARGREAVES: I hear that it may be on the record but perhaps it is really a piece of paper with, "Please turn over" on both sides. That is what I think it is, because there is no substance in it, there is nothing in it. They say to us, "Catch the people who are doing the graffiti!" Do they tell us how we are going to do that? Do they tell us how we are going to get all of this money? I know what we will do, Mr Speaker. We will take the money off education and the hospitals and pour it into graffiti management. That is what we will do.

The government will not be supporting Mr Pratt's amendment. In section 17—this is a new one—sub-paragraphs (3) and (4) (b) ask the authorised person to produce his or her identity card for inspection by the person, and the person does not have to comply with any direction unless the authorised person produces that item. That seems to me to just about cover it.

What a shame it is that Mr Pratt had not read that part of the amendment bill. And what a shame it is that Mr Mulcahy had not read it; and neither had Mrs Burke, until I pointed it out to her just this morning. It is a shame that they did that. They are now scurrying about the place trying to say that we have to beef it up: what we want to do is have these littering CIA agents who are going to run around the place in the middle of the night. There is this dude who is going to drop this horrible lounge suite next to a charity bin. What these guys are going to do is spring out of the darkness, hold up their shield and say, "I'm from the FIB litter team; I've got this star—deputy sheriff!" No; that is one of your blokes.

They are going to have a CIA shield on the thing and they must say, "Look at this please, this is my ID. Don't look at my name badge on my uniform; don't worry about the fact that you have the right at law to say show me your ID." They are going to say that. Unlike police detectives, unlike health inspectors, unlike a range of other people who have the powers to require the citizenry to do something, these people are the only people who will be required to say, "You'd better have a look at my ID first."

The police charge people without necessarily showing them ID; they can do it. The health inspectors go into a shop or restaurant and say, "I'm a health inspector. Guess what? Here is an on-the-spot fine." They do not necessarily say, "You'd better have a look at my ID before I do this." If the person receiving the fine says, "I don't believe you are a health inspector, I believe that, in fact, you are a bricklayer, " then the person is required under the act, as soon as requested, to show ID. This piece of legislation requires the ranger to produce his ID if requested.

I think this is another piece of draconian back-pedalling on their part. They have been sprung for not reading this amendment bill. They did not read section 17. They assumed there was nothing there, so they came up with this thing. Now they are backing up saying it is not good enough. They are saying it is just not tight enough. The next thing you know, we will be seeing amendments coming from this lot to the Health Promotion Act

or to a whole stack of other ones—OH&S inspectors and WorkCover inspectors—that you cannot say diddly-squat to anybody unless you first produce your badge. They want to turn our rangers and graffiti inspectors into registered arms of the CIA or the FBI. Well, good luck to them! We are not into that draconian, theatrical nonsense. We are, in fact, more into getting the thing done. That is why there have been fines imposed, and we are going to tighten up this legislation.

Mrs Burke: What does "draconian" mean?

MR HARGREAVES: Mr Speaker, I will treat Mrs Burke's interjections with the contempt they are due.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR PRATT (Brindabella) (11.13): I move amendment No 1 circulated in my name *[see schedule 1 at page 3416]*.

Mr Speaker, this amendment is necessary because we do not think that this bill covers essential requirements as to authorities being able to demonstrate exactly who they are. The minister is quite wrong: we have read this legislation right through and we do not believe that subsections (1), (2) and (3) of proposed section 17, which allow a person who is being fronted by an inspector to ask the inspector to produce ID, are tight enough. We have read this legislation. We are not happy with that proposed section. We do not believe that it is tight enough. We also believe that proposed section 17 (3), while a useful component, simply does not go far enough. Consequently, I am seeking to amend this bill in a way that will compel a ranger or an officer prescribed to carry out these sorts of interventions to display their ID.

Under proposed section 15, which relates to ID cards, there is a useful component in the legislation which details that a ranger must carry an ID card. Yes, the legislation does make sure that there is an instruction and a direction for an officer to carry an appropriate ID card and the legislation does lay down the requirements for what that ID card must look like. It provides the standards for what that ID should be, but all it simply says is that the chief executive must give an authorised person an ID card stating that person's name and that the person is an authorised person and that the identity card must show a recent photograph, the card's date and other bits and pieces. The legislation does not say that the officer must ensure that that ID card is completely visible at all times.

Whilst the minister certainly would want rangers to be wearing ID, the legislation does not stipulate that they must wear ID at all times. We are saying that there is a gap in this legislation which we are seeking to fill by introducing an amendment which compels an officer to have ID or at least a component of that ID, perhaps a regulation number, displayed at all times, not simply worn on a shirt and covered by a jacket on a cool evening. When an officer approaches a person and then seeks to issue a fine for an

offence committed, we would want that officer to be demonstrating their ID. Either they demonstrate that ID by wearing a card on their shirt or they pull out an ID card and say, "I am sorry, sir, but I have just found you dumping rubbish here and I now seek to issue a fine. Here is my ID, which shows my name and indicates that I am an authorised person."

It should not be simply left to the person who has committed an offence to request to see ID. An officer of any branch of government who is taking action against a person must be compelled to demonstrate exactly who they are. That means that they must be displaying their ID. The minister says that we have not bothered to read this legislation, but we have all read it. We actually read it in bed last night, Mr Speaker. This legislation does not lay down a requirement for an officer to be wearing an ID card at all times. That is what we are seeking to achieve and I would ask Dr Foskey to support us in this venture to make sure that these officers are required to wear such ID at all times, not just when they are issuing a fine for an offence.

There have been examples of officers not wearing ID when they have been carrying out actions. I have spoken about a health inspector who inspected a cafe in Hughes in March this year and talked to a shopkeeper about grease traps in the area behind his shop. He was not wearing ID and the shopkeeper said, "Who are you? Could I see your ID?" The response was, "I am not going to show it to you." I have written to the minister about that. He probably remembers the case.

Mr Hargreaves: No, you didn't.

MR PRATT: I did.

MR SPEAKER: Order! Direct your comments through me, Mr Pratt.

MR PRATT: I have written to the minister about that case, indicating that there is an anomaly. That is why we seek to have health inspectors, rangers and other people taking action to demonstrate at all times that they have ID. Therefore, in the case of rangers taking action for littering, we have tabled this amendment, which seeks to plug that gap in this legislation. It is not a draconian measure, as the minister has said. It is not a draconian measure at all on our part to ask that officers wear ID and have it 100 per cent on display at all times when they are on duty. It is simply common sense. It is simply good practice. It is meeting professional standards. That is what we are seeking. Therefore, I commend the amendment, which is seeking to plug a hole in a piece of legislation which is good but which needs to have this hole plugged to make it that much more professional.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (11.19): Firstly, if Mr Pratt wrote to me about grease traps and the behaviour of health inspectors, he has further displayed his ignorance because a quick look at the administrative orders will reveal that I am not the Minister for Health. I have never been the Minister for Health. I have never been responsible for health surveillance. I have never been anything like that. He really ought to be careful about saying things in the chamber that are blatantly not true because he could come a real cropper.

Mr Pratt: I tremble in my boots, Mr Speaker.

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: When the rangers go out to do anything, they wear a name badge.

Mr Pratt: It is not always displayed.

MR HARGREAVES: It is always displayed. Everybody is human and every now and again, with the best of intentions, someone will put a jumper over a name badge. Okay. What makes Mr Pratt think for a second that, if we made them wear a photo of themselves on their chest, that would not happen again. It is a really daft idea.

Mr Speaker, the legislation says quite clearly, and it applies to the health promotion example as much as it does anything else, that a person, that is, the litterer, must comply with a requirement made of the person if the authorised officer complies with any request by the person.

Mr Pratt: Yes, but it is contingent on the person asking.

MR SPEAKER: Order! Mr Hargreaves, resume your seat. Mr Pratt, during the in-principle stage of the bill, I had to call you to order several times and you are continuing to interject. I warn you that I am not going to tolerate any more of that in the course of the debate on this bill.

MR HARGREAVES: Proposed section 17 (4) (b), in conjunction with proposed section 17 (3), protects a person suspected of littering against some unauthorised person coming up to them in the middle of the night and saying, "Hey, I saw you drop that stuff and I am now going to give you an on-the-spot fine." That will never happen. What will happen, and what has happened, is that a ranger will appear out of the dark wearing a khaki uniform which has "Department of Urban Services" written all over it and he will have in his wallet, perhaps so that somebody cannot nick it, one of those little flipouts, the same as detectives and health protection people have, with an ID card with his piccie on it.

For Dr Foskey's benefit, we are not trying here to protect the rights of somebody who is littering, someone caught littering. A ranger who challenges someone like that and who has a ticket book in his hand and is going to write out a ticket would have an ID card in a little wallet, where most of these rangers and inspectors have their ID. If the person says, "Give us a look at your ID," and the ranger does not do so, that would be an illegal booking under this legislation. The rights of the person would have been protected already; it would be illegal. Of course, it would never happen.

Mr Speaker, if you look at the amendment you will see that it would not actually do what Mr Pratt is trying to make it do. It says:

> Subsection (1) does not apply … where the authorised person is clearly recognisable as an authorised officer for the purposes of enforcing the Act.

All of the rangers are authorised persons; all of them. If I were sitting outside a charity bin with a mattress under my arm and I saw a bloke wearing an urban services uniform with a name tag on it, I reckon there would be a pretty good chance that that guy was an authorised inspector, especially if he had a ticket book in his hand and he said, "Mr Hargreaves, I am going to give you a ticket," particularly when you consider that the penalty for anybody who would ever want to impersonate an inspector—for example, a litter vigilante—is 10 penalty units. That is the maximum penalty. Ten penalty units is a fairly stiff fine for having a ticket book and impersonating a ranger.

If before this morning the opposition had thought about this matter a little bit more, had thought about it in relation to health inspection, had thought about what redress people have if the request to produce ID is refused, and had a good look at what we have actually got in this amendment bill, perhaps we would not be wasting our time quite so much. The government will not be supporting the amendment.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Tree Protection Bill 2005

Debate resumed from 17 March 2005, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (11.25): The Tree Protection Bill 2005 replaces the Tree Protection (Interim Protection) Act 2001 and is an immediate successor to the Tree Protection Bill 2004, which, mercifully, lapsed at the end of the last Assembly. This bill allows householders and others to conduct minor pruning of trees and allows people to make oral application, in the worst case, to get rid of a tree where circumstances require the application to be considered urgently. That is some improvement upon the current regime.

We need to address ourselves to what is tree protection. In this bill there are two types of trees. There are registered trees—that is, trees registered under part 7 of the act—that fit the criteria for a notifiable instrument in that they have intrinsic heritage value, have particular importance due to their substantial contribution to the surrounding landscape or have scientific value. In addition, a tree that contributes to the value of those trees is also considered important. What you have to do is to consider the tree in its landscape context and that means that trees in the vicinity are also considered important.

The government has created the concept of a registered tree, which is an important tree, and the way that such trees may fit into their context, which means that an important tree's mate is also important in the course of this legislation. In addition, there is a regulated tree, which by all terms is essentially a big tree. Both of these will end up being managed within the built-up area of a tree management precinct. The minister may declare land in a built-up area to be a tree management precinct.

When this legislation comes into effect, all of Canberra's urban area will be a tree management precinct for two years. That is very important. One other point that needs to be made is that a regulated tree, that is, a big tree as opposed to an important tree, is only registrable if it is on leased land so that for most of the trees covered by this legislation, the vast majority of them, the government is not bound by the regulations it imposes upon its electors.

The notifiable instrument for a tree management precinct suggests that the minister has to be satisfied that there is a significant threat to the urban forest values, or there is likely to exist in the near future a significant threat, before something could be declared a tree management precinct. The whole problem with much of what is proposed in this regard is that the original piece of legislation has been around for four years, this government has been here for coming up to four years, this is the government's second attempt to implement this legislation and most of the background work that underpins this legislation has not been done.

The mere fact that we have this blanket approach that every piece of leased land in the territory is a tree management precinct for the purposes of the act for two years shows that this government is incapable of getting on with the job. We have been talking about this matter for four years and none of the preliminary work has been done. We will have to wait another two years for this government to get its act together and actually work out which are the important areas for tree management precincts. I would submit that what the government has done by sheer laziness and lack of effort has been to catch many more people than is necessary.

There are some real problems with this legislation. As I said earlier, members of the public can conduct minor pruning, but that is where the triviality ends. If you have a registered tree, that is, an important tree, or the friend of an important tree, that is, an important tree in a landscaped context, you can only conduct minor pruning in accordance with Australian standard 4373 and, if you want to acquire details of that, you have to go to Standards Australia and pay substantial sums of money to do so.

Australian standard 4373 involves the removing of dead wood and the removing of limbs larger than 50 millimetres in diameter and it has an effect if you want to do anything more than reduce the bulk of the canopy by more than 10 per cent. If it is a big tree, as opposed to an important tree, minor pruning also has to be done in accordance with AS4373. The real problem, as the legislation currently stands, is: how does this affect Mr and Mrs Waramanga or Mr and Mrs Evatt?

Mr and Mrs Waramanga and Mr and Mrs Evatt probably do not know of the existence of Australian standard 4373. If they do and if they want to get at their big tree, their important tree or their important tree's mate—the important tree may not be on their block but the mate may be on their block—they may not know, first of all, that it is a big tree, an important tree or an important tree's mate. They probably do not know of the existence of the Australian standard and they certainly would not know that, if they do anything that is not in accordance with the Australian standard, this government will fang them, and that is what it is all about. What the government is trying to do under the pious pretensions that are set out in the objects of conserving the urban forest of the ACT is put a huge imposition upon individual leaseholders in the ACT.

There are considerable problems with the whole thing. One of the things that you cannot do in accordance with the legislation is undertake prohibited groundwork. The concept of what constitutes prohibited groundwork has undergone some clarification between the 2004 bill and the 2005 bill, but it is still exceedingly cumbersome. It is really the blackest letter of command and control regulation. There are a whole lot of tests that you may do. It is not possible to excavate to a depth of greater than 10 centimetres over a one square metre or larger area or to raise the soil level by 10 centimetres over the natural soil level over an area of four square metres or larger. These are very draconian, prohibitive, black letter provisions. Surely it is not beyond the ken of good legislators and good implementers of legislation to come up with tests that are much more effective.

Why is not adverse effect on the health of the tree a more sensible test? That would allow landowners to perform sensible work around a tree on their property. An instance was brought to my attention the other day of someone wanting to build a raised deck, with gaps between the slats, that impinged upon the drip zone of a tree. The authorities have said that this cannot happen because the deck might stop some of the water attaching to the drip zone, even though there would be gaps between the slats, and that putting in a little footing to hold up the deck would be unauthorised groundwork. That is clearly in the great scheme of things, in the great scheme of the health of the tree, absolutely risible and there is no test about whether this would affect the health of the tree.

There is a range of provisions that allow the Conservator of Fauna and Flora to determine guidelines for tree management plans for registered or important trees. People are therefore allowed, under this legislation, to do prohibited groundwork, but only if they can get the conservator on side. One of the really important issues here is that, under this legislation, anyone can apply for a tree management plan on any tree in a built-up area. I might live in Evatt and say that there is a tree down there in Gordon or somewhere else that I think is really important and I can apply to the conservator for a tree management plan on that without any inference as to whether I have an interest, a property right or any of those things, so that there is no scope for limiting vexatious activities that would stop people developing on their blocks.

A tree register is being established by this legislation. Although the interim scheme has been in operation for nearly five years, very little work has been done on what goes into the register and what does not. There is a range of provisions relating to reviewing decisions that I find quite remarkable. Clause 103 says that the conservator can internally review some decisions relating to the approved activities of a tree management plan. The real problem is that the conservator approves the tree management plan, so that in this legislation you have the conservator internally reviewing his or her own decisions and you cannot go to the AAT before there is an internal review on some of these decisions.

One of the things that I will address under the amendments is that all the disallowable instruments in previous legislation are now notifiable instruments. No reason has been given, except when I had a briefing on this legislation I was told by the staff that this was a decision by the minister, which really roughly translates as, "Now we are in majority government, I do not have to negotiate with anybody and therefore I will not have anything in a disallowable instrument; I will do what I like." That is, the Minister for the Environment is holding the parliament in contempt once again.

There are a couple of other issues, which I think Mr Mulcahy will address, about vicarious liability, but my favourite one is clause 59. It is a bit of a compromise and it is slightly better than, I think, clause 35 in the previous legislation. It provides that the conservator can declare a site where the conservator thinks that a tree was damaged, that the tree was the subject of prohibited groundwork, and that what was done caused the important tree to die and, therefore, to lose its registration on the register. If the conservator thinks that someone was responsible for the tree dying, and there is no real test of how the conservator may come to this view, the conservator may ban all development activity on that site for up to five years. So, just in case you do something nefarious, we will make you pay. This is a real problem.

The problems with this legislation are legion. The legislation as it was tabled and as we are debating it here in the in-principle stage, however, has one glaring, hideous error, one hideous fault, which needs to be addressed. Many of the offences in the act as it is currently drafted are strict liability offences. This bill offends all the principles of Australians' notions of justice, many of the principles of common law and the principles of justice as it has evolved in common law jurisdictions. It is unfair and un-Australian and, as has been said by many people in this case and in other cases that we have discussed in this Assembly this year, is an infringement of people's civil liberties.

There is a strong principle in law that goes something along the lines that an act does not make a person guilty unless his mind be guilty. My Latin is not up to it, but that is the English translation of it. It goes to the old common law concept of mens rea: you have to intend to do something wrong. There are many provisions in this legislation as currently drafted that basically prosecute people or cause people to have been deemed to commit an offence if they act accidentally.

The bill contains a number of strict liability offences. One of the most onerous is that contained in proposed section 15 (4), which provides that a person commits an offence if that person does something that damages, or is likely to damage, a tree. Proposed section 15 (6) goes on to say that that offence is a strict liability offence. In order to understand what is a strict liability offence, we need to go to the criminal code, which provides that there is no fault element for the offence. Simply put, a person's intention to commit an offence, which is ordinarily needed to establish a prosecution, has gone out the window. Lawyers would know that as mens rea; but, under this bill as presently drafted, mens rea has gone out the window.

What does that mean for Mr and Mrs Waramanga? It means that if the government charges them with an offence under this bill the burden of proof is cut dramatically. It would be lowered to such a point that they may be punished for a guanine accident. If Mr and Mrs Waramanga have a protected tree in their front yard and Mr Waramanga accidentally drives into it, he could be charged under proposed section 15 (6) of this act, even though he did not intend to damage the tree and he was not morally blameworthy.

There are serious provisions here that have been raised with me and by me. These things have been raised also by the scrutiny of bills committee. I understand that the Council for Civil Liberties wrote to the Chief Minister on this matter. I wrote at considerable length to the Chief Minister on the importance of this matter, a well-crafted 2½-page letter on the subject. There is a huge body of public opinion that says that the way that this

government is going in relation to strict liability offences is wrong. I have stood in this place in relation to two or three pieces of legislation this year, the stock bill and a couple of other pieces of environment legislation, and pointed out the problems that arise here.

There are problems which have been addressed a number of times by the scrutiny of bills committee. I am pleased to say that we have had something of a conversion, not quite at the eleventh hour. Recently, the Chief Minister wrote to members and said that he had considered this matter and that he would be introducing some amendments that, quite frankly, are things for which I have been calling in this place for six or eight months. There are some good models of strict liability offences. I have pointed those out to the Chief Minister. I think that probably the best model is in the Pest Plants and Animals Act, which clarifies the situation.

Yes, someone can commit a strict liability offence, but the person commits the offence if the person in the conduct of their business does something wrong. If I have an important tree, an important tree's mate or a big tree on my block and I hire a horticulturalist and he does something wrong to the tree, he may be subject to a strict liability offence because he should know better. That is the way things should work in this place. I hope that the volte-face from the Chief Minister is a sign of things to come. I hope that this means that we have drawn a line in the sand and we will not see more stupid strict liability offences in legislation.

They are stupid, they are bad, they are wrong, they treat people unjustly, and I think that it is important that someone like the Chief Minister, who spends so much time talking about his role as a civil libertarian, should understand what this legislation does and should put a stop to that. He should be telling his officials, "I do not want to see another provision like this in a bill." I think we have got to the stage where a line has been drawn in the sand. I congratulate the Chief Minister for that, and I thank him.

There is one other set of provisions in this bill that also must be looked at. The scrutiny of bills committee has, on a number of occasions, drawn attention to the increasing propensity of this government to have provisions that allow you to create offences, usually offences with small penalties, in subordinate legislation. This, again, is bad law, and there will be amendments moved by me today to take them out of this piece of legislation.

There are, as I said at the outset, a couple of improvements in this bill over the interim scheme. The whole problem is that the whole notion of tree protection has been muddled in the ACT. What was originally proposed was to protect important, significant trees, probably about 20,000, and probably not even the important trees' mates. What has happened over time is that some people, with their enthusiasm and their capacity to get in the way of other people, have wanted to protect every tree, irrespective of who owns it and who has responsibility for maintaining it, and impinge upon people's rights to property. This is bad law. It is underpinned by woolly thinking and bad thinking. There will be some amendments to make this bill better, because it impacts so much on people's lives, but the Liberal opposition will be opposing this legislation. It should be consigned to the bin and the government should go back and start again.

DR FOSKEY (Molonglo) (11.45): Our consultation on this bill has revealed a number of problems. On some of them we share concerns with Mrs Dunne, but perhaps we have

consulted a different group of people. The government has produced a huge raft of amendments to address some of the problems that no doubt have arisen and on which it is responding to constituents' concerns. I think that those amendments indicate that perhaps the government did not do its own consultation properly when producing the initial bill and I think that it would have helped members if we had had a redraft of the bill rather than a list of amendments that is half as long as the bill itself. When you add to those amendments the amendments that I will be putting forward today and that Mrs Dunne will be putting forward, you can see that this is probably a bit of legislation that could do with a bit more workshopping.

Firstly, it must be recognised that this bill does not take an ecological approach to tree protection in the ACT. In this bill, there is no distinction between a native tree and an introduced tree. It does not improve the protection of trees in Canberra above what the Tree Protection (Interim Scheme) Act 2001 already does. However, it does reduce the amount of administration by integrating the tree protection decision making with development applications. I am glad to see a more integrated approach to tree protection and planning and I look forward to other moves to include more biodiversity protection measures in our planning system.

This bill is based on protecting individual trees, regardless of their species or their biodiversity protection values. Many of us who have flown into Canberra from more arid places are very glad to see Canberra, which looks like a city in the forest from the air and from many of the hilltops surrounding our bush capital. The Greens support tree legislation which moves towards retaining and protecting a certain amount of tree cover, not just individual trees. This bill is not designed to do that; we need a different kind of legislation to do so. But we appreciate that this bill is largely about protecting trees on an individual basis for aesthetic and landscape purposes, and there is merit in that for many reasons.

But trees do more for us than add beauty to our landscape. They actually provide multiple environmental benefits. The Greens believe that we need to protect trees in order to lower temperatures. For instance, studies have shown that having a reasonable number of trees placed propitiously around one's home will reduce the temperature inside in summer, reducing the need for airconditioners, and increase it in winter, thus assisting in lowering greenhouse gas emissions. We all know that airconditioners are one of the new products increasing energy consumption all round Australia as people attempt to ease their discomfort in summer.

Trees also increase the moisture content in urban gardens if planted carefully, thereby altering the microclimate of individual gardens and making them safer in bushfires. There are also some species that actually reduce the fire flammability of gardens. Used propitiously and with understanding and knowledge, trees not only play an important role in our efforts to improve our amenity, to make our city look more beautiful and enhance the bush capital reputation, but also have an environmental role, many of the implications of which we do not yet understand.

We all know that trees have an important habitat value for native wildlife and we all recognise that protecting remnant vegetation in Canberra is vitally important to Canberra's native fauna and contributes to the biodiversity protected within the ACT parks and reserves system. Having nature parks is all very well, but if they are isolated

from each other by treeless urban environments, they do not do much for the wildlife of our city. The effects of habitat removal and fragmentation have been particularly noticeable for woodland birds. There has been a number of articles about the loss of small birds in Canberra. There are multiple reasons for that, but habitat is a large part of it. Although this bill only address the protection of individual trees, these trees can contribute to ameliorating edge effects by providing extra habitat trees in areas adjacent to our nature reserves and nature parks.

This bill, as it stands, does not entrench strong criteria for tree protection in legislation. The only way for this legislation to afford sensible environmental and ecological protection values is if the criteria are strong. At present, most of the criteria are to be determined by the minister as a notifiable instrument, not built in as regulations. The strength of this bill lies in the criteria. The criteria for making a tree protection direction, the tree protection criteria for declaring a tree management precinct and the tree protection criteria for tree registration and the cancellation of registration are integral to the structure and strength of this legislation.

Having these vital criteria only as notifiable instruments is just not good enough. It allows members of the Assembly and the public absolutely no room for input. As it stands, this legislation is only as strong as the ministerial declarations and conservator decisions. Of course, the other aspect of it is that decisions can be made which go against the government's policies in other areas and, as Mrs Dunne has pointed out, it reduces the accountability and scrutiny available to people on this side of the house. I hope that the minister appreciates that the criteria are absolutely vital and I hope that he will support moves to make these criteria disallowable. We would also like to see some consultation on the draft criteria before they come into effect.

Having the schedule which we have with this bill of problem species which do not need to be treated as regulated trees, as currently occurs, is a very sensible approach, as we all know that not all trees are equal. On the same basis, to make tree protection legislation in the ACT take a slightly more ecological approach, it would be wise to incorporate a list of endemic species of importance. In that way, people could err on the side of caution and protect species indigenous to our area, even if they are too small and young to be regulated trees, thereby helping to conserve our local flora and fauna.

One bird that has become a problem over time is the currawong. We have found that the currawong, which had traditional migration patterns of spending time down the coast in winter and coming up to Canberra in summer as various native species flowered and produced food for them, are now inclined to winter in Canberra and are here at the beginning of spring, when other birds are nesting. As we all know, the currawong is one of the species of birds responsible for destroying eggs and nestlings and thus adding to the erosion of our indigenous species. This is very much related to the way we have changed the vegetation in Canberra. However, pest plant species, which they thrive on and which should not be included for protection, as recognised in the land act, have failed to be integrated into the Tree Protection Bill.

In terms of the criteria for tree management precincts, we would like to see a more integrated ecological approach than is evident in the draft criteria. We would like to see areas within 300 metres of a nature park or reserve and especially areas adjoining

identified lowland woodland priority areas retaining their status as tree management precincts past the interim period.

One of the major problems when it comes to biodiversity protection in the long term is that there are few large areas of ecological integrity that are not fragmented. Obviously, protecting trees on an individual basis is not going to solve that problem, but protecting trees that contribute to the buffer zones of other nature reserves and areas of identified wildlife and biodiversity corridors will help. Some woodland birds—in fact, two-thirds of Canberra's birds—use urban gardens, although most of the endangered and vulnerable species are now, unfortunately, almost totally confined to large areas of remnant woodland.

Varied sittellas have been seen in roadside trees; painted honeyeaters, which are vulnerable, and regent honeyeaters, which are endangered, have been sighted in treed gardens; and swift parrots, another vulnerable species, visit urban areas with remnant woodlands. Some of our threatened bird species, such as brown treecreepers and hooded robins, are especially affected by fragmentation and anything that we, as residents and policy makers of the bush capital, can do to further protect habitat for Canberra's native birds on leased and unleased urban land should be done.

It is vitally important to restore indigenous woodlands and expand the habitat for native fauna and flora in strategic places. Extending the tree management precincts to provide at least tree cover links and corridors with priority areas in the ACT lowland woodland conservation strategy would give some ecological integrity and contribute to making those linkages viable. This is recognised as vital by ecologists, who are concerned that with climate change it is absolutely essential to have belts that allow the migration of species as it becomes unliveable for them and they have to move. I am concerned that this legislation does not protect young trees and seedlings, the significant trees of the future. Also, it does not protect regeneration, which is important to allow the development of these native vegetation corridors to ensure the survival of vulnerable species under climate change.

This legislation will be strengthened by an accompanying education campaign. Mrs Dunne's concerns would be answered if Mr and Mrs Waramanga, Ms Waramanga or even Dr Waramanga were given advice as to the kinds of trees that would be helped so that they do not see this legislation as a mere imposition and a curtailment of their liberties, that they can actually see that they are playing a part in protecting biodiversity and ameliorating the impacts of climate change. Residents would probably like to know how to recognise a significant tree, how to recognise various tree species, the value of protecting endemic trees of various sizes and ages, how to use trees to attract native fauna into their gardens and how to look after these trees.

I look forward to the minister's closing comments to hear how he plans to take this regime forward and to integrate public participation and consultation into the formation of the criteria by drawing on the body of expertise within Canberra's community, which is very large, understanding that it is a community that on the whole cares about trees, thus integrating an ecological understanding and commitment into Canberra's planning and urban management regimes. I will be presenting a number of amendments to this bill and I will speak to those as they are presented.

MR MULCAHY (Molonglo) (12.00): Mr Speaker, Mrs Dunne and, to some extent, Dr Foskey have both expressed some real concerns about this legislation. It troubles me that there are aspects of this bill that I do not think have been thought through. I think that what we have before us is not consistent with a philosophy of reasonable and appropriate legislation. I am a bit surprised that the legislation has been brought to us with obvious question marks over it.

The example that Mrs Dunne gave of requiring compliance with Australian standard 4373 when engaging in pruning typifies some of the extreme elements contained in the legislation. This is the sort of thing that we read about in the *Sydney Morning Herald* or the *Age*. We are told, "Here they go again the ACT. They are going to out-legislate the rest of Australia. They will come up with some new extreme measure." The sad fact is that you have got to then go and defend all this stuff and try to assure people that we are serious about our legislative role. We bring in a rule or a standard such as that and apply it to every ordinary citizen in Canberra, not just people who are involved in professional areas such as horticulture. We immediately impose these expectations across the entire population of our city and assume that people have access to these things, understand these things, and can reasonably comply with them.

Mr Speaker, I am troubled that the question here seems to be how high we can build the stack of red books on the bar table and whether we can reach the ceiling with more and more legislation. We seem to want to legislate and regulate for every facet of life. Philosophically, I have a problem with that and I think that this bill is a fairly good example of what I am talking about. I know that the legislation is an improved attempt to sort out a problem but probably in its genesis—and I understand it may extend back quite a period of time—it was ill conceived. For five years we have heard about the tree register but apparently it is still nowhere near in order or appropriately documented.

I think all members here and most of our community take pride in our beautiful city, and it is important that we work to maintain it. We are not advocating that people go down to Lanyon, take out a chainsaw and be allowed to chop down the wonderful trees that are there or engage in other sorts of environmental vandalism. But I think using legislation of this kind, which seeks to embrace everyone in the city without being more selective and discerning, and which imposes expectations both at law and in various measures of compliance that are verging on being unreasonable, is not the way to go.

The bill approaches the task of the city's beautification in the wrong way. It has all the hallmarks of a draconian piece of legislation. In the first instance, it covers every piece of leased land in the urban area. I was interested to hear Mrs Dunne mention that even the Council for Civil Liberties has raised concerns that the legislation unreasonably intrudes on people's rights. Complaints have come from that quarter but these issues extend beyond any partisan interest.

The bill creates two types of protected trees: registered trees intrinsically valuable for scientific or heritage reasons; and regulated trees in a tree management precinct. But it is important to note at the outset that all of urban Canberra is to be considered a tree management precinct. I know that there are some wonderful trees in some parts of the city, particularly through the electorate of Molonglo, that it is important to maintain and that will be important for the development and future look of our city. But I am sorry,

I do not accept the view that every tree across the territory immediately needs to be protected and that we need to go to the lengths we are going to under this legislation.

The bill will require an increase in the efforts of individuals but the government is not bound to act in respect of unleased land. Trees, for example, on nature strips, verges and median strips can be left to die by the government while the leaseholders on adjacent blocks will be prosecuted for trees that die. In recent years this has been a real issue. In estimates, the Minister for Urban Services reported to us that he had a budget to deal with some of those trees. I think it was a reasonably generous amount—I may be incorrect in my figure but I think I am right—of $500,000. But he certainly recognised the magnitude of that problem. Indeed, a similar problem afflicts private owners.

What we have to do is recognise the large impact that this bill will have on the property rights of people who own land. The bill is a clear imposition on property rights and it will place restrictions on the ability of leaseholders to develop their land. The bill will prevent people being able to fully develop their blocks because of tree constraints.

It was pointed out to me only earlier today that people by and large are not in the business of going around gleefully destroying their landscape and the beauty of their blocks. But there are obviously situations where people may have to extend their homes. Trees may impede that work but usually most people would try to replace those trees to ensure the continued good look of their property. This is, after all, an investment that most of us would consider. For most people in Canberra a house would be their major single investment in life. The underlying notion here seems to be that the people do not share that level of commitment to the maintenance of the appearance of their properties and that we need to legislate and regulate to ensure that we can control them.

I am told by the leader of my party that the history of this matter goes back to the actions of one individual, whom I will not name, who was reckless and it would appear may have gone over the top in clearing a block in the city. So over some five years a raft of legislation has been imposed and the process appears not to have been handled terribly well.

Leaseholders will be required to bear the responsibility of maintaining what the government rather picturesquely calls the "urban forest". We may well want to reflect on the inability of leaseholders to maintain their trees because of the water restrictions regime. It was not very long ago that we discussed in this place the loss of property rights when the Water Resources Act came in and we tackled this very issue of people being constrained in their capacity to preserve the quality of some of the larger blocks, particularly in Red Hill and Forrest.

Some of the other things that the bill does which are of concern relate to the power of the Conservator of Fauna and Flora to ban development activity for up to five years if the conservator thinks something could cause the demise of a registered or regulated tree on a particular site. But there still is no onus of proof on the conservator and there is no requirement for the conservator to identify who damaged the tree. The leaseholder bears the brunt of anything that happens on his block and the legislation does not take into account vindictive actions by neighbours and so forth.

You do not have to be in the Assembly for all that long—and I am only coming up to the end of my first year here—before hearing about neighbourly disputes. Indeed, I had heard plenty of them before I came here. We know that people sometimes do rather malicious things for all sorts of odd reasons. It is the contention of the opposition—and Mrs Dunne has pointed this out—that the bill as it presently stands fails to contemplate situations of that nature that could result in tree damage. The victim in this case, who will be potentially punished, is the leaseholder who may in fact have had no role in causing the particular damage but who may ultimately have plans to make change.

It is troubling that the legislation creates vicarious criminal liability for directors of companies for the actions of their employees. This is an approach that always troubles me. This bosses versus the workers mindset is well fostered in this town. It troubles me because I hear it being raised. The other day a very senior bureaucrat asked me, "Why is it in your Assembly that you have always got this approach of going after business?" Believe it or not, people in business are spooked when they see these sorts of legislative measures. It makes people in business say that it is better to operate in other jurisdictions.

The government will say, "Well, we have got three per cent unemployment. Life is going well." I would suggest to you that our population growth is starting to stagnate and we have to start thinking outside the square if we are going to ensure that Canberra in fact can grow. Indeed, I would suggest it ought to be growing at a far greater rate, more along the lines of Queensland and Western Australia. So these sorts of harsh solutions that assume that employees are babes in the woods, that they are all innocents, that directors are the culprits and that we have got to make life treacherous for them if something goes wrong, are examples of what can be imposed by an over-the-top piece of legislation.

In summary, I do not agree with everything that Dr Foskey said but I do agree with her observation that there are a number of flaws in this legislation that ought to be considered. Mrs Dunne has expressed the view, which I share, that it is a bad bill. Of course, what the bill is all about is shifting the responsibility of urban amenity onto leaseholders. We have seen this happen in a range of portfolios. Once an agency decides to run against a small individual, to use an American expression, "it is pretty hard to beat city hall".

I am troubled that there will be people who, through no malicious intent, may find themselves on the receiving end of some of the offences contemplated in this bill and may pay a heavy price for not being across and knowing the rather onerous provisions that we are imposing on the people of Canberra. I am also troubled by the limitation of leaseholders' rights on their property. It does not seem to be legislation that I would have thought was philosophically in line with the Chief Minister's view of how things ought to operate.

Yes, we need to preserve our city; yes, we need to deal with rogues or those who would be reckless in their conduct. But for heaven's sake, let us not start imposing a regime on every single householder in Canberra and say, "You had better comply with this, you had better be able to do that, you had better know when you prune that tree"—and a lot of people are getting to that stage now as we are going into spring and heading towards summer—"what clause 13 of this bill is about, what AS4373 is." For heaven's sake, I would suggest that there would not be one single person in this chamber who could tell

you what that standard is and I would suggest to you that if we surveyed our electorates you would be lucky if you found a single soul who could actually tell you what it is.

There is no evidence of a comprehensive education program to complement this legislation. It is simply giving the heavy hand of the law more control over our populace. There will be more regulation and more legislation, which is more in line with big government and controlling peoples lives than coming up with a sensible approach to deal with whatever problems may have been identified.

MR SESELJA (Molonglo) (12.12): We as Canberrans love our garden city. I think we love the fact that we have bushland and parkland on the edge of most of our suburbs. We pride ourselves on the many beautiful gardens that form part of our city and, of course, significant trees play an important part in the look and enjoyment of our suburbs. Because of the value that Canberrans place on their gardens and the look of their suburbs, I think this legislation is unnecessary.

I would echo many of the issues that Mr Mulcahy has raised. I believe that wherever possible landowners should be able to manage their properties as they see fit without undue government interference. Of course, at times there will be rogues but the question is: do we then apply strict measures across the community in response to the actions of a very small minority of Canberrans?

Canberra householders should be trusted to have an interest in ensuring that their gardens look good, and this will often mean planting and maintaining significant trees as a feature of those gardens. As a general rule, I do not see any mad rush by Canberrans to get rid of trees in their gardens. Many enjoy the shade provided by the trees; many enjoy the amenity that goes with that. Sometimes, though, trees are a nuisance. They do not always add to your garden, they do not always add to a streetscape. I think what this legislation does is basically say that big trees are always good and therefore getting rid of them is always bad, and we will make it an offence to do so. I think this approach is paternalistic and unhelpful.

We are basically saying to Canberrans, "Look, if we do not put in place these laws, we are afraid that all of you environmental terrorists out there will clear your gardens." I see no evidence of that happening. I see no evidence that people have any great desire to get rid of their trees. There are circumstances in which trees are unsafe. There are circumstances when, say, a family wants to extend their home or where a tree just does not fit in with a garden anymore, people will want to remove or significantly prune trees. But I do not see any evidence that a lot of people will be trying to get rid of their trees.

I think the unfortunate attitude that underlies this bill is, "We need to look after trees. If we do not, if the government does not step in, then there is going to be trouble and there will be no trees left in Canberra and people's gardens will be destroyed." It is not in people's interests to do that. It is in people's interests to maintain their gardens, to have them looking good and, as I said earlier, that often will involve maintaining significant trees. But there are circumstances in which that is not a good outcome. I do not think we should be imposing such significant penalties and putting in place such a rigid framework which essentially prevents landowners from looking after their property in a way that they see fit.

This legislation gives trees a special status. As I have said, we all enjoy our trees. Dr Foskey spoke about a study that shows that it is good to have trees around your house because you will have shade in the summer and, of course, if the trees are deciduous you will get sun in the winter. Well, everyone knows that—we do not need a study to tell us that. People will make their own decisions about these things. For most people it is a good option to have trees. But, of course, it not such a good outcome if trees are going to fall on your roof in a storm. It is not such a good outcome either if trees are going to fall on your children while they are playing. So there needs to be a little more trust, a little more ability to let ordinary Canberrans look after their properties, look after their families, and do as they see fit. If we do that, I do not think there will be a rush to get rid of trees. I do not think there will be a rush to strip gardens bare and concrete the yard. I think that is just not going to happen. So I do not exactly know what sort of terrible outcome this legislation is seeking to prevent.

I was concerned about recent reports of a home owner in Gungahlin who, under the current regime, which I also have concerns about, was prevented from removing a large tree in his backyard. He had serious safety concerns about the tree and I think he even went to the AAT. The decision went against him and he was prevented from removing or trimming back the tree in order to prevent injury to his children. This is where we have gotten to. It is absolutely ridiculous that people should not be able to manage the trees in their backyard in order to look after their families.

I think this legislation goes way too far. Mr Mulcahy summed it up fairly well when he said that this is just another crazy imposition of government regulations on ordinary Canberrans. I do not see any great mood in the electorate in favour of adopting this kind of legislation. People are not calling me up and saying, "When are you going to give more protection to my trees?" As I stated at the outset, people want to see a garden city, people enjoy trees in their neighbourhood, and I do not see the argument for the legislation.

I think this legislation could actually be counterproductive as far as our streetscapes are concerned. One issue would be in relation to trees that are approaching the 12-metre mark, where they suddenly become significant. A lot of people say to me, "I would be better off getting rid of some of those trees before they reach 12 metres so that later on I might not have a problem." They might not even want to get rid of the trees, they might be quite happy with the trees, but they may have a concern that three or four years down the track they will not have the ability to put on an extension or cut the trees back if they present safety concerns, as we have seen in Gungahlin under the current regime. I do not think this will change under the regime proposed by the bill that is now before us. So I do have some significant concerns about what underlies this legislation.

Mrs Dunne, Mr Mulcahy and Dr Foskey have expressed concerns about how this legislation will work in practice. I acknowledge the backdown by the environment minister on elements of strict liability for residents. Previously, of course—and this will be addressed by amendments that are going to be moved—a home owner would have been exposed if, when conducting activity in the garden, a tree was accidentally damaged. I think that is a real concern and is really over the top, but I note that that is going to be amended. I certainly welcome that change. I know that Mrs Dunne and the rest of the opposition are also of that view.

There seems to be an increasing willingness to use strict liability. There is certainly a place for strict liability in legislation but I think this needs to be done very carefully. We do not want people who had no intention of doing any damage, doing anything wrong, or even acting recklessly, being found guilty of an offence. We want to be careful about imposing penalties on such people. I think there are very limited circumstances in which we should do that. It is obviously appropriate to use strict liability in areas such as speeding, where extensive education programs are conducted. But I think the use of strict liability needs to be carefully constrained and I am pleased that that will be changed in this legislation.

I have concerns, too, about the size of some of the penalties. Clause 15—I do not think this one is being amended but someone can correct me if I am wrong—provides for a maximum penalty of 400 penalty units. The last time I checked, I believe 400 penalty units was somewhere in the vicinity of around $40,000 and I think for corporations the amount might be $200,000. So we are talking about significant penalties.

In a previous life I dealt with matters of aviation security and the aviation security regime and I know that it was a big deal if you put forward an offence that had a penalty of around 200 penalty units. I know that the people at Attorney-General's would have been very concerned, and rightfully so. But that was in the context of aviation security and protecting the safety of Australians as they travel. I would not put this in the same category as protecting significant trees. Four hundred penalty units for damaging a protected tree seems like an over-the-top penalty and quite a significant penalty, and this highlights the extreme nature of some elements of this legislation.

I am also concerned about the way in which "significant" trees are to be identified and the level of resources devoted to the inspection and identification of trees under the protection register. In a briefing on this legislation that members of my staff attended earlier in the year there was discussion about the process of going to each suburb and identifying which trees would be "significant" and which ones were "protected". Officers of Environment ACT at that briefing confirmed that there would be no dedicated officers tasked with this audit of trees. The three officers currently involved with compliance, who we were told are already underresourced and balancing a large number of tasks and priorities, are going to be expected to take up this work in addition to the compliance work they do now.

It seems that on the one hand there are high penalties and impositions placed on landowners and on the other hand there does not seem to be proper resourcing to put the process in place. I find that a little bit confusing and I am not quite sure what the government's intentions are. But it does demonstrate perhaps that this has not been as well thought through as they would make out.

In summary, the opposition will be opposing this legislation. I am happy to lend my voice to that opposition because I think the bill does place an undue burden on property owners in the ACT. I think in some circumstances it will unnecessarily stifle development. In that sense it can add to the price of houses, it can add to the price of an extension. I think, for all those reasons, it is an undue burden on Canberrans. It is unnecessary. There is no compelling case to put in place this kind of legislation and I will be opposing it.

MRS BURKE (Molonglo) (12.23): Mr Speaker, quite bluntly and with apologies to the PCO, this bill is a crock. We have heard in this place all the reasons why it should not go ahead. The bill appears to be trying to dig the government out of some sort of hole it got itself into in the last Assembly. The original legislation started off as a very good idea. We are known as the garden city and the bush capital. We are a capital that has gardens. But what we have now is legislation to which bits keep being bolted and added, and this is becoming quite a concern to the average home owner in Canberra.

Canberrans love their gardens—I love my garden—and more often than not they go to great lengths to preserve trees on their blocks, not knock them down. My colleague Mr Seselja and others have brought up issues about unsafe trees and home extensions. We want people to stay in Canberra. The more we keep doing stuff like this, the more we are saying to people, "We will just make it hard for you to live here. We will just make it more difficult, more prohibitive. We will become the nanny state. We will take over and we will tell you how to run your life."

Last year a really beautiful gum tree on my nature strip started to keel over and eventually burst a water main. Workers in eight trucks turned up to repair the damage. I wanted to know what could be done about the tree because branches were falling off. I did not know whether the tree was protected or unprotected. It could well have been. I, being in this place, should know more than anybody, possibly, but there is nothing in situ to tell the average Canberran what is protected. I note that under proposed section (15) (1) (a) of part 3 of the bill a person commits an offence if the person does something that damages a protected tree. By default, not everybody in Canberra is a gardener. How would the average person know whether a tree is protected?

In view of the water restrictions, we have to look at this matter in a whole new light. The whole thing is concerning. The intention of the original legislation was good. But how far should we go in telling people how to run their lives? The bill places undue pressure on leaseholders and on business people. I know the government has made some moves to change some of the issues regarding fines et cetera but it needs to do more.

Mr Speaker, I would also go further and say that possibly the Molonglo electorate will be the electorate that is most impacted by this legislation. Why? Because it contains some of the oldest suburbs where, for obvious reasons, people will want to redevelop or undertake extensions. Also, the trees are older and in some cases are becoming dangerous and so forth. I believe that, for reasons that have been pointed out, the people in these suburbs will bear the brunt of what I now see as over-the-top legislation.

Although this exercise started off sensibly, we now see that there is to be the protection of trees around trees or, as we heard in this place, "big trees' mates". As amusing as that description is, we have now entered an era in which we seem to be telling people more and more about what they can and cannot do. This is clearly a huge imposition on people's rights. I am concerned that there are 34 amendments and six consequential amendments to this bill. Are people going to know what is in the legislation? How are we going to educate the community? How are we going to stop people from being fined as a result of falling into a trap that they did not know about? I am sure we all want to see our garden city preserved but do we need the government, do we need us as legislators, to keep telling people more and more what they can and cannot do in their lives?

As I said, I have concerns about the dissemination of information about what is in the bill. I note that the Chief Minister is smirking and laughing, as is his wont. I would love to hear from the Chief Minister, in his capacity as the Minister for the Environment, how he is actually going to tell the people out there, everybody—

Mr Stanhope: You do know, don't you, that this is Brendan Smyth's legislation; that we are actually amending Brendan's bill?

MRS BURKE: You will get your turn. Would you like to be quiet and let me have my turn? Mr Mulcahy talks of the government—

Mr Stanhope: All we are doing is amending Brendan's bill.

MRS BURKE: Point of order, Mr Speaker.

MR SPEAKER: Order!

Mr Stanhope: I do not think any of you know that. We are amending your leader's bill.

MR SPEAKER: Order, Chief Minister! Mrs Burke has the floor.

MRS BURKE: Thank you, Mr Speaker. Of course, we have obviously hit a nerve with the Chief Minister who says that he is amending the Liberals' legislation. He has had to make some changes because in the last Assembly the Labor Party and the Greens got together to alter the legislation in a way that was absurd and not intended for good purpose. I am glad to see the Chief Minister is so touchy. I cannot wait to hear his comments and his response to what we have said. It is always a real giveaway that we have made a point when the Chief Minister has a flame up. The fact is that Mr Mulcahy also made a point about the government going after business. Upon reading some of the things that are in the bill, why would you want to be a developer in this town? Why would you want to come in? The bill refers to "doing prohibited groundwork, work done as part of a business". Why are we going for businessmen? Perhaps the Chief Minister will tell us why he is doing that.

The bill has gone so far into the heart of our community and will really—

Mr Stanhope: Read the second reading speech.

MRS BURKE: Would the Chief Minister like to shut up? He will have his turn soon.

MR SPEAKER: Order!

Mr Stanhope: Brendan will tell you why he introduced the legislation.

MR SPEAKER: Order! Chief Minister, order!

MRS BURKE: Thank you, Mr Speaker. Obviously, what I am saying has hit a delicate spot with the Chief Minister but there, there: you will have your turn. The impact of the

bill will go to the heart of our community and, gosh, it will hit people's human rights—have we thought about that? I said in this place when the Chief Minister tabled his Human Rights Act that he would open a can of worms. So let us wait and see what happens there. I am sure that people will really enjoy legislation that will add more imposts to their lives! The bill will be passed, notwithstanding the support of the Greens. However, I suggest that the government scrap the bill that it wants to bolt onto the original legislation and go back to the drawing board.

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 12.31 to 2.30 pm

Ministerial arrangements

MR STANHOPE: Mr Speaker, for the information of members, my colleague the minister for education is not available today or this week as a result of personal issues that affect her. I am available to take questions in relation to Ms Gallagher's responsibilities as minister for education, and my colleague Mr Corbell is available to take questions in relation to children, youth and family services, industrial relations, and women.

Questions without notice

Disaster planning

MR SMYTH: My question is to the Chief Minister. On 25 August, in response to a question without notice about evacuation plans, you stated that there is:

> … the suggestion that because there is no concrete document or piece of paper that is the plan, there is no plan.
>
> We have a detailed plan for what will occur in the event of an emergency.

Regardless of whether or not these plans are committed to paper, are you satisfied that the incident management and evacuation plans that your government now has in place are sufficient to deal with any potential emergency or terrorist threats in the city, Belconnen, Tuggeranong or other town centre precincts?

MR STANHOPE: I thank the Leader of the Opposition for the question. There is no more important question than that involving our preparations and the state of our preparedness to deal with disasters, whether they be natural ones or those issues we potentially face as a result of terrorism and terrorist activity around the world.

It is impossible for me to say, as invited to by the Leader of the Opposition, that we have in place arrangements that would allow us to deal with every conceivable or imaginable terrorist scenario. There are potential scenarios about which no government anywhere in the world could, in some circumstances, say that it has arrangements in place for or has the capacity to respond to. One could imagine a terrorist attack of an order that, simply, it would not be possible, in terms of simple resources, manpower or other physical capacity, to respond to.

So, no, I cannot stand here and say that, in relation to any potential terrorist attack that I could conceive of, we have a capacity to respond appropriately. For instance, if there were a nuclear attack, I could not stand here and say that the ACT government has the capacity to respond to a nuclear attack upon the ACT; we do not. Those are the issues that we face and that occupy the thinking of the world.

In terms of the state of preparation, the training that we have in place and the work that we have done as a jurisdiction: I have confidence in the administrative and governmental arrangements that have been put in place by the ACT government, in collaboration and in very close consultation with the commonwealth, commonwealth agencies, across the border and in concert with other jurisdictions around Australia. It is something that has been done in full consultation with the commonwealth.

I have always made the point that one great advantage that we have in the ACT is that ACT Policing, who are the lead agency in relation to our response to terrorism and all other criminal behaviour, are an extension, at one level, of the Australian Federal Police. That gives us a very significant advantage in the ACT. Our police force is part of the police force that has overall responsibility as the lead agency for responding to terrorist threat or terrorist incidents in Australia.

We have in place a detailed structure. We have engaged in a range of exercises. We have been confronted, particularly through the white powder incidents, with real, live, on-the-ground terrorist-type incidents. We are, in fact, in that respect, the jurisdiction in Australia that has responded most directly to events that presented at the time as genuine. They, thankfully as it transpires, were not genuine, to the extent that the white powder did not contain what might have been feared at the time.

Our authorities, led by ACT Policing and supported by the Emergency Services Authority on all aspects of that, in close cooperation with the commonwealth, responded with great professionalism. The planning that had been undertaken kicked in seamlessly. Relationships between ACT authorities and commonwealth authorities worked as anticipated. We have learnt from that experience. We still have much work to do. The work is being done.

The question that the Leader of the Opposition raises in relation to the management of incidents that would require or would result in evacuation is an example of an area where more work can and will be done. As one can say always, there cannot be too much training; there cannot be too much analysis; there cannot be too much in the way of organisation in relation to any threat, whether it be terrorist or otherwise. We need to continue to work at our arrangements, our preparedness and our training.

MR SPEAKER: The minister's time has expired.

Disaster planning

MR PRATT: My question is to the minister for emergency services. On the evening of Wednesday, 7 September 2005, there was a bomb scare when a suspicious package was left outside Eclipse House on London Circuit, opposite the Legislative Assembly building. The police cordoned off streets and evacuated nearby areas in their customary

professional way. At the time of this bomb scare, a public function being attended by in excess of 30 people was under way in the reception room of the Legislative Assembly and staff also were working in the building. Minister, why, during this incident, was the Legislative Assembly building not checked for occupants by the authorities, given the proximity of the incident? Why were visitors and staff in this building not asked to evacuate by the authorities or at least informed about the incident when nearby streets and other buildings had been cordoned off?

MR HARGREAVES: I have every confidence that in this sort of incident the professionalism of the police force in this town would come to the fore and that they would make these judgments. They would, of course, take those sorts of decisions about just how far and how wide to cast the net concerning evacuation. I am not aware of the detail of their decision making and I will find out.

Canberra Hospital—mental health precinct

MS MacDONALD: My question is directed to the Minister for Health. Today the government announced that ACT Health is considering the development of a mental health precinct at Canberra Hospital. How will this precinct enhance mental health services at Canberra Hospital?

MR CORBELL: Today the government has outlined that it is undertaking the planning work to identify locations for new mental health facilities at Canberra Hospital. These include locations for a new psychiatric services unit; locations for a new forensic facility to accommodate mentally ill persons who would otherwise be inappropriately placed in areas such as the Belconnen Remand Centre; and facilities for young people who are currently, in my view, inappropriately housed in the psychiatric services unit along with adults who also have a mental illness.

This mental health precinct is part of a new approach to planning for mental health services in the ACT. The objective is to provide high-security adult and young persons services, and possibly other inpatient and outpatient services. Establishing this precinct will increase our capacity to provide facilities that will increase bed numbers and, importantly, provide for support between the various facilities as they work together in a single location.

The site being considered is in the southwest corner of the Canberra Hospital campus, which—for those members who might not be familiar with it—is essentially on the corner of Yamba Drive and Hindmarsh Drive in the Woden Valley. Currently the ACT has about 30 acute adult beds and a crisis assessment and treatment team located at the Canberra Hospital, and 20 adult acute beds at Calvary Hospital for mentally ill people.

The planning work we are undertaking identifies 20 acute beds for young people aged 13 to 25; 30 acute adult beds; and a 15-bed high-security facility at the Canberra Hospital, which will include services for forensic mental health patients. There is also a proposal to collocate the crisis assessment and treatment team with the emergency department in the Canberra Hospital to create a psychiatric emergency centre.

This highlights the comprehensive planning work the government is now undertaking to provide the basis to make future decisions about new mental health facilities at the

Canberra Hospital. This government has a strong record of improving funding to mental health services. When we came to office, $82 per capita was the level of expenditure on mental health in our community; it is now more than $130 per capita. We have a strong record of improving funding to mental health services.

We have a strong commitment to planning for the future, not just in terms of acute care—although that is obviously the focus of today's announcement—but also in continuing to provide greater support for people in the community who obviously need ongoing care and support, even though they may not be suffering in any way an acute episode of mental illness. That is why we have expanded services, for example with more outreach services in Gungahlin; why we have provided additional support to elements such as the crisis assessment and treatment team; and why we continue to support our workforce with scholarships for mental health nursing, the appointment of a new chief psychiatrist and so on.

The government is working through a comprehensive approach to improve mental health services in our community. Today's announcement in relation to a new mental health precinct is just another step in that ongoing work.

Bushfires—pine replanting

DR FOSKEY: My question to the Minister for the Environment concerns the management of the lower Cotter catchment area. Given that the minister commissioned a scientific study into revegetation options for the fire ravaged lower Cotter catchment area and the consequent public understanding that water catchment values would be prioritised, is the minister aware that pines continue to be planted in the catchment area, including in drainage lines where disturbance and the fertiliser and poisoning regime have an adverse impact on water quality? Further, is he aware that the promising post-fire regeneration of local species is being bulldozed in order to replant pines despite the short and long-term impact on water quality?

MR STANHOPE: I thank Dr Foskey for the question. I think about 1000 hectares of pines have been planted or replanted in the lower Cotter catchment over the past couple of seasons. I do not know the exact number but I believe somewhere in the order of 1000 hectares of pine have been replanted in the lower Cotter. To the extent that the question posed was: "Are you aware that pines continue to be planted?" no I am not. I understand that the planting of all pine in the Cotter catchment for this year has ended and that there are no more pine plantings being undertaken at all in the Cotter catchment at this moment.

As we speak, I understand that all pines that were planned to be planted in the Cotter have been planted and that at this stage no planting of pines is being undertaken; nor is it envisaged that there will be any more pines planted in the Cotter until the detail of a scientific analysis that has been commissioned from the CSIRO is available. I am not sure if it is just a purely CSIRO study. It is a scientific study headed up by the CSIRO and I am not sure if the CSIRO has partners in that particular research task.

But to the extent that Dr Foskey asked if I was aware that pines continue to be planted, I have to say no, I am not. My advice is that pines are not at this stage being planted in the lower Cotter catchment.

DR FOSKEY: Mr Speaker, I ask a supplementary question. What is the minister doing to ensure that the Cotter catchment returns to its earlier ability to produce some of the highest quality potable water in Australia?

MR STANHOPE: We have undertaken and continue to undertake very significant work in the lower Cotter. At the moment, the work that is continuing within the Cotter is the planting of endemic species within all riparian areas and all drainage channels within the catchment. In addition to that, extensive work has been undertaken on the realignment, the regrading and the reconfiguration of all roads within the catchment. Further, very significant erosion and runoff amelioration work in gullies, riparian areas and drainage channels continues to be undertaken.

There is very significant physical work being done within the catchment in relation to the control of erosion and runoff in gullies. As I understand it, all roads have been assessed and resurveyed and are being regraded and reconstituted according to best practice to ensure that the level of runoff from roads is limited and controlled to the greatest extent possible. Significant work has been done in close collaboration and consultation with the best expertise that we can avail ourselves of, particularly through the CSIRO and the Australian National University, in relation to repair and replanting within riparian areas in the boundary to the Cotter Dam itself. Some of the initial advice, for instance, that was provided to the government through the shaping our territory report in relation to the width of riparian area indigenous plantings and the boundary to the Cotter, has been expanded on significantly to broaden all of those areas quite substantially.

In addition to that, as I have said and as I have previously announced, the government has engaged as a lead agency the CSIRO to provide detailed advice on the plans for the future planting and restoration and rehabilitation of the Cotter catchment. I cannot imagine what further detailed work or what further detailed and expert advice we could possibly commission or receive in relation to the lower Cotter other than we have done.

The number one issue for us in relation to the Cotter is water quality. There is, of course, a debate, at one level ideological, about whether or not pine forests are intrinsically evil and that pine forests should never ever be placed within a catchment. I think it is a pity that the debate around catchment is distorted by debate around the relative evil of different species of trees. There are catchments around the world, certainly in the Rockies, in most of Canada and through half of Europe, where pine forests constitute the entire catchment.

Pine forests per se are not an evil and do not necessarily impact negatively on water quality and a water catchment. It is the management of the catchment and the management of the forest that, of course, is the most significant of the issues. That is recognised by Environment ACT and by Actew. It is at the heart of the detailed work being undertaken by Environment ACT, Actew and the Office of Sustainability, in concert with a number of partners, headed up, of course, by the catchment management advisory group, which I appointed, chaired by Professor Jones, and which is given detailed advice on the way forward in relation to the management of the Cotter. At every step of the way I have taken the advice proffered to me in relation to the restoration and the management of the Cotter catchment to ensure that our number one priority in

relation to that catchment, namely the quality of our water, is the pre-eminent consideration, the dominant consideration. Those are the facts.

That, of course, flows directly into the other decisions that were taken in relation to securing our future water supply. Now, more than even two years ago, with the reticulation arrangement that we put in place—namely, our determination to draw from the Cotter and the Murrumbidgee through the reticulation plan that will be completed sometime within the next six weeks—we propose to depend for our future supply on the Cotter catchment to an extent or degree which we never previously imagined.

Disaster planning

MR STEFANIAK: Mr Speaker, my question is to the Chief Minister. Chief Minister, in the *Canberra Times* on 25 August 2005 you were quoted as saying:

> The ACT Emergencies Act 2004, the ACT emergency plan and the evacuation strategy all combine to provide a high level of preparedness to effectively manage evacuations in the ACT.

During the bomb scare opposite the Legislative Assembly building on 7 September 2005, members of the public and staff inside the building were not formally warned by police or the ESA about the suspected bomb. How can people, particularly building occupants and members of the public, be expected to respond appropriately during such emergencies if they are not properly warned in the first place?

MR STANHOPE: I thank the shadow Attorney. I guess to respond appropriately to the question, it comes down to a discussion or an analysis of the claim around what is a proper warning.

Mr Smyth: There was no warning!

MR STANHOPE: It may be that no warning is appropriate in certain circumstances. As I have previously explained, the evacuation process, or procedures, which underpin the ACT government's or the Emergency Services Authority's response to evacuation and evacuation plans depends very much, of course, on an individual and personalised assessment of each incident. It is a process that is determined by the incident assessment undertaken by one of the professionals within ACT Policing and the Emergency Services Authority in relation to the particular matter. That is, and underscores, the entire philosophy and process that will be employed in relation to incident management and evacuation as part of an incident within the ACT.

Mr Smyth: But nobody checked the building!

MR SPEAKER: Order, Mr Smyth!

MR STANHOPE: It is a system which relies on the expertise and professionalism of the person charged with responsibility for a particular incident to make judgments around how that particular incident will be managed—whether or not, on the basis of that particular assessment, that officer takes the decision that, in the circumstances, and all

the circumstances as known to him, an evacuation is the appropriate response to the incident.

Mr Smyth: But they didn't check the building at all!

MR STANHOPE: That is the assessment the individual takes.

Mr Smyth: How can they respond appropriately—

MR STANHOPE: The individual plan that will then be determined—

Mr Smyth: On half the information?

MR SPEAKER: Order, Mr Smyth!

MR STANHOPE: on the basis of pre-existing planning and arrangements, will then flow from that. This was at the heart of the questions and the answers and information I have previously given around the nature and structure of incident management in the event of a terrorist or other hazardous situation.

As Commissioner Dunn has explained time and time again, in relation to any situation—whether it be as a response to a natural disaster or a man-made disaster, whether it is an incident of that order which presents a risk to public safety and to the safety of individuals—the approach that will be utilised by ACT authorities will be an assessment on the spot by an expert led, in the ACT, by ACT Policing, supported at all times by the services of the Emergency Services Authority. An assessment will be made on the ground, on the basis of all the information related to the particular incident. An individual incident management plan will then be developed and will be implemented—

Mr Smyth: They didn't check the building!

MR SPEAKER: Order, Mr Smyth!

MR STANHOPE: that may or may not involve a need to evacuate a building. It may or may not involve the need, for instance, for road closures; it may or may not involve the need for associated buildings to be evacuated. Those are decisions that will be made at the time. The other training which is then associated with those particular decisions; for instance, personal or particular building or site evacuation plans—and we have them here—

Mr Smyth: Yes, but you've got to tell people!

MR SPEAKER: I warn you, Mr Smyth!

MR STANHOPE: We regularly train, as occupants of this building, in building evacuation procedures. Those of us who occupy this building know what the process is; or, if we do not, we should. We have no right to ever suggest we do not know or understand the evacuation procedures that apply to this particular building. Whether or not this particular building, in any particular circumstance, should be evacuated is a decision which, in accordance with the incident management arrangements that have

been put in place in the ACT, will be the decision of the particular expert incident manager appointed to this particular incident. We now await those directions before evacuating. We do it through a system of alarms. That is the procedure that will apply throughout the ACT in relation to incidents that might or might not involve a terrorist attack.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Chief Minister, how can you ensure that, during a future emergency, the surrounding buildings are actually checked to see if there are occupants there to ensure that any emergency evacuation is managed properly?

MR STANHOPE: These, of course, are issues around our state of preparation, our planning and the extent to which individual building managers take seriously their responsibility for the protocols and procedures in relation to the evacuation of their buildings. We can use this particular building as an example. Each of us in this place knows we have an evacuation plan, procedures and protocols. They are made available to each of us. Each of us has a personal responsibility to ourselves, and indeed those of us that are employers, to our staff, to ensure that those arrangements are understood.

We have in place in this building a set of procedures and protocols in relation to evacuation. It is the responsibility of everybody in this building, including our building managers, to ensure that each of us takes those seriously and complies with them, and that all of the processes that constitute the evacuation plan and procedures for this building are obeyed implicitly and not treated sneeringly.

Schools—Ginninderra

MRS DUNNE: My question is to the Chief Minister in his capacity as Acting Minister for Education and Training. Chief Minister, on 24 August the minister for education, Ms Gallagher, responded positively to a request from the Parents & Friends of Ginninderra district high school that Ginninderra district high school not be considered closed until 20 January 2006 and, further, that no item of furniture or paper or whatnot be removed or disposed of before then. Since that meeting, we have been told that there have been at least two collections of furniture from the school, the latest being last Thursday during school hours. Chief Minister, why was the furniture removed from Ginninderra district high school against the wishes of the P&F and despite the undertakings of the minister?

MR STANHOPE: I am not aware of removal of furniture vital to the continued conduct of Ginninderra district high school for the cohort of students that constitute the school community at Ginninderra high school. It may have been. I have no advice on this, and I am more than happy to take advice from the department on the specifics of the assertion that has been made.

The department of education and the ACT government take very seriously the educational needs of all the students at Ginninderra district high school. We will not do anything to jeopardise the capacity of the department of education and the staff at Ginninderra district high school to continue to provide the full range of educational services and support to the students at Ginninderra district high school now or at any time.

It may be—I do not know—that furniture has been removed. If it has been, I would be absolutely sure that it was furniture that was excess to the requirements of the students at Ginninderra district high school. I acknowledge, of course, that it is a very small school population. There is a population of something in the order of 160 students at a school that was built for 900.

Mrs Dunne: I raise a point of order under standing order 118A. I asked about the removal of furniture, not about the size of the school. I ask the Chief Minister to confine himself to addressing why the furniture was removed when the minister made an undertaking that it would not be.

MR SPEAKER: Stick to the subject matter of the question, Chief Minister.

MR STANHOPE: I will, Mr Speaker. I do not know whether any furniture was taken from Ginninderra district high school. I feel absolutely confident that absolutely nothing would have been done by the department or by staff at Ginninderra district high school in relation to furniture that would in any way impact on delivery of services or the education of children at Ginninderra district high school. I simply make the point that, in a school that was built for somewhere in the order of 900, it is conceivable that there is an awful lot of furniture within that school that is not now required and has not perhaps been utilised for years as a result of the fact that the school population has dropped from about 900 to about 160. It is quite conceivable.

Mrs Dunne: The minister said she would not remove any.

MR STANHOPE: If the minister did give such an undertaking—and she may have; I do not know what she may have said—under no circumstances should it be construed that the minister or the department or the staff of the school have taken any step that would impact on our capacity to provide quality education to the children at Ginninderra district high school.

What is the member suggesting: that the chairs and the desks of the remaining students, the 160 out of a potential 900, have been whipped away and that they are actually having their lessons on the floor? What is seriously being suggested: that we have actually ripped the chairs and the tables and the computers out of the school? Let me give you an assurance. Nothing will have been done at Ginninderra district high school in relation to the furniture and the fittings of that school that will impact on the quality of educational outcomes or on our capacity to support the students at Ginninderra district high school to the absolute limit.

MRS DUNNE: I ask a supplementary question. Chief Minister, is it government practice that removalists throw desks and bookshelves down stairwells to ensure that they are completely broken? Do you think it is entirely sensitive for the government's agents to behave in this way during school hours in front of students who are still coming to terms with the destruction of their school community?

MR STANHOPE: The answer to the question is no. I think Mrs Dunne needs to reflect on that question and on the aspersions that she has cast in relation to anybody who might have been or is involved with that particular school. It really is quite scandalous for

a member to stand up in this place and make claims, as assertions of fact, of the sort that we have just heard from Mrs Dunne. It is scandalous. It is quite inappropriate for Mrs Dunne to stand up in this place and make claims of that sort as fact. The answer to the question is no.

Schools—Ginninderra

MR SESELJA: My question is to the acting minister for education, Mr Stanhope. I refer to correspondence between the acting manager of the facilities management section and the director of budget and facilities in the education department. In a letter of 16 May this year with regard to the project plan for rebuilding on the Ginninderra district high school site, the acting manager stated:

> There is no allowance in this timeline for public consultation with community groups or other interested bodies. This consultation will have to be done concurrently with progressing the project. It will mean that designs will be approved with little or no input from these bodies.

Why have you abandoned your much-vaunted community engagement policy on this project?

MR STANHOPE: We have not abandoned our commitment to community consultation. With this project we have done something that the previous government did not do in relation to Charnwood. As a government, we have acknowledged the fundamental importance of public education to a fair and just society, to a truly equitable society. As a government, we have made the sort of undertaking that no other government of this place has ever made in relation to the renewal of educational services and facilities within a part of Canberra that I think we all acknowledge is an area that is not as advantaged socioeconomically as many others.

How have we expressed that? We have expressed that through a commitment to build, at a cost of $43 million, the best possible school that it is within our remit to build. That is what we are doing. We plead guilty to that. We plead guilty to identifying $43 million to renew educational infrastructure in an area that everybody in this place acknowledges represents a part of Canberra with certain challenges and disadvantages that are not a feature of other parts of Canberra.

We have taken a decision, as a result of our commitment to public education, our commitment to equality, our commitment to fairness and to fair outcomes, to provide to the people of west Belconnen the best possible school that this community can provide. I am incredibly proud of that. This school will be a fantastic legacy of this government and of the minister, Katy Gallagher. The minister, through the government, has delivered to the people of west Belconnen the best school bar none. Let's not misunderstand what it is that we propose. We propose to build the best school bar none in the ACT. This school will take on all comers. This school will provide an environment and learning opportunities on a par with what you might regard as the best school in the ACT. That is what we are talking about. We are talking about that.

Mr Smyth: I take a point of order, Mr Speaker. The minister has been going for 2½ minutes. The question was about why the government has abandoned its community

engagement policy. It was not about building the best school, as he asserts. Could he please come to the abandonment of the government's engagement policy.

MR SPEAKER: Come to the subject matter of the question, please, Chief Minister.

MR STANHOPE: That is what we have committed to and that is what we will deliver. It does need to be said, Mr Speaker—

MR SPEAKER: Order! Come to the subject matter of the question.

MR STANHOPE: I cannot recall what the question was; it was puerile.

MR SPEAKER: It was in relation to community engagement.

MR STANHOPE: In order to deliver the best possible school to the people of west Belconnen we will engage with the community of west Belconnen in the way that we have. We will not do what the opposition has done, that is, oppose this school or any proposal at any cost. There is nothing, absolutely nothing, that the government can do, say, promise, undertake or deliver in relation to the Ginninderra district high school, the new best school in the ACT, that will ever meet the approval of the opposition. You are totally and intractably opposed to this proposal and there is nothing—

Mr Smyth: I take a point of order. Mr Speaker, the Chief Minister continues to ignore you.

MR SPEAKER: Order! I have heard the point of order. Chief Minister, have you finished? Come to the subject matter of the question or resume your seat.

MR STANHOPE: We are consulting, and we are consulting at every level. The minister has gone out of her way to consult with the people of west Belconnen in relation to this school. She has convened and hosted two major community forums. She has produced a detailed response to every single question that has been posed to the department in relation to issues about the school. She has responded in relation to community concerns about the proposal in relation to the rebuilding of Ginninderra district high school by engaging an independent consultant to give advice on a particular issue. It needs to be said in relation to the community consultation that it can be followed through the history of the two public meetings that the minister has sponsored. Attendance at the first was very significant, between 250 and 300 people. It was reduced to 100 or just under at the second of the two meetings. So we can actually determine through that the extent to which the community is satisfied with the level of contact and consultation as part of this process.

MR SPEAKER: Order! The minister's time has expired.

Disability services

MS PORTER: Mr Speaker, my question, through you, is to the Minister for Disability, Housing and Community Services. Can the minister please inform the Assembly of any recent developments in the area of disability in the ACT?

MR HARGREAVES: I thank Ms Porter for her question. The ACT government believes that all people in the ACT should have the opportunity to participate fully in community life and recognises that people with a disability are often at a disadvantage. To best assist people with a disability, we rely on advice and contact with people experiencing some of the barriers to full participation.

Last week, I announced a new term for the Disability Advisory Council. Since its inception in May 2003, the council has been actively involved in the disability reform process and has provided the government with sound advice and recommendations to help us make sure that we are on the right track. Over the coming term, I have asked the Disability Advisory Council to develop strategies that recognise and address the specific needs of indigenous Canberrans with disabilities, Canberrans with intellectual disabilities and Canberra's youth with disabilities.

I am very pleased that Mr Craig Wallace, who has chaired the council for the past term, has agreed to continue in his role for the coming two years. Craig's commitment to the council and to the people with a disability in the ACT is well known and well respected. His advice has always been frank and valued.

I would like to welcome the incoming deputy chair, Cheryl Patrick, who has much experience in the disability community and is a parent of a child with a disability. I pass on my thanks and good wishes to the outgoing deputy chair, Margaret Spalding, whose contribution and commitment to the disability community in the ACT are well known and also well respected.

The government further extended its engagement with the community last week, convening and participating in a roundtable on the issue of people with a disability in the workforce. About 15 per cent of the working-age population in the ACT have a disability that puts them at risk of exclusion from full participation in the life of our community. With this in mind, business leaders from across Canberra, Disability ACT, employment professionals and parents of children with a disability gathered last week at a roundtable to explore ways in which Canberrans with a disability could be given greater opportunities to participate in the workforce as well as in the cultural, sporting and intellectual life of the national capital. The gathering of the roundtable, called "Business leaders: innovation, thoughts, solutions", with the acronym BLITS, was the first time such a group gathered, with the aim of finding a solution to some of the barriers that exist to full inclusion of people with a disability in the workforce.

This area is one that requires the cooperation of the whole community, not just government. What was heartening and encouraging from the gathering was the acknowledgment that this is not simply a challenge for the government; that the solutions need to come from the community and the government working together.

I was pleased to see the passion and the vigour of our business leaders in approaching this topic and discussing their role in finding solutions. This was a particularly timely gathering, as we are about to see more people with a disability try to enter our workforce under the federal government's welfare to work reforms.

MS PORTER: Minister, what did the ACT government see as the best approach to assisting people with disabilities into the workforce? How does the ACT government's approach differ from other approaches?

Mrs Dunne: On a point of order, Mr Speaker: is the first part of that question asking for an opinion? I know it is not asking for an opinion of an individual member, but it was asking for an opinion.

MR SPEAKER: I will listen to the question again. Ms Porter, would you like to ask it again? If it is asking for an opinion, it is disorderly.

MS PORTER: What does the ACT government see as the best approach to assisting people with disabilities into the workforce? How does the ACT government's approach differ from other approaches?

MR HARGREAVES: I thank Ms Porter for the supplementary. The ACT government believes that people with a disability have the right to participate fully in our workforce, and we believe that the barriers they experience should be broken down as much as possible.

As part of our own commitment to people with a disability, the ACT government announced earlier this year that up to half of this year's graduate intake for the ACT public service would be people with disabilities. This commitment to young talented people with disabilities is part of a public service-wide employment framework for people with a disability.

The roundtable last week saw a gathering of employers, businesses and people within the disability community to open the lines of communication and discuss how to meet some of the challenges that are preventing people with a disability obtaining employment. We believe that this is a good way forward.

What the ACT government does not believe is that people with a disability should be forced into work on the threat of losing their pension. From July next year, the federal government is planning to move people with disabilities and who can work from the disability support pension onto the newstart allowance. Any initiative to increase the participation of people with disabilities in the workforce is to be welcomed. But we have some significant concerns about the impact these changes will have on people with a disability in the ACT. A recently released independent study by the National Centre for Social and Economic Modelling has shown that adults with a disability could be up to $120 a week worse off under the federal government's welfare to work reforms. That is a worrying figure. I am very concerned that these changes could see a new group of people being pushed into the poverty cycle.

I also have concerns about the new compliance framework that imposes penalties for people who leave a job voluntarily. This may have a detrimental effect on people with disabilities who are more likely to be subjected to discrimination or harassment in the workplace or, for example, when there is insufficient support in the workplace. It is, therefore, timely that we have convened the BLITS roundtable with businesses and employers to talk about some of these issues.

I notice a media release from Mrs Burke recently expressing her concerns with the reforms and saying that they would be closely monitored and that she would be keeping a close eye on the implementation of policy. I commend Mrs Burke for expressing those concerns in the public arena, considering it is her colleagues on the hill that are imposing them on the disability community. I hope that she remains vigilant in voicing her concerns.

Political advertising

MR MULCAHY: My question is directed to the Chief Minister. An advertisement was published in the *Canberra Times* on September 11, 2005 trumpeting "the Stanhope government's commitment to government schools". Although it was paid for by the ACT government, it was clearly a political advertisement, beginning "The Stanhope government … ". If it had not been political, it would have referred only to the ACT government, without the political appellation "Stanhope". Does the Chief Minister believe that this political advertising using public funds sets an appropriate standard for governments—territory and federal—to abide by in the future?

MR STANHOPE: Of course, it would take a member of the Liberal Party to have the gall to stand up in this place and ask a question about political advertising. Talk about the $20 million masters of that particular art! What an outrage that is. Of course, that $20 million outrage is related to an issue so close to the heart of Mr Mulcahy—somebody who, in his maiden speech in this place, insisted that ACT public servants were overpaid.

As we run up to the next election with Mr Mulcahy as leader, we look forward to hearing what he meant when he said that ACT public servants are overpaid and what he would do under a Mulcahy government. Of course, the Mulcahy government will never be known; it will be the Mulcahy opposition. Were it ever to become the Mulcahy government—because we know that is the only possible future—we would be interested to see what attitude it would have to public service rates of pay.

I do not think for one minute that this government—the Stanhope Labor government of the ACT, advertising in the *Canberra Times*, consulting with the people of Canberra about education, as we do and as is our wont—could possibly be charged with engaging in political advertising. We were consulting.

Just in this question time I received a question from one of your colleagues about the ACT government's commitment to consultation with the education sector, and with the parents of west Belconnen in particular. Mr Mulcahy, you are surely not taking exception to the question or the position being put by your colleague, the destructive member for Ginninderra, who has absolutely no interest in educational outcomes in west Belconnen or educational outcomes for people within the government schooling system!

But you obviously take exception to Mrs Dunne's position: here you are raising, for my attention, the issue of this government being determined to consult with all the people of Canberra about what we are doing or seeking to do in relation to education, particularly the education of people in west Belconnen. It gives me some confidence that at least you, Mr Mulcahy, understand, through your drawing attention to this issue, the government's

commitment to consultation, when—as I said in my previous answer—Mrs Dunne will bag everything that this government does or seeks to do in relation to ensuring quality public education for the students of west Belconnen.

Mrs Dunne does not want us to succeed. Mrs Dunne does not want this government to succeed in improving educational outcomes for children in the public system in Belconnen. Why does she not want us to succeed? Because it is the electorate that she represents, the electorate in which, after a couple of goes, she got 570 votes or something at the last election. That is what the people of west Belconnen think of Mrs Dunne.

Mr Pratt: Mr Speaker, I rise on a point of order. Standing order 118 is about relevance.

MR SPEAKER: The Chief Minister was just coming back to the subject matter of the question. I could just sense it.

MR STANHOPE: I thank Mr Mulcahy for his question. I thank him for drawing attention to the extent to which this government has gone to consult on education, particularly with the people of Belconnen. I am pleased that, in some context, he has put the divisive, negative, spoiling tactics of a member for Ginninderra who got about 500 votes but for the donkey vote—that is what she got at the last election, and that is a reflection of what the people of Belconnen think of her—

Mr Stefaniak: Mr Speaker, I rise on a point of order—118A.

MR SPEAKER: I think the Chief Minister has finished.

MR MULCAHY: Mr Speaker, I have a supplementary question. Does the Chief Minister expect to change the standards relating to the use of public funds for party political purposes?

MR STANHOPE: There is always room for improvement. That is the motto of this government. I expect the next advertisement that we place to be bigger, brighter, better and clearer, and to articulate, even more forcefully, the extent to which this government is determined to consult with the people of Canberra.

Bushfires—rebuilding

MRS BURKE: Mr Speaker, my question, through you, is to the Chief Minister. The residents of Pierces Creek are gutted by the ACT government's inability to simply rebuild the 12 public housing properties at Pierces Creek lost during the 2003 bushfires. Minister, are you using the fact that the houses were destroyed by the 2003 bushfires or the possible threat of future bushfires as excuses not to rebuild?

MR STANHOPE: No.

MRS BURKE: Given that there are absolutely no impediments whatsoever—

MR SPEAKER: Come to the question.

MRS BURKE: When can the former residents of Pierces Creek expect an answer on the future of the settlement and when will the rebuilding of the 12 public housing properties at Pierces Creek commence?

MR STANHOPE: The derisory response that the commonwealth gave to its own parliamentary committee inquiry into Pierces Creek, which was essentially two pages of background and a half-page response to such a significant issue, gives members some indication of the difficulties that the government has faced in relation to Pierces Creek.

That was 13 months ago. The report of a joint federal parliamentary committee inquiry into the future of Pierces Creek was brought down in August last year. The government responded last week, 13 months after the report was tabled. The report is 2½ pages long in toto. The first two pages provide the background to the destruction of the village. The third page, which is not a full page, is the commonwealth government's response. It is derisory.

The way in which the commonwealth has treated the residents of Pierces Creek throughout this process is appalling. There is no description of the way in which the commonwealth has approached this particular issue other than that it is an appalling and insensitive response to the residents of Pierces Creek.

As everybody knows, we commissioned a detailed sustainability study in relation to each of the rural villages. That sustainability study on the future of Pierces Creek indicated to the ACT government that, in order to construct or rebuild a sustainable community into the future, it would require in the order of 50 houses. One can imagine the logic and the sense of that. How sensible and how obvious is it that, in order to create a real community, a live community, a sustainable community, there needed to be a critical mass? Our advice was that the number was 50. Through all the negotiations, the permutations, the attempts at negotiation, contact between me and respective ministers, we put that particular point.

When the joint standing committee report came down, which suggested that the ACT and commonwealth governments negotiate, I agreed immediately, on the day the report was delivered, that the ACT government was willing to engage in an open process of negotiation to achieve an outcome that was deliverable and that was in the interests of all, that met some of the concerns of the commonwealth and dealt with the issues that the ACT government faces. I agreed on the day the report was tabled to reduce the ACT government's desired position of 50 houses to 25 and asked the commonwealth to meet me. I responded on the day—from 50 to 25—and then waited.

I have now waited for 13 months for the commonwealth to come back in the spirit of the committee recommendation to meet me, to meet me somewhere—hopefully, at 25—to move one inch to indicate that they did have some concern for the residents of Pierces Creek. No. None. Not any movement.

As the commonwealth knows, in the face of conflicting advice from the ACT government's legal advisers and from ACTPLA, it is not a simple matter of going out and rebuilding houses. The land has not been subdivided. It is a single piece of land on

which there were 13 houses for forestry purposes. We no longer have forestry purposes at Pierces Creek. We cannot rebuild houses for a fictitious purpose.

My advice—and the advice reiterated to me as late as last week—was that if, Housing ACT presents to ACTPLA a proposal to rebuild 12 houses at Pierces Creek, as the territory plan stands ACTPLA will be duty bound, legally required, to refuse the development application. That is my advice. My advice is that, if ACTPLA is presented by Housing ACT with a development application next week to rebuild 12 houses at Pierces Creek, ACTPLA will say no, as the law requires. That is my advice.

The commonwealth says it has other advice and another position. Of course, it has not released its legal advice. It says that our concerns are unfounded, but it is my advice. In that context, there are serious issues for the ACT government to consider in relation to this. We will give those issues due consideration. I have indicated that we will try again to negotiate with the commonwealth in relation to its legal position. I have given instructions that a submission be brought to cabinet urgently to deal with the new scenario.

Separation of powers

MR GENTLEMAN: My question is to the Attorney-General. I refer to a report in the *Canberra Times* last month that the Chief Justice of the Supreme Court, Justice Higgins, had said that there appears to be an increasing tendency for the boundaries between the courts and the executive to become blurred. Can the attorney explain where the government stands on this issue?

MR STANHOPE: I was very pleased to receive a letter from the Chief Justice in which essentially—not explicitly, of course; far be it from me to suggest that the Chief Justice would cross the boundaries of the separation of powers—he confirmed the appropriateness of the censure motion which the shadow Attorney-General suffered as a result of his deliberate misleading of the Assembly and the people of Canberra in relation to the separation of powers. I was very pleased to receive the letter from the Chief Justice because it confirms that the action that the Assembly took in censuring Mr Stefaniak was most appropriate.

As we know, Mr Stefaniak, through that particular debate for which he was censured, quite deliberately misled this Assembly in relation to the separation of powers and quite deliberately misled the people of Canberra often and repeatedly in relation to these issues. He was appropriately censured, as he should have been. His behaviour in relation to this whole issue has been an absolute disgrace. He was censured then, rightly and appropriately. He has to carry with him the fact that he misled this place and the whole of Canberra knows he did, that he misled them and they know he did, and the people of Canberra—

Mr Stefaniak: I raise a point of order, Mr Speaker. Misleading the Assembly is highly unparliamentary.

MR STANHOPE: No. That is what the motion said.

MR SPEAKER: Mr Stefaniak, the fact of the matter is a substantive motion was moved and carried in this place. These are matters of fact. It is, however, inappropriate to reflect on a vote.

MR STANHOPE: I agree, Mr Speaker, and I will not do that. I am just referring to the facts of the matter. This Assembly found, quite rightly, as the vote indicates, that Mr Stefaniak is a serial misleader of this place and of the people of Canberra.

MR SPEAKER: Order! I think the motion was fairly clearly about a particular matter, not about a sequence of matters.

MR STANHOPE: Point taken, Mr Speaker. It is a point well made. To that extent, I was pleased to receive the confirmation of the Chief Justice. I will repeat his comments for the members of the Assembly. The Chief Justice, in his response on this particular issue, said, "I should say, contrary to the media slant"—the comments made in his speech—"were not intended as a criticism of the conduct of the executive or any member of it nor to suggest some deliberate policy challenging judicial independence of the separation of powers."

In his letter the Chief Justice goes on to talk about issues in relation to different views about the separation of powers and its operation, the lively debate that there has been amongst judicial officers around Australia about the so-called traditional model of support for courts and a predominant view, the Chief Justice claims, in relation to another way of supporting courts around Australia.

He talks about that. He says, and this is a point that I have made repeatedly, that, apart from South Australia, the other states and the Northern Territory remain in the traditional model. The Chief Justice confirms everything that I have said, that there is one jurisdiction, namely, South Australia with a particular model and administration of funding and every other jurisdiction, bar the Commonwealth, in Australia follows the traditional model of support, the model which Mr Stefaniak supported when he was Attorney-General and which is still the model pursued in the ACT.

He goes on to say that it is a matter that the Council of Chief Justices has turned its attention to. He refers to the consensus amongst his colleagues for a consideration of other ways of supporting courts as a result of the views of the Chief Justice. In the context of his acknowledgment that it is a matter under debate amongst judges, he goes on to say, "I emphasise that neither I nor my colleagues have ever doubted the commitment of the ACT government to the principles of judicial independence."

It was a matter of some pleasure to me that the Chief Justice of the ACT supported absolutely everything that I have said in relation to this. Everything that Mr Stefaniak and Mr Smyth have said publicly and in this place on this issue is revealed now to be complete opportunistic bunkum, which led, of course, to the censure of Mr Stefaniak in this place. Mr Stefaniak should have known that he was wrong and he was censured appropriately for misleading the Assembly in the way that he did.

I am pleased to have cleared this up. It is a pity that the opposition dragged the Chief Justice into it. In their own way, by embroiling the Chief Justice in political controversy, they breached the separated of powers.

MR SPEAKER: The member's time has expired.

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

Papers—tabling by Chief Minister

MR STEFANIAK (Ginninderra) (3.37): Mr Speaker, given that the Chief Minister was referring to that letter, I would ask for it to be tabled.

MR SPEAKER: It is a matter for the Chief Minister.

MR STEFANIAK: Mr Speaker, he was quoting from a document and, under standing order 213, I would ask him to table it. He was reading from the document. There is that standing order which says that, if he is quoting from a document, he should table it.

MR SPEAKER: You will have to move a motion, Mr Stefaniak. It is really a matter of courtesy that it is available to the Chief Minister. If you want to require him to do that you would have to move a motion. Bear in mind, Mr Stefaniak—and I need not remind you of this, I do not think—the practice of attempting to have ministers table at question time briefs and so on and how that might come back one day to bite you if you are lucky.

MR STEFANIAK: I appreciate that, Mr Speaker. I think there is a distinction here in that he is quoting from a letter rather than from a question time brief. I move:

> That the document quoted from by Mr Stanhope (Attorney-General) be presented to the Assembly.

It is quite different to the question time brief where a member in this place quotes from a document. Where members have quoted from things like letters, use that in a debate and use that in answers to questions without notice, the tradition has been—and indeed the standing order states—that that document be tabled. That is what I am seeking. I think it is a fairly longstanding tradition in this place.

Question put:

> That **Mr Stefaniak's** motion be agreed to.

The Assembly voted—

Ayes 6		Noes 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Ms MacDonald
Mrs Dunne		Mr Corbell	Ms Porter
Mr Mulcahy		Dr Foskey	Mr Quinlan
Mr Pratt		Mr Gentleman	Mr Stanhope
Mr Seselja		Mr Hargreaves	

Question so resolved in the negative.

MR SPEAKER: Mrs Burke, did you want to raise a similar matter with me?

MRS BURKE (Molonglo) (3.42): Thank you, Mr Speaker. Under standing order 213, I respectfully request that the Chief Minister table the legal advice he received in regard to the rebuilding at Pierces Creek.

MR SPEAKER: Under that standing order there is no ability for you to request that.

MRS BURKE: Oh, well, if he would do that, I would appreciate it. Is the answer "yes" or "no"?

MR SPEAKER: It is entirely up to the Chief Minister. There is no provision under the standing orders for requests along those lines. The standing order is fairly specific. It would require a motion.

MRS BURKE: Can I move a motion along those lines under standing order 213?

MR SPEAKER: Mrs Burke, you will have to be specific in relation to the papers that you want tabled.

Mr Corbell: On a point of order, Mr Speaker: the Chief Minister did not read from any documents in answering that question. It is not a proper request as the Chief Minister did not refer to or read from any documents.

MRS BURKE: I will do it another way. I will not move a motion.

Paper

Mr Speaker presented the following paper:

> Auditor-General Act—Auditor-General's Report No 3 2005—Reporting on ecologically sustainable development, dated 1 July 2005.

Executive contracts
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training): For the information of members, I present the following papers:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
>
> Contract variations:

David Butt, dated 31 July 2005.
David Collett, dated 19 August 2005.
Meredith Whitten, dated 1 September 2005.
Richard Waldron Johnston.

Long-term contracts:

Sandra Lambert, dated 10 May 2005.

Schedule C variation:

Richard Johnston, dated 10 and 11 February 2005.

Short-term contracts:

Bronwyn Webster, dated 8 July 2005.
Clare Wall, dated 10 and 11 August 2005.
Colin Adrian, dated 16 August 2005.
David Hughes, dated June 2005.
Eugene Herbert, dated 26 July 2005.
Greg Jones, dated 10 August 2005.
Ian Cox, dated 12 August 2005.
Paul Thomas Fennell, dated 30 August 2005.
Phil Collins, dated 10 August 2005.
Russell Watkinson, dated 25 July 2005.

I ask for leave to make a statement in relation to the papers.

Leave granted.

MR STANHOPE: I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 23 August 2005. Today I present one long-term contract, 10 short-term contracts and five contract variations, the details of which will be circulated to members.

Papers

Mr Stanhope presented the following papers:

Remuneration Tribunal Act, pursuant to section 12—Determinations, together with statements—Part-time Holders of Public Office—

ACT Insurance Authority Advisory Board—Determination No 179, dated 2 September 2005.

Essential Services Consumer Council—Presiding Member—Determination No 180, dated 2 September 2005.

Cultural Facilities Corporation Act, pursuant to subsection 29 (2)—Cultural Facilities Corporation—Quarterly report 2004-2005—Fourth quarter (1 April to 30 June 2005).

Mr Corbell presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Animal Welfare Act—Animal Welfare (Australian Model Code of Practice for the Care and Use of Animals for Scientific Purposes) Approval 2005—Disallowable Instrument DI2005-188 (LR, 18 August 2005).

Construction Occupations (Licensing) Act—Construction Occupations (Licensing) Amendment Regulation 2005 (No 1)—Subordinate Law SL2005-18 (LR, 26 August 2005).

Dangerous Substances (Explosives) Regulations 2004—Dangerous Substances (Explosives) Authorisation 2005 (No 1)—Disallowable Instrument DI2005-199 (LR, 5 September 2005).

Domestic Animals Act—Domestic Animals (Dog Control Areas) Declaration 2005 (No 1)—Disallowable Instrument DI2005-198 (LR, 1 September 2005).

Independent Competition and Regulatory Commission Act—Independent Competition and Regulatory Commission (Disclosure Guidelines) Determination 2005 (No 1)—Disallowable Instrument DI2005-191 (LR, 22 August 2005).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2005 (No 9)—Disallowable Instrument DI2005-193 (LR, 29 August 2005).

Road Transport (General) (Parking Meter Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-201 (LR, 5 September 2005).

Road Transport (General) (Parking Ticket Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-200 (LR, 5 September 2005).

Stock Act—Stock Regulation 2005—Subordinate Law SL2005-17 (LR, 25 August 2005).

Tertiary Accreditation and Registration Act—

Tertiary Accreditation and Registration Council Appointment 2005 (No 2)—Disallowable Instrument DI2005-189 (LR, 19 August 2005).

Tertiary Accreditation and Registration Council Appointment 2005 (No 3)—Disallowable Instrument DI2005-190 (LR, 19 August 2005).

University of Canberra Act—University of Canberra (Academic Progress) Amendment Statute 2005 (No 1)—Disallowable Instrument DI2005-192 (LR, 25 August 2005).

Victims of Crime Regulation 2000—Victims of Crime (Victims Assistance Board) Appointment 2005 (No 5)—Disallowable Instrument DI2005-195 (LR, 1 September 2005).

Vocational Education and Training Act—

Vocational Education and Training Authority Appointment 2005 (No 3)—Disallowable Instrument DI2005-194 (LR, 29 August 2005).

Vocational Education and Training Authority Appointment 2005 (No 4)—Disallowable Instrument DI2005-196 (LR, 1 September 2005).

Vocational Education and Training Authority Appointment 2005 (No 5)—Disallowable Instrument DI2005-197 (LR, 1 September 2005).

Education
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Dunne, Dr Foskey, Ms Porter and Mr Pratt proposing matters of public importance to be submitted to the Assembly. In accordance with standing order 79, I determine that the matter proposed by Mrs Dunne be submitted to the Assembly, namely:

The state of education in ACT schools.

MRS DUNNE (Ginninderra) (3.46): It will not have escaped members' notice that in recent weeks education has featured prominently in media and public debates, not only with regard to this government's pre-emptory decision to close and demolish Ginninderra district high school and other schools in the Belconnen area, replacing them with a monolithic mega-school, but also with regard to some of the more general and ultimately more fundamental questions of curriculum disengagement or, to use the government's newspeak, curriculum renewal. I say "disengagement" because that, in the final analysis, is what this attack on traditional curriculum is about.

The practical upshot of the proposed changes, if they get through, would be to disengage the department from its responsibilities to students, parents and teachers alike and the government as a whole from its declared responsibility to provide the best possible opportunities for all Canberra children in the public school system. Far from providing opportunities, especially to those who do not come from high-income families, the mooted curriculum reforms would significantly reduce opportunity and decrease upwards social mobility, as I shall explain.

Unfortunately most people and most parents are not aware of what is going on. The *Canberra Times* went into relative detail about the proposed changes but it would take a lot more than a week's articles in a broadsheet to alert the broader community to the nature and extent of the attack being mounted on their children's future.

This is not of course a problem confined to the ACT or indeed Australia. What is peculiar to Canberra, however, is that, whereas everywhere else the problem is already entrenched and some governments are belatedly trying to do something about it, the

government here intends to introduce the problem from which so far we have been largely spared.

So what is this problem? What is it that Canberra parents should be worried about? In a phrase, it is self-indulgent educationalist fashion, be they half-baked applications of half-understood, half-witted philosophical trends that hardly any professional philosopher takes in the least bit seriously. Like most academic vogues, its name is legion and it speaks in all manner of psychobabble and jargon. "Outcomes-based education" and "student-centred learning" are the two best-known labels. The word "critical" is usually somewhere in the mix of terms, along with "innovative", "deliverables", "progress", "achievements" and "dynamic". They are all proactively being work-shopped to the point of output exhaustion by educationalists across the country.

What it boils down to is a rejection of the traditional notion of the curriculum and its replacement by a set of defining criteria that combine the more asinine elements of managerialism with the dead leaves of flower power. This is no better illustrated than in the booklet "Future direction in ACT curriculum renewal". On page 15 we are told:

> Curriculum has been defined in many ways but the etymology of the word suggests a course (as in a race to be run) and so "curriculum" is most commonly used to describe a course of study, in particular the written documents describing the course or courses.

That is quite clear, you might have thought, and an interpretation that has served the human race tolerably well for a couple of thousand years. But today's educationalists know far better than the fuddy-duddies such as Aristotle, John Stewart Mill or even Jean Piaget. As the document explains:

> This is, however, a fairly restricted way of considering curriculum.

I think we would all agree that a "solid-hoofed, plant-eating quadruped with flowing mane and tail" is a fairly restricted way of considering the full dimensions of a horse. But at least this traditional definition gives us a reasonable idea of what we are talking about. However, we must not allow ourselves to fall behind the times, especially education times.

The document goes onto elucidate what today's cutting edge, state-of-the-art educational theory has to tell us. Many educationalists now use the term "curriculum" in a much boarder way to describe what goes on in schools. And it goes on to describe curriculum as ways to identify what should be learnt in school; to plan for learning by developing courses, units and lessons; to organise learning environments, both inside and outside the classroom; to organise learning through the way the classes and the timetables are structured; to select content; to deliver teaching and learning programs; and to assess what learning has been achieved. In other words, curriculum has been redefined to cover pretty much everything that goes on inside or outside the classroom, so long as it is inside the school gate.

What has happened to the written documents that describe the course or courses? They are nowhere to be found. Incidentally, the evidence given by the many educationalists in

this document who are said to have had this view are summarised in one single reference to one vaguely learned paper.

So we do not have traditional courses any more. We do not have a traditional syllabus that provides teachers with information about what they should teach, or students with details of what they might expect to learn. No, instead we have 36 essential learning achievements that are listed in the document "Principles and framework for the preschool to year 10 curriculum: every chance to learn". A fat chance to learn!

What are they? They fall into four basic categories. First are the essential learning achievements, which make motherhood sound controversial. They include, for example, this one "The students know how to learn". It sounds like a splendid idea. "The student applies methods of inquiry" is even better. But I particularly like this one "The student makes plans and carries them out". Perhaps the student is organising a lunchtime smoking session behind the bike sheds. Who knows! All the document says is that the student "sets clear goals, identifies resources and determines timelines to achieve goals and complete tasks". Lunchtime is at one o'clock; we have a packet of fags and a box of matches; there is the bike shed; who is on for a smoking session?

The second category vaguely approximates the more traditional curriculum that we would expect. For instance, we have things like "The student understands and applies numbers". It goes on in detail. "The student understands the meaning, order and relative size of numbers"; the students "estimate results of their calculations and judge the reasonableness of these in the given context, meeting needed levels of accuracy". I would have thought that a study of arithmetic, geometry and algebra used to meet this learning achievement. But I have to admit that these subjects did require a certain amount of rote learning, which are strengst verboten in this new educational order.

Students are also set the learning achievement of speaking coherently and confidently, that is to say, communicate information, ideas and feelings effectively to a range of audiences for a variety of purposes. There is nothing wrong with that, you might think. And indeed there is not, though you may have thought that mastering coherent language was predicated on elementary reading and writing, which are no longer particularly in the curriculum. Elementary reading and writing are not in the curriculum, and the reasons for that can only be understood by a professional educationalist.

It is true that another of the essential learning achievements is that "the student reads and writes effectively". But this does not refer to the old-fashioned, middle-class constructs like spelling, grammar and punctuation. No, this is critical literacy. Students "construct meaning and respond to texts, interpreting and using the vocabulary, language styles and genres appropriate for particular purposes and learning ideas. Students apply critical thinking to the contexts, meanings and intent of written texts." I do not know a six-year-old who could recognise a genre.

To get some idea of what it would involve for students in the ACT, we need only look at what is happening currently in Victoria. According to the new draft VCE English course, students in years 11 and 12 need only read one book a year. And that book could be a film script. The other so-called texts—and they only need to study one of those a year—include CD ROMs, websites, political blogs, computer games, movies, videos,

hyperfiction and "multimodal texts which also make use of visual, auditory and digital features".

In the ACT document, the essential learning achievement that follows reading and writing effectively says, "The student interprets and constructs multimodal texts." That is to say, the student uses any combination of sound, print, gesture, still images, moving images, symbols and graphics. Does this, I wonder, include grunting and using knuckledusters to beat up teachers and fellow students?

A third category of essential learning achievements reflects a cargo-cult mentality towards technological dependence that would do a Trobriand Islander proud, as though familiarity with hardware and software is an adequate substitute for the formal learning that would enable students to use them effectively.

The fourth category is a set of somewhat loaded social and political subjects, which may or may not be of use for the purpose of propaganda but which, like technology, can only properly be addressed by an elementary, formal learning, which the curriculum changes are expressly designed to exclude.

What is so extraordinary about this rehash of 1960s self-delusion and Clayton's postmodernism is that the ACT government is proposing to introduce it just when its most enthusiastic proponents have begun to admit the whole exercise was a terrible mistake. Naturally, none of this bothers the minister for education as, literally a child of the 1960s, she appears to be in the thrall of the wholesale nonsense with which that decade's educational reforms have infected almost all Western schooling. Indeed, her process of curriculum renewal is being undertaken with what appears to be an explicit intention of emulating every harebrained, pedagogical fad of the past few decades.

Everywhere else there is a growing recognition that educational reforms of the past 40 years have not only been unsuccessful in one of the main objectives they proposed to achieve, that is, greater opportunity and social mobility for the disadvantaged, but, in fact, have produced the complete opposite. The only surprise is the enthusiasm with which those on the left sought to undermine the life opportunities of the less privileged in the first place.

These days, they sing quite a different tune. In his contribution to the book *Progressive essays*, ANU economist and former ALP adviser Dr Andrew Leigh points to the stagnation or fall in literacy and numeracy rates since the 1970s, despite a doubling of resources. The radical orthodoxy of student-centred learning and whole-of-language literacy, claims Leigh, has unquestionably failed their stated purpose. The 1960s reforms were not only produced by a fixated segment of professional educationalists but were designed to serve their interests alone.

In this regard, Dr Leigh draws a parallel with the economic protectionism and monopolies that prevailed throughout much of the past century. Just as high tariff walls, he said, constituted a regressive tax that actually did more harm than good to low income earners, so what he terms the old, producer-driven solutions in education have not worked to alleviate unemployment, poverty, inequality and indigenous disadvantage. He concludes:

> By finding better ways to teach literacy, numeracy and engender a love of learning, we can open doors for children for the rest of their lives.

This feeling has been emulated in many places where we have seen a volte-face in educational theory. The new minister for schools in the Blair government, Andrew (Lord) Adonis, is undertaking a complete review of the modernising revolution that began in the 1960s because, he claims, comprehensive schools have largely replaced selection viability with selection by class and house price.

In France, the more radical firebrands of 1968 are starting to reconsider their views. One of those, Marc Le Bris, in his book *And your children will not be able to read or count* said:

> Modern pedagogy's only use is to justify the abandonment of the ambitions which we once had for our children. We are facing a true cultural catastrophe.

In Australia, we had the same bankruptcy until recently. But there have been changes, with the new Queensland minister for education throwing out the English critical literacy syllabus and taking a new constructive path to English learning, while the Western Australian Gallop government has just abandoned outcomes-based learning after years of pressure from teachers and parents and has reinstated traditional syllabus.

It is only in the ACT that things are going backward. In doing so, we are employing a choice of rhetoric and opportunity which will restrict the life chances of those who rely upon public education. The affluent will always buy their children a proper education; the poor do not have that opportunity.

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Burke): The member's time has expired.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (4.02): I thank the opposition for providing me with the opportunity to provide details to the Assembly and the community of the excellent state of education in the ACT. My government is strongly committed to education. It has delivered for education through strong investment, investment in our schools, investment in ICT and investment in our teachers, and students have produced continued success in national and international events.

No other government has spent more on education in the territory. The proposed $43 million school at west Belconnen represents the largest single investment ever in education in the ACT. We believe that an investment in education will enhance the quality of life of all members of the ACT community. It is fundamental to the social and economic development of the territory.

In the 2002-03 budget, by way of example, my government invested in the reduction of year 3 class sizes, high school development, the enhanced computers for teachers program and a schools IT capacity upgrade. In the 2003-04 budget, by way of example, the investment in education continued through the curriculum renewal project, support

for students and families through a schools equity fund and additional funding for preschools. In 2004-05, there has been a focus on ICT, healthy students and the needs of our indigenous community. In the second appropriation we delivered on our commitment to ICT with the provision of interactive whiteboards. In the most recent budget, we put in added investment for students with a disability, greater support for preschools and a school building renewal fund. My government has continued to support education through all its budgets to prepare our students for the future. Key to this commitment is providing our students with high quality curriculum, well remunerated and supported teachers and a state of the art teaching and learning environment.

In summary, the net result of the over 40 Stanhope government education and training initiatives since we came to government is $94.1 million, or a 27 per cent increase on the 2001-02 Liberal government budget. This amount includes the 2005-06 budget initiatives of $24 million. Investing in our children's education is, I believe, the best means of securing jobs for our young people and a continuing solid future for the ACT.

The government is also ensuring that the curriculum has relevance for students and that they are motivated to engage with their learning. To achieve this, an integrated curriculum renewal program for the ACT from preschool to year 10 across eight broad learning areas will be established through the curriculum renewal project. This will result in a renewed contemporary ACT curriculum that establishes what students should know, understand and be able to do in 12 years of schooling.

Is this 1960s faddish renewal, as the opposition has spuriously suggested? It is vital that our schools provide students with the knowledge, skills and attributes that they will need to lead productive and happy lives and contribute to the community. The new ACT curriculum framework defines what is essential for every child to learn at school to prepare them for the 21st century, the century that we are in.

It is a forward-looking curriculum framework already incorporating significant directions, such as financial literacy, that the Australian government and other states and territories are only starting to take up. The new ACT framework is being developed through a rigorous process of research and consultation involving teachers, parents and students from all school sectors, academics and community organisations.

The ACT has consistently lead Australia in literacy and numeracy. ACTAP results released in July of this year show that, for reading in years 3, 5 and 7, ACT students ranked highest or second highest in Australia. The ACT has maintained the trend of previous years, with at least 95 per cent of ACT year 3 students achieving at or above the benchmark standard for reading and numeracy. The ACT year 7 benchmark results in 2003 for reading, writing and numeracy were amongst the highest in Australia.

In September of this year, our students again shone with the release of the results of the year 6 national science assessment measuring scientific literacy. The ACT achieved a mean score of 430 and was the only state or territory with a performance significantly above the national mean. In the year 6 national science assessment, student results are reported against proficiency levels ranging from 2 to 4. Seventy per cent of ACT students achieved the proficient standard or better compared with 58 per cent nationally and 13.6 per cent exceeded the proficiency level compared with 7.7 per cent nationally.

Those are statistics of which the ACT and this government can be enormously proud, with 95 per cent of ACT year 3 students achieving at or above the benchmark standard for reading and numeracy. Our year 7 benchmark results are the highest in Australia. As I say, just this month, with the release of the results of the year 6 national science assessment measuring scientific literacy, our students shone. Our students achieved a mean score of 430. Canberra is the only place in Australia, the only jurisdiction, with a performance above the national mean.

In the national science assessment, 70 per cent of students achieved a proficiency level against the national average of 58. These are staggering achievements by the ACT education system. In the ACT, 13.6 per cent exceeded the proficiency level against a national average of 7.7, almost twice the average. Schools, students and teachers in the ACT are achieving absolutely fantastic results, and we get motions such as this from an opposition that is continually bagging the enormous results that our children are achieving. They are led by the best teaching service that we can possibly provide.

The results confirm the excellent ACT achievements in the Trends in International Mathematics and Science Study of 2002-03, in which ACT year 4 students were ranked equal first in science with Singapore and Chinese Taipei. In the Program for International Student Assessment in 2003, 15-year-olds in the ACT were significantly above the OECD mean in the scientific literacy domain. These results are a tribute to the hard work, skills and dedication of teachers, parents and students. They show that the ACT is performing outstandingly against international standards and is the envy of Australia.

We should reflect on the diatribe against education in the ACT just delivered by the opposition spokesperson and calmly consider the facts. How did the ACT compare with every other jurisdiction in the world in the Trends in International Mathematics and Science Study in 2002-03? The ACT led the world. We are not here talking about leading Australia. We are talking about leading the world. We all know that we lead Australia. Perhaps it is something of a reality check to compare ourselves with the world. In the Trends in International Mathematics and Science Study in 2002-03, ACT year 4 students ranked equal first in science with Singapore and Chinese Taipei.

We have just been subjected to a diatribe by the opposition spokesperson on education, out there again bagging our children, our teachers and our education department. What did our kids do? They achieved the best year 4 science results in the world. The opposition spokesperson cannot face this. She cannot face the fact that we have here a jurisdiction, an education system that is producing world best results in science and maths. Why cannot she face it? Why would she talk it down? Why would she cast these aspersions on our students, our children?

She is out there saying they are not performing, that they cannot perform, that our teachers are hopeless, our schools are no good and that we do not know about curriculum development. Why would the opposition adopt that attitude when we lead the nation by far and we can match it with the best in the world? What is to be gained from talking down our schools? What is to be gained from rubbishing our schoolteachers? What is to be gained from belittling our education department and our education officials? What is it that the opposition seeks to achieve in talking down the quality of education in the

ACT in this way, talking down our schools, talking down our children, talking down our teachers and talking down our community? What is it that the opposition hopes to gain? Some snivelling political advantage, I presume, a refusal to acknowledge that some things are done well, some things are done right, to the point where we lead the world. It is not enough that we lead the nation. We lead the world and it is still not good enough.

We have excellent quality education in the ACT. We all know that. We should be proud of it. We should be proud of that across the board. This should be a matter of bipartisan pride, the pride of a community in the quality of its education. Our children are our number one resource. We lead the nation. We lead it by far and we can match it across the world.

It goes, too, to the quality of our teachers. In the last year, five teachers, all from ACT government schools, were successful in winning national excellence in teaching awards. The recognition of these five teachers from our government schools displays the quality of education that our schools provide. These five teachers, who are doing wonderfully well, remarkably well, do not deserve the scornful and sneering comments of the opposition spokesperson on education.

Not only do we have award winning students and award winning teachers, but also we have award-winning schools. The Amaroo school sets a new standard for school design in the ACT, a standard that will only be bettered by the new school at Ginninderra. The Amaroo school sets the standard. At Ginninderra we will exceed that standard. The Amaroo school achieved the award for best health and safety design solution in the ACT WorkCover 2004 safety awards; the building environment and energy efficiency 2004 National Master Builders Award; the ACT Chapter of Royal Australian Institute of Architects highly commended award in environmental design and a highly commended rating in the leadership award for injury prevention and management category of the Commonwealth Safety, Rehabilitation and Compensation Commission's 2005 safety awards.

The ACT government saw the building of the Amaroo school as an opportunity to move away from what was then considered the traditional school model to something that would lead the way in the future. That involved a recognition that the teaching and learning environments would have a considerable impact on the wellbeing of staff, students and visitors. The government is, as I said, now determined to improve on that in the construction of a state of the art facility at Ginninderra district high school to maintain our commitment to public education and the revitalisation of education and educational infrastructure in the ACT.

I think it is truly ironic, perhaps ridiculous, that this motion that we are debating today comes from an opposition that went to the last election with a policy to close government schools all over Canberra. That was the Liberals' policy before the last election, to close schools, with no replacement infrastructure, no reinvestment, no forward planning, no consideration for the children, young people or the future of the ACT, just economic rationalist arguments about efficiency in school closures. Mrs Dunne has already said she agrees that Ginninderra district high school should close, but of course she offers no replacement. It is clear that the Liberal Party would gladly close schools all over Canberra with no thought for further investment in the community.

We need to remember and always remind ourselves that it was those opposite who oversaw the disaster that was the closure of Charnwood high school. It is quite remarkable that now they are beating their breasts in relation to the government's consultation position in relation to Ginninderra district high school. They closed Charnwood high school. They put nothing in its place, no reinvestment and no consideration for the educational needs of the people of Charnwood or west Belconnen. Now we have this latter day bleeding heart. They had an opportunity to do something and they sat back and did nothing.

Mrs Dunne now, through this motion, like the Prime Minister and Dr Nelson up on the hill, is seeking to undermine public education. She does not run a single public school. I doubt that she has ever worked in a public school. Yet she criticises and challenges the hard work and commitment of all those involved in the outstanding, free, universal, public education that we enjoy in the territory. In doing so, as I have said, she questions and belittles the commitment of the most important resource in the system, the teachers who work so tirelessly to produce the fantastic results that I have referred to today.

The opposition should be defending public education in the territory, not attacking it. They should not just adopt and mouth the policies of the leaders in the other parliament who continually seek to undermine public education. The attitude, the rumours and innuendo are classic scaremongering by the opposition. We saw it today. Mrs Dunne said that department staff were deliberately throwing furniture down stairwells to break it. What an outlandish, outrageous suggestion! It impacts on the department, the teachers and the staff at Ginninderra district high school. The shadow education spokesperson said in this place that staff at Ginninderra district high school within the ACT department of education order removalists to throw furniture down stairwells to deliberately break it, to deliberately destroy it. That is an outrageous and defamatory statement. It reflects the opposition spokesperson's commitment to public education.

MADAM TEMPORARY DEPUTY SPEAKER: Order! The member's time has expired.

DR FOSKEY (Molonglo) (4.17): It is a sorry day when our children's education becomes a gymnasium for ideological battles. Sadly, I think that that is what this debate has boiled down to. I believe that Mrs Dunne's speech was more about ideology than about curriculum. It failed to acknowledge any of the successes of ACT schools. It defended what she called the traditional curriculum in a day and age when we really need to have a curriculum that is appropriate for children who are going to face a world that we cannot even imagine—certainly it will not be like the old days—not the curriculum that I and perhaps Mrs Dunne experienced.

This debate about postmodernism has been going on in the media for some time and I suppose it was bound to surface here. People tend to use postmodernism as a dirty word. In fact, just to be clear, postmodernism is an approach that predicates that there are no universal truths, as we used to know them, for instance, about questions of religion or other ideologies that so often suit some political purpose.

If we have a curriculum that uses the word "critical", then I think we are serving our children well. More than anything, our young people, who are the major targets of

advertising campaigns and who are going to have to fix up a lot of problems that we leave for them, need to be able to engage in critical thinking. Mrs Dunne used some very interesting and impressive language. I always like to see rich and colourful language used in this house. She said that we are talking about a cultural catastrophe and that that cultural catastrophe is being caused by our education curriculum.

Our culture is so much larger than what goes on in our schools. Our schools perform a really important role for young people. For many of them it is the safest and most stable part of their day. So if it works for them, then I think we are doing all right. Cultural change is not necessarily catastrophic. Blaming education for a cultural catastrophe, if there is such a thing, is driven by many things, not the least of which is the desire to profit out of our young people's spending power.

The ACT community can be rightfully proud of its education system and the achievements of our schools. We should be very careful not to talk down our education system. We do have to recognise that much of our very good infrastructure—and sadly it is getting less good every day—is an inheritance from the schools authority days. We used to be able to say strongly, "We have the most innovative education system in the country." We had a federal government that was willing to invest in that. Now what we are seeing, with self-government, is competing demands for resources and, of course, a federal government that has funding priorities that have not been good for our public schools.

The education system in the ACT is bigger than our public system, but I believe that Mrs Dunne was talking primarily about the public system. In this instance I am going to focus on the public system as well. Mr Stanhope reiterated some of the successes of ACT students compared with students in the rest of Australia. I will not repeat those, but I acknowledge them.

Mrs Dunne has children in the public system. I have a daughter in the public system. I moved to Canberra in the eighties so that my teenagers at that time could attend schools here. While there were individual problems in some classes, and that always happen for everyone, I am grateful that I had that partnership with the schools to help me bring up my children. When I came here I was basically someone who had been off in the bush for years. I would not have known a fax machine if I had fallen over one. Luckily there were people who did. I think that individually we can do nothing but praise the system. It is easy to talk about something in the abstract and say it is not working.

We should look at the traditional curriculum. At the outset, I must say that it is a postmodernist thing to look at a word like "traditional" and say who defines what traditional is, who defines the way people learn reading, writing and arithmetic. We all want our children to come out of the system knowing how to do those things. But when the system consisted of rote learning of times tables and spelling bees, children were not very good at arithmetic and they were not very good at spelling.

Indigenous children have always failed where the traditional curriculum is concerned. In fact, we know that they need a high level of intervention and a very special kind of learning in the classroom. I read of one teacher who found that the only way she could engage indigenous children, for whom school just seemed totally irrelevant, was to sit down with them, let them tell their stories and work with them in writing them down.

Then they were doing something that was related to their lives, not two by two equals four. That did not really have a meaning for them. Sitting down and doing an exercise out of a grammar book would not have helped much either.

I do think that in the ACT we need to take our eyes off this idea of traditional curriculum, traditional outcomes, being good at English and maths, because some kids are never going to be successful in those areas. They are only going to learn those things when they are applied to things that they are interested in. I have argued for alternative and tech-based education, so that young people who do not like sitting down all day and doing bookwork can succeed at things that are useful in our society. Some of these things are the very skills that we bemoan the lack of.

There is a lot more that could be said, and I wish I had time to say it. I would have loved to get the call when Mr Stanhope did. I probably would have had more to say. Mrs Dunne really focused on curriculum renewal in her remarks. I welcome curriculum development if it enables us to expand our ideas of how children learn. I also welcome studies that are based on children's lives. I heard someone bemoaning the fact that children were being taught about text. The fact is that, until Harry Potter came along, a lot of young people did not read books at all. So we have to work with where they are.

If they are going to sit and watch TV all day, we have got to make sure they are critical of what they are watching and are not just open minds for advertisers to fill with desire, desire, desire. We need a holistic approach. That was the approach of the education committee when the Liberals were in government. Kerrie Tucker was the chair of the education committee and I am sure that that was a unanimous decision. It endorsed the fact that young people need holistic education. We have to understand that education does not just happen inside the schools and it is absolutely wrong to blame it for—

MADAM TEMPORARY DEPUTY SPEAKER: Order! The member's time has expired.

MR PRATT (Brindabella) (4.27): Mrs Dunne has brought this MPI on not because ACT education is in some disarray—of course ACT education is quite well regarded across this country—but because there is always room for improvement; there are some alarming concerns regarding curriculum and some other issues. That is why Mrs Dunne has brought this MPI on.

For Dr Foskey to blame Mrs Dunne and identify her as undertaking an ideological attack on education is a bit rich. There is no ideological ground left on education. Dr Foskey's constituency ideologically attacked education years ago. Of course, that has occurred here in the ACT as well as across the country.

Dr Foskey talks of cultural change being necessary, but if she were really objective Dr Foskey would identify that as cultural deterioration. For Dr Foskey, talking about traditional standards is clearly like pointing the bone as she shrieks in despair. We are talking about standards, Dr Foskey—tried and tested standards by which our children are prepared to be good citizens of our nation.

The Chief Minister got up and attacked the opposition and said that we attack education. In fact, we defend education. As I was saying, we are always striving to see whether it

can be improved. That is the aim of this MPI. In fact I listened to the Chief Minister speak for seven minutes about how we had apparently bagged out education. He spent seven of his 15 minutes ranting on about the opposition bagging out education. So much for his benchmark speech! It was full of padding!

The current government is doing little to resolve the deep-seated problems that we see in the public education system, not only the standards of education themselves but the culture in which that education is delivered. I want to address both of these issues in my speech this afternoon.

If we look at the concerns of Kevin Donnelly, a noted educationalist, about our national curriculum-based education system, we see there are some serious faults in this approach. Donnelly says:

> First, we need to acknowledge the mistakes of the past and make sure that they are not repeated. Instead of adopting education "fads" like "whole language" and "fuzzy maths" we need rigorous, academic standards.
>
> Instead of destroying history and literature by reducing education to a child-centred, process approach we need to identify essential knowledge, understanding and skills that all students have the right to learn.

He goes on to say:

> Second, we need to identify "best practice" in terms of what is happening internationally. Academics and teachers in the USA argue, to be successful, that curriculum should:
>
> - Be related to specific year levels instead of covering a range of years;
> - Acknowledge the central importance of the academic disciplines;
> - Be benchmarked against the world's best equivalent documents;
> - Incorporate high stakes testing and remove students' rights to be automatically promoted from year to year—

in other words, go through the gate before a student then progresses to the next level of education—

> - Be specific, easily understood and measurable.

That is what Donnelly says about curriculum. In fact, I would say that his arguments have a lot of merit. I would challenge this government to take notice of those and to add those to the mix.

In the ACT, for example, in budget paper 4, page 389, in "Strategic indicators—student performance", we read that ACT students "participate in the Trends International Mathematics and Science Study (TIMSS)". We also read that ACT students "consistently achieve high levels in reading, writing and numeracy assessments against national benchmarks". That is what TIMSS says. Yet if we look at this performance against international benchmarks, as opposed to just national ones, we see that things could certainly be improved.

The Chief Minister got up and talked about Australian benchmarks and ACT performance against those. Let us again look at what these TIMSS benchmarks are and let us look at some others. In the latest survey, Australian year 8 students received a score in mathematics of 505 points. The ACT, on average, scored 538—certainly above the Australian average. This is certainly above the general international average, too, of 467 but is well below the Singaporean average of 605.

In addition, whereas the percentage of children reaching the advance benchmark in Singapore is 43 per cent, in Australia it is just 7 per cent. That is the telling factor, not that we are above the international benchmark—and yes, we are above the Australian benchmark. The fact is that a very small percentage are in that catchment group that achieves that rating. What the opposition wants to say is that we need to have a look at the entire student body, not just that top performing echelon that are clearly achieving well.

Our education minister, Katy Gallagher, defends the current system on the grounds that it is more cooperative and team based, but this is not conducive to mathematics training. In fact, the minister's representative on education Ms Strauch, in estimates hearings, has advised that Singaporeans place much more emphasis on content and less on a cooperative, team-based approach than Australia. She said:

> … there is a whole variety of approaches being used … a combination of rote and cooperative learning.

I refer to the estimates transcript, pages 919-920.

According to the minister, the ACT curriculum is "relevant as possible to the world in which these kids live". She also said

> There is a whole range of skills that we try to promote and foster through the delivery of a comprehensive curriculum.

Yet mathematics training requires a traditional approach, a much stronger approach, according to the indicators and international benchmarks against which we can measure. As Donnelly argues—going back to Dr Donnelly again—whether curriculum developers in Australia, and I would also say the ACT in that sense, adopt a syllabus, a standards or an outcomes approach will profoundly affect what is taught in our schools over the next 10 to 20 years and therefore could dramatically affect the education that is provided for our kids with which to compete in the international global environment.

Therefore, this government must seriously consider where the ACT's education system is heading in all their airy-fairy ideas about curriculum. They need to get serious about this issue and look at the ACT's education standards in light of the international arena, not just the national sphere. I repeat: they need to look at it against the performance of the top echelon of our students versus the middle and lower echelons of our students. That is the benchmark we should be exercising—the middle and lower echelons of our students' performances against national and international standards. And they are not doing that.

The second issue I would wish to focus on is that a culture of respect also needs to be dramatically worked on if we want our kids to get the full benefit of the curriculum. Our teaching and learning environment must not only adopt the correct approach to curriculum but must be enabled to cultivate a culture of respect. Then that holistically addresses our education system for both educators and students alike. This is fundamentally necessary for two reasons: one, to prepare our children to become good citizens; and, two, to clear the way in terms of a safe and clean teaching and learning environment to allow our children to properly engage with and exploit the curriculum. This encompasses a number of areas.

The government has certainly made some headway in a number of these areas. They have certainly made some headway but there is a long way to go. We know that. We know that there is a long way to go in trying to improve these areas. Certainly the safety of teachers as well as students, certainly the bullying aspect, needs to be further addressed.

Thirdly, both principals and teachers need to be supported against the culture or what is now an indiscipline and disrespect. The department needs to provide better measures to take care of those issues. As I say, fundamentally, if we can sort out in our schools this culture of respect so that our children better respect their teachers and their teachers are therefore given more space and more manoeuvre space to focus on their teaching skills, it is going to be a win-win; kids will learn better; they will be able to focus better; and they will be able to exploit that curriculum. As we say, as I finish, the curriculum itself has a lot of holes in it. It needs to be improved if we are going to pull up the bottom echelons of our students as well as exploit the successes of that top echelon.

I commend this MPI. I suggest the government needs to have a look at a whole range of these issues. There is a lot more that can be done with education in the ACT.

MS PORTER (Ginninderra) (4.37): I am grateful to Mrs Dunne for providing me yet again the opportunity to speak about the strength and vitality of education in the ACT. As Mr Stanhope indicated, this government has consistently demonstrated this commitment to the education of our young people.

As Mr Stanhope said, one only needs to explore the 2005-06 budget handed down in May this year by Mr Quinlan. This budget, as we have concluded in this place, was one of responsibility. It was a budget that committed to and affirmed the value of service delivery in education and in health. I would like to quote a sentence from these papers which articulates the government's commitment to education:

> The government is committed to maintaining a well-educated community by ensuring that all students have access to quality education regardless of economic circumstances.

If you think about this sentence in the context of Mrs Dunne's grossly damaging crusade against the government's commitment to excellent public education in the ACT, in Ginninderra in particular, you will see it sits in stark contrast. While the government realises its vision by ensuring that facilities and services at the disposal of ACT public school students rival any school in the country, Mrs Dunne provides no mechanism for

the maintenance of our education community and no mechanism for the investment in our children's future.

Public schools are the lifeblood of our system because they provide opportunities for students to receive a quality education regardless of their financial circumstances. We must invest in our public schools so that students who emerge from them have every opportunity to contribute to the continued intellectual and economic growth of our society and to ensure that they have optimum life chances.

This morning, during the debate on the Tree Protection Bill, our would-be opposition leader talked about investment in the growth of our community and the government's role in stimulating long-term growth. Education is the mechanism to achieve this growth. We must invest in the future prosperity of our society by investing in our children.

I encourage those opposite to speak up about education in their party room because this debate needs to happen. We need some positive ideas coming from the other side, rather than this reactionary rubbish, to effectively engage in a debate about future directions. We need all sides to bring worthwhile proposals and agendas to the table.

In the time I have been in this place, I have rarely seen anything but reaction from the opposition. Where is their policy? Where is their constructive feedback? Where is their firm commitment to improving education outcomes? We may well ask. However, I understand that we cannot sit around and wait for this opposition to engage. We must, as a government, make the commitment to students and to future generations of students. And we have made this commitment. We have committed over $400 million in government school education in the ACT during the 2005-06 budget process, a record amount, because we believe in the future of our children.

I am delighted to say that this investment is producing the intended results for our ACT children. One only needs to look at the performance of ACT schools in the 2003 national benchmark results recently released by the education minister to see the very real success of the Stanhope government's initiative in the area of education. Mr Stanhope has been referring to some of these results. They demonstrate the high quality of education in the territory. We do well to reflect on these results.

In the area of reading in years 3, 5 and 7, ACT students ranked highest or second highest in Australia. Particularly pleasing was a significant improvement from previous years for year 5 reading, with 96 per cent at or above benchmarks, the highest percentage in Australia. Further, the ACT has maintained the trend of previous years, with at least 95 per cent of ACT year 3 students achieving at or above the benchmark standards for reading and numeracy.

In the area of writing, there was considerable improvement in the 2003 results, with 94 per cent of years 3 and 5 students, and 93 per cent of year 7 students, at or above the benchmark. Across the board, the ACT year 7 benchmark results in 2003 for reading, writing and numeracy were among the highest in Australia. These results extend to the program for international student assessment administered in 2003. Based on 15-year-old students, the ACT ranked first or equal first in mathematics, reading, science and problem solving. I think you must agree this was an outstanding result. How Mrs Dunne

can say that this government is allowing public education in the ACT to go backwards defies logic.

When the Stanhope government came to office, the ACT education system was suffering from years of neglect and underfunding; maintenance of infrastructure had long been abandoned; and teachers were paid ridiculously low salaries. Yes, for sure, it was going backwards. And now we can stand in this place and reflect on some of the most talented and best-paid teachers in the country, students who are ranked among the most talented in the world, and the fulfilment of an $8.3 million Stanhope election commitment to improve the state of the ACT school infrastructure.

We can do this because successive Stanhope governments have recognised the need to invest in our future and the future of our children. We have invested heavily in school infrastructure and curriculum innovation, and we have committed to the long-term success of ACT students.

Every Canberran is a stakeholder in the future of our territory. Accordingly, we all have a responsibility to invest in the future of our young people. The ACT government and teachers across the territory have committed to fulfilling this responsibility. It is about time those opposite did the same.

MR STEFANIAK (Ginninderra) (4.44): What a load of nonsense that was in the prepared speech by Ms Porter. I will have her know that the ACT education system, which does have some problems, which Mrs Dunne and you, Mr Deputy Speaker, have highlighted today, is fundamentally a sound system and was certainly left in a fundamentally sound state by the previous government.

I will clarify one matter the Chief Minister raised in his rant, and that related to Charnwood high school. Unlike at Ginninderra district high school, where community consultation occurred after the decision was made, Charnwood high school did go through a consultation process. There were a number of alternatives suggested there. I remember that at the time I hoped they would pick the twinning arrangement with Melba, which was one of the options they looked at. They did not; they opted to have the students go, largely, in the end, to Ginninderra district high, although some went to Melba. Far from not being assisted, they were provided with, I recall, about two years travel assistance and other measures to ensure that their relocation was as smooth as possible. It is important for you guys to get your facts right.

I was disturbed recently to see the P & C lament that fact that about $100 million worth of maintenance needs to be spent on our schools. Yes, Ms Porter, some of that might go back to the previous government. But you lot have been in now for some four years. This is, in fact, the second Stanhope government and you cannot hide behind things that may or may not have occurred in the dim and distant past; you have to take responsibility now for your own actions. It is disturbing to hear such reports from the P & C in terms of some of the physical problems our schools suffer.

Ginninderra district high, which, I do recall, got a revamp in about 1997-98 as a result of a joint venture we took with the commonwealth, has appeared to me, in the times I have gone there in the past couple of months for those two public meetings, to have a very

rundown look about it. Maybe that is a precursor to your government's decision to close it. When I talk about physical problems, I mean the physical state of the buildings.

I am also concerned to hear reports from some of the schools that programs in relation to physical education for students are not being—

Ms MacDonald: On a point of order, Mr Deputy Speaker: the time for the debate has expired.

MR DEPUTY SPEAKER: In fact, it has not. Carry on.

MR STEFANIAK: Thank you very much, Mr Deputy Speaker. I am also concerned to hear reports in relation to the growing problem of obesity in our schools and the fact that the standards set down by the department and set down by governments are—

MR DEPUTY SPEAKER: The time for debate has concluded.

Tree Protection Bill 2005

Debate resumed.

MRS BURKE (Molonglo) (4.47): Before lunch, I was saying that the government should scrap this crock of legislation—legislation that I fear has now become so bolted on that it needs to be rethought. I think it was Dr Foskey that made those comments.

I had a chance over the lunch break to think how we might assist the government overcome the dilemma of informing all Canberrans about the legislation. The answer, to me, is obvious: send a copy of the 96-page bill to every Canberra home. That would resolve the issue. This would ensure that the government could wash its hands of the matter and once again put the onus back on the Canberra community.

The Minister for the Environment before lunch scoffed and laughed, saying he is amending the legislation of the former Liberal government—legislation, I should add, that was so badly hijacked by the Greens and Labor that it lost its true intent and purpose as proposed by the Liberals at that time. So let the Minister for the Environment not forget that one.

Moving on: it will be crucial to also highlight to the general public—page 9, part 3, proposed section 13 (2) (a)—the finer nuances of pruning in order that they do not break the law by mistake. My colleague Mr Mulcahy alluded to that, where people may fall into a trap merely because they do not know the ins and outs of this very intricate Tree Protection Bill. This of course must be done also in accordance with AS4373. Perhaps we should also explain to the Canberra community what exactly AS4373 is. Also for good measure, we could throw in a copy of that for every household, for the Canberra gardener.

As I and other members have alluded to earlier today, if the impacts of this legislation were not so serious for the Canberra community, it would be funny. I also see a real problem with this, setting neighbour against neighbour. The requirements are simply nonsense. Search warrants, powers to enter premises, power to seize things. Excuse me

but—and it concerns me—is this about trees? Come on! Powers and search warrants—what are we coming to?

One would surely have to ask: on what grounds would a person be required to ask for permission from the conservator to remove or cut down a tree? Is it for the protection of the person against action, be it from a neighbour or from government or whoever, given that no permanent tree register exists at this time? Is it simply power playing or is it over-governance, as I alluded to? This legislation—and I will finish on this—is now embarrassing, and the government should seriously put down their pride and repeal this bill. We will not be supporting the bill.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (4.50), in reply: I will close this debate at the in-principle stage. I thank members for their contribution to the debate.

I must say that much of that contribution was made in apparent ignorance of the fact that the legislation that we are debating today certainly is a new scheme, a new scheme that was born out of the existing interim legislation that was legislation of the last Liberal government. In fact, it was the product of the then Minister for Urban Services, the now Leader of the Opposition, Mr Brendan Smyth.

It has been a matter of some amusement to me, I have to say, to see Liberal speaker after Liberal speaker attack the legislation of their now leader when he was Minister for Urban Services and the scheme which he put in place. I notice that the last three speakers for the opposition have each spoken about this dastardly, draconian, uninterpretable AS4373, the Australian standard in relation to the pruning of trees. Who introduced it? Who introduced Australian standard 4373 into our tree legislation and the schemes that operate in the ACT? Mr Mulcahy smirks, slaps his chest and says, "Not me," but he knows it was his now leader.

I notice that the Liberal speakers who spoke in this debate are predominantly in the non-Smyth faction. One after another, Mrs Dunne, Mr Mulcahy and Mr Seselja, the non-Smyth faction, the dream team, got up and seriatim, in serial, bagged the process which their now leader put in place in the interim tree scheme in the ACT, including down to the detail of this obscure Australian standard 4373 that nobody will know about and that we have to letterbox everybody about. Who introduced Australian standard 4373 into the tree legislation of the ACT? Mr Brendan Smyth, the then minister.

It would be interesting to reflect, at our leisure, on the contributions of members of the opposition in this particular debate on the legislation which we are debating today, which is the replacement legislation for legislation introduced by their leader and which is legislation that refines the scheme. I congratulate the previous government for the introduction of the interim tree protection legislation; it was vital at the time. The Liberal Party, in government, recognised the importance of a tree protection regime. It introduced that as interim tree protection legislation. We have taken four years of experience of the operation and application of that particular scheme and we have introduced refinements to it.

It is interesting, in the context of the comments that have been made by the Liberal Party, that their major concern and their reason for refusing to support this legislation is that it is too draconian. One of the fears that the government had in facing the electorate and the chamber with the new legislation was that we would be accused of going soft on tree protection. Far from it. Here we are being slated for being too tough, too draconian on a scheme that essentially we are introducing to ameliorate some of the, we believe, unintended harsh consequences of the interim scheme. The legislation we are debating today—and this is obviously not understood by anyone on the opposition side or within the Liberal Party—ameliorates unintended harsh consequences of the interim tree legislation scheme introduced by the last Liberal government. This scheme ameliorates the harshest aspects.

This scheme that we are debating today is designed to ensure that people going about the normal enjoyment of their homes, their land, their backyards and front yards, their streetscape, do have some capacity to control particularly dangerous trees or trees that impact severely on their amenity or their capacity to enjoy their homes. That is what this scheme does. It seeks to balance the aspirations that people have to be able to enjoy, in safety, their homes and to deal and live with their particular house, their front yard, their street verge, in a way that enhances their enjoyment of their homes and does not endanger them, their properties or their families. That is the balance, on the one side.

The balance that we are seeking to achieve is to protect significant trees, which will be registered trees, and to protect particular landscapes, urban forests, whatever you might describe as the overarching treescape of the territory. That is the legislative design inherent in the bill we are discussing today.

As I say, you would not know, from the contributions made from the other side, that we are generally ameliorating the harshest, the most inflexible and the most administratively complex and difficult aspects of the existing scheme; we are toning it down; we are making it workable; we are removing the hard edges; we are allowing people a greater say, a greater autonomy and a greater independence in relation to trees around their own homes in particular; and we are smoothing the administrative arrangements in relation to, particularly, greenfields development sites and other development areas within the territory. Nevertheless, we are ensuring that we do protect that full range of significant trees, as defined, across the whole of Canberra.

In that context, we have created a hierarchy of trees. We will go through the fairly significant process of identifying, tree by tree, street by street, suburb by suburb, significant trees. And we will register them—a legal regime designed to protect to the utmost, within reasonable limits prescribed within the legislation, those registered trees. We will look ultimately at the requirements of designating those tree management areas to deal with a treescape as such; an urban forest which might be under particular pressure or be of particular significance; a significant part of the essential tree landscape of individual streets, suburbs and areas of Canberra. We recognise how important it is that we monitor and continue to assess the health and welfare of those urban forests, so called.

In that context, it is very pleasing that the Department of Urban Services has sought expert advice from the Australian National University on how to quantify the economic

and environmental benefits of urban forests and how to best ensure that we maintain that part, or that feature, of this city. It is a very significant feature of Canberra, a part of its liveability and a valuable component of Canberra's sustainability.

It has to be said that over the past four years, since the introduction by the previous government of the tree protection interim scheme, it has, quite successfully and to the chagrin of many, reduced the unnecessary loss of trees and wholesale block clearing that was perhaps associated with development prior to the introduction of the scheme and that has essentially and ultimately led to its introduction.

We all acknowledge the sense of the legislation, which the Labor Party certainly supported at the time. It was legislation that was necessary. Our experience shows us, and has shown us, that it is harsh and a bit unbending and does impact on the quiet enjoyment by some people of their homes. In that context, we have looked for another way, a way that is not quite as inflexible, a way that achieves the ultimate aim: we identify our significant trees; we put them on a register; and, once registered, it allows a degree of certainty in relation to their future management.

Secondly, we will develop tree management precincts where we believe that our urban forest is at particular risk of degradation. And we will manage those tree management precincts to ensure that we limit the unnecessary loss of established trees and the consequent erosion of that particular forest.

In those tree management precincts there will be another species of tree, namely, the regulated tree, as opposed to the registered tree. Acknowledging that this is quite detailed, time-consuming work and that resources are tight and limited, it will take Environment ACT some time to do the necessary detailed audit that will allow us to identify all the trees that should be registered and become registered trees according to the register.

We are allowing a transition phase of two years, essentially, during which time we will designate all suburbs as tree management precincts until we get the work done. Progressively, of course, we will go from wholesale tree management precincts to a registration process.

We have also been very conscious of the need to ensure that the tree management regime meshes as seamlessly as possible with the plans, the work and the operations of ACTPLA, the planning authority. We have done that. Some of the amendments that I have proposed today go to those issues as well.

I look forward to debating some of the detail of that in the detail stage. There has been some significant comment made in the debate about issues going to disallowable or notifiable decisions or instruments and issues in relation to strict liability offences. The government has looked at the scrutiny of bills report in relation to that. The government has taken advice on appropriate responses in relation to strict liability. We concede on a couple of those; we maintain our position in relation to the vast majority.

In relation to some of the other proposed amendments, we believe they are unnecessary and do not add to the integrity of the overall package. The government will be opposing

those. But I look forward to the debate on those individual amendments as we get to the detail stage.

At this stage I thank members for their contribution. I think it is a matter of enormous regret that the opposition will not support this bill. It sends a signal that they are not interested in protecting the essential nature of Canberra; they are not interested in protecting significant trees; they have walked away from the importance of this legislation; they do not believe it is important or that there is value in protecting significant trees; and they are not interested in protecting the overall urban landscape, a vital part of the appearance of Canberra, namely, the fact that we are the bush capital and that urban forest is a very significant part of the amenity of the place. It is a real pity that members of the Liberal Party have not found it in themselves to support this very important and vital legislation—legislation that I know the vast majority of Canberrans support absolutely.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 9		Noes 6	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Stefaniak
Mr Corbell	Ms Porter	Mrs Dunne	
Dr Foskey	Mr Quinlan	Mr Mulcahy	
Mr Gentleman	Mr Stanhope	Mr Pratt	
Mr Hargreaves		Mr Seselja	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 and 2, by leave, taken together and agreed to.

Clause 3.

DR FOSKEY (Molonglo) (5.07): I move amendment No 1 circulated in my name *[see schedule 2 at page 3416]*.

This amendment proposes to amend clause 3 (1) (a) of the bill, which deals with objects of the act, to omit "exceptional" and substitute "significant". The clause, which now reads "to protect individual trees in the urban area that have exceptional qualities" would read "to protect individual trees in the urban area that have significant qualities".

Essentially, this amendment broadens the scope of the legislation and I propose it for two reasons. First of all, the word "exceptional" places a high threshold. There is no existing

definition of exceptional and it is not defined in the legislation, whereas the community already understands "significant". It is used in the act this bill is replacing. In fact, without a proper definition, exceptional is quite a problematic word because exceptional means different. It implies better; it indicates unusual. So there is a lack of clarity about the criteria by which exceptionality will be determined. I do not believe that there have been any problems with the use of the word significant in the existing tree protection legislation. I believe that the community understands the word significant. I do not see any reason why the word exceptional has been chosen for this legislation.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.09): The government will not support this amendment. The amendment would affect the objects of the act, which describe the intent of the legislation. We take the point that Dr Foskey makes that the change, on its face, is insignificant to the operation of the act. It would, on one interpretation, actually lessen or lower the degree of status of registered trees.

We can have debate around whether exceptional is superior to significant or significant superior to exceptional, but I think it is open to the government to argue that the proposed amendment would, in fact, lessen the degree of status of registered trees. Essentially, it is a semantic argument about the use of significant rather than exceptional. We do not believe the amendment would necessarily enhance the legislation. The government sees no reason to support the amendment.

MRS DUNNE (Ginninderra) (5.10): The opposition will be opposing this amendment, principally for the same reasons that the Chief Minister has enumerated. There are problems with the objects of the bill, but that is because there are problems with the bill and no amount of tinkering will improve them.

Amendment negatived.

Clause 3 agreed to.

Clauses 4 to 6, by leave, taken together and agreed to.

Clause 7.

MRS DUNNE (Ginninderra) (5.11): I move amendment No 1 circulated in my name *[see schedule 3 at page 3417]*.

This is one of a suite of amendments that seek to turn notifiable instruments into disallowable instruments. In the previous incarnations of this legislation, all these matters were disallowable instruments. They have all been changed holus-bolus to notifiable instruments, which removes scrutiny of the Legislative Assembly from a range of important matters.

This important matter is the capacity of the minister to declare areas of built-up urban area tree protection areas and to define what is urban area for the purposes of the act. This is an important measure, perhaps not the most important thing in this legislation, but it requires some scrutiny. It has an impact on people's lives. It is reasonable that the

Assembly should have some scrutiny over what is or is not declared built-up area for the purposes of the act. I commend the change that would bring some accountability into this legislation by making it a disallowable instrument.

DR FOSKEY (Molonglo) (5.13): This is the first of a number of amendments on the same theme. I will be supporting Mrs Dunne's amendments on this line and moving some of my own to ensure that the criteria are, at the very least, disallowable instruments giving the Assembly and the community that we represent some real scrutiny of the mechanisms which will, in large, shape our approach to tree protection in the ACT.

We must remember that much of the real, fine-grained work of this legislation will be done by staff interpreting criteria set by the minister. I made mention in the earlier stage of wanting to see the minister conduct some kind of consultation on the criteria for declarations, directions and registrations. At the very least, I would want to see the draft criteria already available circulated widely and for the minister to invite comments and responses to them. I would also have preferred these instruments to be made as regulations for the ACT. Clearly that is not what we are dealing with here.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.14): As has been explained, Mrs Dunne proposes to change all of the nine instruments in the bill to disallowable instruments. The government has given this proposal due consideration and considers it is appropriate that an instrument should be disallowable if altering the instrument has the potential to significantly affect the policy direction, as intended under the legislation. It is appropriate to apply certainly a higher level of governance provided by the scrutiny of the Assembly to decisions or declarations that have the potential to significantly alter the policy outcomes or effect of the legislation, and we accept that. As such, on further reflection, the government will support amendments 9, 11 and 13 proposed by the opposition.

The intent of the bill is to provide protection for trees in the urban area. Therefore it is highly improbable that an instrument defining the built-up area would be made other than as the legislation intended. Those are straightforward administrative decisions that will be based on factors such as the territory plan and the status of greenfield developments. In that regard we see no need to support those particular amendments. I know the Greens have made a proposal in relation to amendments 9, 11 and 13 similar to that being made by the opposition in relation to all nine instruments. The government will support the amendments in relation to those three. It does not believe the case is made in relation to the other six. We do accept the case that has been argued in respect of those three particular instances that the Assembly can provide a higher level of scrutiny. We will accept that argument in this instance.

In summary, we do not support this particular amendment. We will support the amendments essentially in the form proposed by the Greens, which are, of course, incorporated in the body of this overall amendment of the opposition.

Amendment negatived.

Clause 7 agreed to.

Clauses 8 to 14, by leave, taken together and agreed to.

Clause 15.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.17): Mr Speaker, I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 1 and 2 circulated in my name *[see schedule 4 at page 3418]* and I table a supplementary explanatory statement to the amendments.

Contributors to the in-principle stage of the debate raised the issue of strict liability. The government proposes that the use of strict liability offences in the Tree Protection Bill 2005 be amended in light of the concerns raised by the Standing Committee on Legal Affairs and to comply with the Criminal Code 2002. These amendments apply to the use of strict liability in relation to the offences of damaging a protected tree and undertaking prohibited groundwork. The appropriate use of strict liability offences is a valuable mechanism to discourage reckless behaviour and needless loss by forcing potential defendants to take every possible precaution.

The Criminal Code provides for the use of strict liability where a defendant can reasonably be expected, because of his or her professional involvement, to know what the requirements of the law are. The intent of these amendments is to limit the application of strict liability to persons undertaking work as part of a business that deals with trees on a regular basis as it can be reasonably expected that these people should be aware of the protection status of a tree and whether the activity is likely to cause damage.

Examples of relevant activities provided in the bill are tree surgery, building, plumbing, landscaping, installation of irrigation, concreting, earthwork and horticulture. The amendments do not, of course, exempt general members of the community from these offences, but apply fault-based offences for those not involved in relevant business activity. That approach is consistent with the Pests Plants and Animals Act 2005.

For the bill to be effective, it is important that lessees, industry and the broader community are aware of their responsibilities under the legislation. The government will prepare a comprehensive communication strategy for the operation of the legislation to ensure that relevant information is readily available regarding the location of registered trees at areas declared as tree management precincts.

MRS DUNNE (Ginninderra) (5.20): The Liberal opposition will be supporting these two amendments and the suite of amendments that go with them in the course of the afternoon. As I said in the in-principle stage this morning, this is a significant concession on the part of the government that is warmly welcomed by the opposition.

I have spoken on a number of occasions in this place about my concerns about the propensity to apply strict liability offences to the average man in the street. I wrote at length to the Chief Minister on this issue and made suggestions for better ways to approach strict liability offences. I am pleased that he has taken up those views. That is not to say that they are only my views; they are the views of a wide range of people. I think that the example adverted in the Pests Plants and Animals Act is a far better model.

I hope that this will be the beginning of a much better approach to the use of strict liability offences in legislation. As I said this morning, I hope that we will see an end to the fairly rampant use of strict liability offences and the way they impinge upon the rights of people in the ACT. I am not going to speak again on these amendments. We will be supporting them.

Amendments agreed to.

Clause 15, as amended, agreed to.

Proposed new clause 15A.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.21): I move amendment No 3 circulated in my name *[see schedule 4 at page 3418]*.

The rationale for the government's amendment is that which I just outlined. That is the case in relation to a number of amendments, so I will not speak again to those, other than to say that the issue is the same.

Proposed new clause 15A agreed to.

Clause 16.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.22): I seek leave to move amendments Nos 4 and 5 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 4 and 5 circulated in my name *[see schedule 4 at page 3418]*.

I will not speak again. The import is the same.

Amendments agreed to.

Clause 16, as amended, agreed to.

Proposed new clause 16A.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.23): I move amendment No 6 circulated in my name *[see schedule 4 at page 3418]*.

This amendment inserts a new clause 16A.

Proposed new clause 16A agreed to.

Clause 17.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.23): I seek leave to move amendments Nos 7 to 12 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments No 7 to 12 circulated in my name *[see schedule 4 at page 3418]*.

Amendments agreed to.

Clause 17, as amended, agreed to.

Clause 18.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.24): I seek leave to move amendments Nos 13 and 14 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 13 and 14 circulated in my name *[see schedule 4 at page 3418]*.

Amendments agreed to.

Clause 18, as amended, agreed to.

Clause 19.

MRS DUNNE (Ginninderra) (5.24): I move amendment No 2 circulated in my name *[see schedule 3 at page 3417]*.

This is another of the suite of amendments that seeks to change those things that cannot be notifiable to disallowable instruments. I apprehend from what has been said before that there is general agreement to amend this clause to make this a disallowable instrument.

DR FOSKEY (Molonglo) (5.25): This amendment is the same as my amendment No 2. I will just put all my arguments for my amendment to clause 19 (2), clause 36 (2) and clause 43 (2) together because they address the same issue.

Essentially, the point of these amendments is to make the key criteria underpinning this legislation a disallowable instrument. These criteria relate to approval criteria for activities that would, or may, damage protected trees, the protection zone of protected trees or a declared site, the declaration of tree management precincts and the registration and cancellation of trees from the register. All in all, these three criteria provide the foundations of this legislation. Therefore it seems entirely inappropriate that such important criteria simply be decreed by ministerial declaration with no form of accountability. Although there are other criteria in this bill that are modifiable instruments, we have identified these criteria as particularly critical to the integrity of this legislation.

Mr Stanhope: I beg your pardon, Mr Speaker. I have trouble following my note on this. This is your amendment—

MR SPEAKER: Mrs Dunne's amendment No 2.

Mrs Dunne: To clause 19.

MR SMYTH (Brindabella—Leader of the Opposition) (5.27): This is Mrs Dunne's amendment to clause 19. By putting it forward in this manner, we want to clarify the purpose of the clause and to make sure that we have a far more effective bill when we finish. When we deal with this sort of legislation in detail, with amendments unfolding over the hours, it is important to check for consistency to ensure that the bill reflects the high standard of legislation that we bring to the Assembly. I see that the Chief Minister has now returned. I will just say I think this is a very worthy amendment, and I thank Mrs Dunne for bringing on.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.27): I thank Mr Smyth. My difficulty is that in my notes Mrs Dunne's amendment No 2 is not the same as Dr Foskey's amendment No 2. I understand that the amendments are the same. This is the amendment that we discussed earlier in which Dr Foskey proposes to change three of the nine notifiable instruments in the bill to be disallowable.

Mrs Dunne: Yes. This the one about prohibited groundwork—

MR STANHOPE: Yes, the three.

Mrs Dunne: which you have already said you would agree to?

MR STANHOPE: Yes. This is one of the three. That was not clear in my notes. I beg your pardon. Now that that is clarified, the government, as I indicated earlier, has given due consideration to the position that has been put. We accept that on matters of some significance there should be this greater level of security. We do support this amendment. I beg members' pardon for my confusion.

MRS DUNNE (Ginninderra) (5.28): Just to clarify the issue, and because I probably have been messing with members' minds, I actually withdrew some of my amendments. So the Minister for the Environment may have been working off an earlier draft, which may have confused things. But just to make sure this is perfectly clear, the minister may publish criteria for what is considered to be damage to trees and what is prohibited groundwork. Clause 19 (2) currently states that a determination is a notifiable instrument. It is the view of the Liberal Party and the Greens, and I think now the government, that this is a matter of such importance that it should be a disallowable instrument and brought before the Assembly for scrutiny.

Amendment agreed to.

Clause 19, as amended, agreed to.

Clauses 20 and 21, by leave, taken together and agreed to.

Clause 22.

DR FOSKEY (Molonglo) (5.30): I move amendment No 3 circulated in my name *[see schedule 3 at page 3417]*.

This amendment makes it mandatory for the conservator to consult with the advisory panel regarding applications to damage protected trees. The purpose of having an advisory panel is to ensure that decisions to protect and to damage trees are made with the input of maximum expertise. Consequently, it makes a good deal of sense to include a requirement that the conservator be consulted.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.31): The government will oppose the amendment.

Amendment negatived.

Clause 22 agreed to.

Clause 23 agreed to.

Clause 24.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting

Minister for Education and Training) (5.31): I move amendment No 15 circulated in my name *[see schedule 4 at page 3418]*.

Amendment No 15 goes to issues in relation to notification provisions and consultation with the Aboriginal community. Protection for these particular trees has been provided for under heritage legislation. The Tree Protection Bill 2005 enables us to provide a level of protection befitting the importance of trees with Aboriginal significance. Concerns were raised in recent consultation with members of the ACT Aboriginal community regarding the role of the Ngunnawal community in the protection and management of Aboriginal heritage trees. Their involvement extends beyond the obvious moral right that is essential in order to identify these trees to provide them with a high level of protection while respecting cultural sensitivities. This set of amendments places a requirement on the conservator to provide notification to the representative Aboriginal organisations of decisions relating to Aboriginal heritage trees and copies of restricted Aboriginal information declarations.

Once notification of a decision is provided, the representative Aboriginal organisation will have an opportunity to request a reconsideration of the decision and to take the matter to the Administrative Appeals Tribunal. These amendments also place a requirement upon the Heritage Council to consult with the representative Aboriginal organisation and to provide advice to the conservator on matters relating to Aboriginal heritage trees. I commend these amendments.

Amendment agreed to.

Clause 24, as amended, agreed to.

Clause 25 to 27, by leave, taken together and agreed to.

Clause 28.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.34): I seek leave to move amendments Nos 16 and 17 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 16 and 17 circulated in my name *[see schedule 4 at page 3418]*.

I have spoken to these particular amendments. I will not add to the comment that I have previously made

Amendments agreed to.

Clause 28, as amended, agreed to.

Clause 29.

MRS DUNNE (Ginninderra) (5.34): I move amendment No 3 circulated in my name *[see schedule 4 at page 3418]*.

Clause 29 relates to the guidelines that may be set out by the conservator in relation to tree management plans. This is an important piece of policy, which is one removed from the legislation at this stage. We have only a vague idea of what will be in the guidelines set out by the conservator. I think that, because of the impact that the guidelines for tree management will have on people who want to develop their private land, it is important that these matters are brought to the Legislative Assembly so that members here have some scrutiny of it. We are accountable to the people in the ACT whose lives are impacted by this piece of legislation. This is a most important change because it is about putting the decision making about these important pieces of legislation not in the hands of the conservator, who is a paid official, but in the hands of the legislators.

Question put:

That **Mrs Dunne's** amendment be agreed to.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Burke	Mr Seselja	Mr Berry	Ms MacDonald
Mrs Dunne	Mr Smyth	Mr Corbell	Ms Porter
Dr Foskey	Mr Stefaniak	Mr Gentleman	Mr Quinlan
Mr Pratt		Mr Hargreaves	Mr Stanhope

Question so resolved in the negative.

Amendment agreed to.

Clause 29 agreed to.

Clauses 30 to 33, by leave, taken together and agreed to.

Clause 34.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.40): I seek leave to move amendments Nos 18 and 19 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 18 and 19 circulated in my name together *[see schedule 4 at page 3418]*. Amendment No 19 is an amendment, again, in relation to the notification provisions relating to consultation with the Aboriginal community. Amendment No 18 is just a technical amendment. I commend these amendments.

Amendments agreed to.

Clause 34, as amended, agreed to.

Clause 35 agreed to.

Clause 36.

DR FOSKEY (Molonglo) (5.41): I move amendment No 4 circulated in my name *[see schedule 2 at page 3416]*. Just briefly: for the same reasons as I put in relation to the amendment to clause 19, I am putting this amendment to clause 36. Essentially, the point of these amendments is to make the key criteria underpinning this legislation disallowable instruments. In this case, these criteria relate to the declaration of tree management precincts.

MRS DUNNE (Ginninderra) (5.42): The opposition will be supporting this amendment because it is an important matter that should be brought into the jurisdiction of the parliament rather than merely left with officials.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.42): The government will support this amendment.

Amendment agreed to.

Clause 36, as amended, agreed to.

Clause 37.

MRS DUNNE (Ginninderra) (5.43): I move amendment No 5 circulated in my name *[see schedule 3 at page 3417]*. As with all of the others, this is an important element. Here the declaration of a tree management precinct is to be made by the minister without the scrutiny of the Assembly. As this bill evolves, if it passes, the importance of what is and is not a tree management precinct will have huge impacts on property owners in the ACT and there should be more public scrutiny of what is or is not a tree management precinct, which is why the opposition believes that this is a matter that should be reviewed by the Legislative Assembly.

Amendment negatived.

Clause 37 agreed to.

Clause 38 to 42, by leave, taken together and agreed to.

Clause 43.

MRS DUNNE (Ginninderra) (5.44): I move amendment No 6 circulated in my name *[see schedule 3 at page 3417]*. This is another of the suite of attempts to change

notifiable instruments to disallowable instruments. This is one of the elements at the crux of the tree register, that is, the criteria for registration and cancellation of a tree on the register. As you might remember, Mr Speaker, a registered tree is a tree of historical heritage, assigned to be of significance, and may also be accompanied by other trees that enhance its significance.

The criteria for determining this are a matter of significant public policy and have a great impact on all elements of leased land and unleased land in the ACT. Those criteria should be openly debated in this place and in the community before they are determined. This is why this needs to be a disallowable instrument so that, if there are problems with it, it can be brought to the right place, that is, this place, to be fixed up.

Amendment agreed to.

Clause 43, as amended, agreed to.

Clauses 44 to 46, by leave, taken together and agreed to.

Clause 47.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.46): I move amendment No 20 circulated in my name *[see schedule 4 at page 3418]*. This is simply a technical amendment of no great significance.

Amendment agreed to.

Clause 47, as amended, agreed to.

Clause 48.

MR STANHOPE (Ginninderra—–Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.47): I move amendment No 21 circulated in my name *[see schedule 4 at page 3418]*. This is a further amendment in relation to notification of consultation with the Aboriginal community in relation to trees of indigenous significance.

Amendment agreed to.

Clause 48, as amended, agreed to.

Clauses 49 to 54, by leave, taken together and agreed to.

Clause 55.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.48): I move amendment No 22 circulated in my

name *[see schedule 4 at page 3418]*. Once again, this relates to trees of Aboriginal significance.

Amendment agreed to.

Clause 55, as amended, agreed to.

Clauses 56 to 58, by leave, taken together and agreed to.

Clause 59.

MRS DUNNE (Ginninderra) (5.48): I move amendment No 7 circulated in my name *[see schedule 3 at page 3417]*. Clause 59 is probably one of the most draconian parts of the bill and we need to consider what we are doing here. The conservator essentially can make a determination that a tree has been cancelled off the register because it has died or no longer has significance. That declaration is now a notifiable instrument, and it should be, as with the others, a disallowable instrument.

The act of taking a tree off the register, in itself, is not a problem; the implications of a tree coming off the register, if someone wants to develop the land, are significant indeed. Subclause 4 of clause 59 gives the conservator huge powers to prohibit someone taking any development action on the site for up to five years. This is a considerable impost on people.

It does not take account, as Mr Mulcahy said in the in-principle debate this morning, of who perpetrated any harm that may have befallen the tree that is no longer on the register. It just says that you are the landowner where the tree was; it is no longer on the register; and we are going to hold you responsible for it being there, to the extent that we will not let you develop on your land for up to five years as punishment just in case you did something. First and foremost, the decision to take something off a register must be widely and publicly known.

The opposition will also be opposing this clause.

MR CORBELL (Molonglo–Minister for Health and Minister for Planning, and Acting Minister for Children, Youth and Family Support, Acting Minister for Women and Acting Minister for Industrial Relations) (5.50): Just briefly on this issue: I hear the concerns raised by Mrs Dunne but I think it is well worth making the point that the provision in this clause ensures that people cannot profit from an action which results in the destruction of a tree which would have otherwise hindered their development proposal. There are processes in place that allow trees to be removed if it can be demonstrated that there is no viable alternative development or design resolution for a development. And those provisions continue.

But it is important that we send a signal, as an Assembly, that someone cannot be party, directly or indirectly, to the removal of a tree and say, "I wasn't aware of it; nothing to do with me," and then be able to receive the benefit of that action. So it is an important measure. It sends a strong signal that development is not at any price and that the retention of significant trees is something that the community places a higher value on.

It is quite misguided of the Liberal Party to oppose this clause, as indeed it is misguided of them to oppose tree protection legislation overall, which is what they have done earlier today.

Amendment negatived.

MRS DUNNE (Ginninderra) (5.52): The Liberal opposition will be opposing this clause, as we have said in the in-principle stage. Mr Mulcahy reinforced it in the in-principle stage. This is an unwarranted imposition. There is a very low level of proof required by the conservator and, in return, the conservator can make very harsh impositions upon landowners.

Mr Corbell is saying that we need to send a message that people cannot vandalise trees and profit from it. I like the way Mr Corbell always says "profit" with such venom, almost spitting the word out. It is not about people profiting from nefarious acts; it is about attributing real blame where it is necessary. The level of proof that falls to the conservator is very low. The conservator has to be satisfied on reasonable grounds that things have happened. All of the responsibility falls to the leaseholder.

As Mr Mulcahy rightfully said today, and in my experience, there have been a number of occasions where there are neighbourhood disputes over trees. And there are a range of neighbourhood disputes that escalate into tit-for-tat planning applications, refusals and interventions by neighbours. If this stands as it does, it creates, for that small number of people who don't get on with their neighbours and who have a malicious bent, another opportunity for them to ruin their neighbours' lives. If something happens to a tree that may cause it damage, it may not be the responsibility of the landholder; it may be the responsibility of the neighbour; it may be the responsibility of a tradesman who comes on the block to do something—all sorts of things may come into play.

The burden of proof for the conservator is far too low to essentially put a moratorium of up to five years on development on a block where a tree has been deregistered. This is inappropriate. It is slightly better than it was in the previous legislation. It is inappropriate; it is draconian; and it must be opposed.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs, and Acting Minister for Education and Training) (5.55): The government asserts that this is a quite reasonable response to the situation that the conservator may be confronted with in relation to the circumstances described. The decision that the conservator makes is a purely functional decision; it will be based on a range of technical considerations. There is an opportunity for an appeal to the Administrative Appeals Tribunal against the decision.

It needs to be remembered, to put the position in some perspective—and it does go to the issue that my colleague Mr Corbell raised—that it is an appropriate response in a circumstance in which trees, potentially, are deliberately damaged to seek an advantage for profit. Dare we say "profit"! Let us say "advantage"!

In the context of the situation imagined by section 59, there is in fact no loss; it is a case in which, for five years, the position that would have pertained had the tree not been deliberately damaged will continue. You cannot say there is a loss because somebody deliberately damaged a tree in order to seek an advantage or a profit and there was an intervention. The status quo effectively is retained for five years. You cannot talk about loss; it is an action precipitated by a desire to make a profit or to achieve an advantage.

What the conservator is essentially doing is saying no, we will maintain the status quo; the position that would have prevailed had the tree survived will persist for five years. There is no loss. It is essentially an acknowledgment that, in the circumstance, a person shouldn't be able to make a profit, take the odds to it that it is worth the risk of a fine because there will be some other greater advantage. And do not pretend people do not make decisions on that basis. They do. This is an appropriate response to a very, very difficult situation.

Question put:

> That clause 59 be agreed to.

The Assembly voted—

Ayes 8		Noes 7	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Seselja
Mr Corbell	Ms Porter	Mrs Dunne	Mr Smyth
Mr Gentleman	Mr Quinlan	Dr Foskey	Mr Stefaniak
Mr Hargreaves	Mr Stanhope	Mr Pratt	

Question so resolved in the affirmative.

Clause 59 agreed to.

Leave of absence

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

> That leave of absence be given to Ms Gallagher for this sitting week.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted and the resumption of the debate made an order of the day for the next sitting. The motion for the adjournment of the Assembly was put.

Adjournment
Petrol prices

MR MULCAHY (Molonglo) (6.01): Yesterday I thought my hearing was going when I heard the latest rather harebrained idea from the ACTU that it is racing off to make yet another wage claim for Australia's, described by them, 1.5 million low-income earners because the cost of petrol has gone up. I thought we had moved out of the 1970s

economic model that the ACTU embraced. I naively thought that maybe they were moving into an era of better economic management. But clearly that is not the case. The people of the ACT must seriously wonder why, when they hear that the ACTU, the Labor Party and their representatives here in Canberra keep advocating these knee-jerk, populist measures that will do nothing to help the ordinary households of this city.

The ACTU's rationale that we immediately increase wages because petrol prices have gone up, of course, as most sensible people would realise, will hurt households even more than the current escalation in fuel prices that is happening, because every time we take these knee-jerk reactions on wage increases it flows through into all the aspects of the economy, including supermarket items.

It seemed to me that Mr Combet and the ACTU need to take a few lessons in basic economics; they need to hear from people such as Dr Andy Stoeckel who is well regarded in this city and has been involved in economics for a very long time now, from the Centre for International Economics. He used to head up the Bureau of Agricultural Economics.

Ms MacDonald: The petrol increase is already affecting the cost of goods in supermarkets.

MR MULCAHY: Ms MacDonald, who is muttering away over there, does not like this because it is a bit close to home. It is really important that people who think these are great ideas stop for a minute and think a bit about economics and the flow-through, because the victims in these situations are not the high-income earners whom they always want to go after but are in fact ordinary people. Having already dealt with the cost of fuel, which is a real issue in many households in this territory, their answer is: increase the wages; make every employer pay more. Immediately the costs of goods and services will go up.

We do not hear them say—and I would not advocate, just in case they choose to misquote me—that interest rates are now the lowest we have had in decades, so everyone's wages should go down. It seems every time there is a price variation we have got to change the rates of pay. What they are not so flash about is dealing with sustained economic growth.

Dr Stoeckel said, when talking about this issue, that economic growth could be 1.6 per cent lower and inflation higher as a result of higher petrol prices. Lower economic growth, of course, means less employment, and so does higher inflation because it makes business less competitive. One thing the union movement excels at is trying to put people out of work, by unjustified wage increases, because they have no regard for people who are in casual employment, people who are part timers; they simply do not suit the agenda.

It is for that reason that, sadly, they have found that their market share, as I would describe it, is down to around 18 per cent in this territory. Many of the people who vote Labor now consider that the way in which their union representatives operate in the city is sadly getting off the money.

The success of the Australian economy in the past 10 years is because wage increases have been based on productivity gains. But Mr Combet wants to reverse this principle. He wants to base wage increases on the volatile movements of one commodity, that is, petrol prices. The ACTU wants to add further costs to the increasing cost of business, limiting growth and jeopardising businesses' ability to provide long-term, stable employment for workers.

This is at a time when, through prudent economic policy, interest rates are going down, something that those opposite would not remember. It has become a feature of our current Australian government. We have seen a 14 per cent increase in real wages to workers since 1996, since the election of the current Australian government. Yet the ALP, when it had its turn at the helm, could only provide 1.2 per cent growth in wages in 13 years in government—at a time, it should be pointed out, when our Chief Minister was an adviser to the current Opposition Leader, Mr Beazley.

Time is limited, but I think it is appropriate to draw the attention of the Assembly to this rather extraordinary claim by Mr Combet. It is a desperate attempt at seeking popularism because people are concerned about the cost of fuel. But his solution of inflating wages is certainly not going to deliver households the relief they need.

Calwell high school—roundtable

MR GENTLEMAN (Brindabella) (6.06): Today we have heard debate on the state of education in ACT schools. Let me give you a short personal account of how the education system is working in Calwell, in my suburb. Just yesterday I had the pleasure of taking part in the Calwell high school exhibition round table.

The exhibition series, for this year, focused on what it is like to be a teenager in 2005 and comprised students from Calwell high preparing a detailed brief on allocated subjects and then presenting it to a roundtable panel. Roundtable panellists constituted teachers from the school itself, departmental officials, members of the Australian Education Union and other representatives like me.

Students were also encouraged to work on a topic of their own choice within the guidelines. This allowed students to become excited about their particular topic, and that showed clearly as they presented their individual choices to the roundtable. Let us face it, after all most people may not find it exciting to present a demonstration on maths. But when it comes to music or sport, that is a whole different ballgame. I was given detailed accounts of the students' passions for motorcycling, music and web-page design.

A budding motorcycle mechanic gave us a rundown on his weekend passion of riding on his dad's farm and repairing his bike on the roadside when needed. I felt some affiliation with this budding engineer and shared my experiences of riding and repairing when I was his age. I was then surprised to find out, by explanation, that Mr Clive Haggar from the AEU also rode bikes at an early age. He, too, shared his experiences at the roundtable. This sharing of knowledge and experiences allowed the student to become at ease with the process of his first-ever interview. He attained more knowledge and preparedness for the next time he presents, perhaps to his first-ever employer.

Our musician was just as excited to show her wares and provided the group with a fantastic rendition, I believe, of her own creation, on a portable keyboard. She explained her passion for taping and mixing music over the weekend and playing it back to friends and relatives.

I know I have only talked about their passions so far, but I should also advise the Assembly that these presentations involved mostly real schoolwork, with detailed research and preparation skills in high demand. Students were required to explain each stage of their research, make formed reference notes, as well as indicate any assistance that was provided. Their presentations were some 10 pages of detailed notes and explanations.

We had to rank the participants on research detail, including references; physical presentation, dress, speech and eye contact; and preparedness to work outside the normal school regime. These students presented to the roundtable, I understand, during their day off.

The last presentation I could attend was provided by the school's ace student. This web designer certainly knew his work. He provided clear explanations of his web design, real-time log on with his own graphics and showed us all how much fun it is to be a teenager in 2005.

I congratulate Helga Ratas, Calwell high school, its students and educators on a successful program.

We often pick up the daily paper only to see stories about wasted youth and the lack of substance they exhibit in this day and age. I have heard the adage "sullen youth" from those who ignore the real maturity and drive of our youth here in Canberra. Let me assure you all: if this group of forward-moving students and educators are anything to go by, we are all in for the time of our life. So get in, buckle up and enjoy the ride.

One place

MS PORTER (Ginninderra) (6.10): I am delighted to take this opportunity to recount to the Assembly the great time I had recently launching a new Islamic film *One place*, during an event at the Canberra Islamic Centre. This film highlights the experience of three Muslim people—a schoolteacher, an artist and a forensic scientist. This was supported through the ACT government's Canberra urban parks and places community partnership program.

The launch and its subsequent screening allowed me the opportunity to reflect on the diversity of Australian heritage and culture. In my opinion, as I have said previously in this place, a major strength of the Canberra community is its underlying tolerance of and respect for difference. The film clearly portrays the way in which migrants to Australia are assisted and supported in adjusting to life in Australia and, indeed, Canberra. It accurately reflects the sentiments of respect that I believe demonstrate a culture of acceptance and celebration of diversity.

As members will be aware, like so many of my fellow Australians, I was not born in this country. I arrived here in 1954, with my parents who sought for themselves and their children the promise of an opportunity which Australia had become renowned for. My presence in this place, and the achievements of so many of my fellow Australian migrants in the arenas of corporate, political and community life, are a testimonial to this country's migration program over many years.

I am glad to say that this tradition continues for the society we shape today, and I am proud to be a member of a government that constantly seeks to encourage people from all around the world to settle in Canberra and works to give us all a better understanding and acceptance of diversity. This is reflected in its policy framework.

I was absolutely delighted and grateful for the opportunity to launch the Islamic film, *One place*, in cooperation with the Canberra Islamic Centre and enjoy the opportunity to see the life of three Islamic people profiled in this film, to learn more about the Islamic cultural heritage and, simultaneously, to reflect on the multicultural strength of our community. Films and events such as this one, hosted by the Islamic Centre, are examples of the way we develop a better understanding of the culture and customs of others. In this way we can better identify what are the similarities between us, rather than what are the differences. We must always remember there is more which unites us than divides us.

I encourage all in this place, at the first opportunity, to view this film, *One place*, and to visit the Canberra Islamic Centre in Tuggeranong to learn more about their rich culture.

2005 art exhibition

DR FOSKEY (Molonglo) (6.13): On Friday of last week, I attended the opening of the Artists Society of Canberra art exhibition 2005 at the Albert Hall. It raises a few issues that are of concern to the Assembly. Of course it was an enjoyable experience in itself. The very large Albert Hall, which I do think of as a community hall even though it does not belong to the Canberra community, was chock-a-block with works of art. Apparently that was only a proportion of the works that were submitted for the competition.

Everyone who submitted was a member of the Artists Society of Canberra and there were a number of genres available. One of the key things about this particular exhibition was that one of the categories was art related to the Molonglo River and its catchment. There were a number of paintings and works in other media that reflected that theme.

The Artists Society of Canberra has 340 members and is probably one of the oldest societies in Canberra. It was formed in 1927. It is certainly as old as old Parliament House. I do not think there are any of the original members still involved in it.

What it says about Canberra is: what a town it is for people not just consuming culture but also involving themselves in it. This is a community where people sing in choirs—we must have more choirs per head than any other place; people involved in repertory theatre; and people painting and drawing.

A number of people were exhibiting for the first time. I spoke to a few people for whom it is a very brave move to put your work out there. But the issue that was raised with me by some members is that for 15 years the Artists Society has been looking for a place of its own. Many community groups lack such a place. They would like a place where they could have a studio, run classes and so on.

They did have a place for a while. They were paying $24,000 a year at the Canberra Technology Centre. That $24,000 a year entitled them to one classroom and access to the lift. One member made a particular point of telling me that that lift was so unsafe that the cleaners in the place will not use it and that a number of their more elderly members have been trapped in it. Something it does fairly frequently, I gather, is stop between floors. It is one of those old lifts that probably require a treadle to operate—no, I am only joking, but it is one of those old ones where you can see where you are going. And that can be scary in itself. In this case the scary thing is the thing does not work properly. I draw that to your attention.

So $24,000 a year and an unsafe lift led to the Artists Society of Canberra vacating those premises. Again they are homeless and would seek the goodwill of the government which, I am sure, they have approached a number of times to assist them to find suitable premises with access for the elderly and people who might have a disability that makes a set of stairs difficult for them.

However, that is a negative side. Nonetheless, hundreds of the 340 members work on wherever they can. I think that we can all be very proud of the work that they have done.

Dana Cup—youth football

MR SMYTH (Brindabella—Leader of the Opposition) (6.18): This evening I wish to bring to the attention of members and of the entire Canberra community the efforts of one of our local under-14 girls soccer teams who recently made a journey to Denmark to compete in the Dana Cup. They are the Woden Valley football club the Globetrotters.

The names of the team members are—and I think it is important to put their names on the record—Edith Scrafton-Savage, Jessica White, Sophie Kochinos, Maddy Beard, Christine Walters, Ellie Hollis, Rachel Fearn, Ellie Raymond, Megan Taylor, Maxine Lake, Monique Solar, Becky Kiting, Ellie Crossman and Jill Raymond. Their coach was an ex-Matilda, Pieta-Claire Hepperlin. Their manager was also an ex-Matilda, Rachel Harrigan. Both had represented Australia at the Olympics and at the World Cup.

Thanks to the efforts of a couple of parents who decided that it would be worth going to Denmark and the support of the community, the group raised $60,000 towards funding the tour. The fundraising included more than 30 sausage sizzles, the sale of 22,000 Krispy Kreme Donuts, 7,000 raffle tickets, an interclub tournament, a trivia night and a fundraising dinner—just to mention a few of the efforts undertaken.

On their way to Denmark, the team stopped in Shanghai where they played the Shanghai sports academy. Unfortunately, they went down 4-1. From reports of the game, Shanghai may never be the same again, due to the cheering from the Australian supporters.

When they arrived in Denmark from Shanghai, they went to Copenhagen and then to a small town called Horsens which put the team up. There the team was able to participate in a local competition, which they won. It was good preparation. From Horsens, they then moved on to Hjorring to participate in the Dana Cup.

For the information of members, the Dana Cup is the largest youth football tournament in the world. It attracts over 900 teams from over 40 countries and is considered to be the pinnacle for young players. It was a chance for our girls to play in a world-class competition as well as have fun and learn a little bit about the other side of the world. This is something that they took to with a great deal of gusto.

On arriving in Hjorring, they were set up in a local high school. They turned a spartan classroom into a home. Mainly through their efforts and the sheer vitality of the team, they were asked by the mayor of Hjorring to be one of the two teams who were officially invited to open the Dana Cup. The other team was from Russia. The coach, Pieta-Claire Hepperlin, said it was very much like an Olympic opening, only a little smaller. Our girls got to light the special tournament flame.

The 14 girls, their support crew and 20 families and friends were there at the opening of the ceremony, wearing their boxing-kangaroo boxer shorts. So good was their chanting that they opened the competition by winning the chanting competition with the best war-cry, complete with made-in-Australia boxer shorts. For winning that, they were featured on Danish TV.

Down to the soccer—and this is the important bit: when you are talking about an under-14 team that travels to the other side of the world, they did not go with too many expectations. They thought it would be nice to get a win or two and make a good showing, but they surprised everyone by winning game after game. At the end of each day, they seemed to have kicked the winning goal.

They were so well received that, as other teams were eliminated, they joined our guys in supporting the Woden Valley football club Globetrotters. Groups of Norwegians, Swedes, Danes and even the local team, Fortuna, which was tipped to win but was sidelined by the Aussies, joined our support side.

They battled it out against Switzerland in the semi-final. They were not expected to win, but they did. To their credit, they made it to the final of one of Europe's largest tournaments. Unfortunately, in the final, the puff ran out. The team that they played against adapted their style in some fairly inhospitable and squally conditions. As the girls themselves said, they simply ran out of steam.

The score line was close, a 2-1 loss. The Globetrotters were very disappointed but at the end of the day realised that, for a group of under-14 year-old girls from Woden Valley, to make it to the grand final of the largest youth soccer tournament in the world was an amazing achievement in its own right.

Since returning home, the Woden Valley Globetrotters have been nominated for team of the year in the ACT clubs awards. They won the Kanga Cup final.

MR SPEAKER: The member's time has expired.

Education

MS MacDONALD (Brindabella) (6.23): Earlier today we had a discussion of a matter of public importance which was proposed by Mrs Dunne in which she raised the issue of the state of education in the ACT schools. The implication was that the state of education in ACT schools is not good, from pretty much everything that Mrs Dunne was saying.

I did rise to speak in that debate but, unfortunately, we ran out of time; so I want to raise a couple of points which were not really addressed. I would like to state at the outset that Mrs Dunne stated that the minister for education is herself a product of the sixties. That is indeed incorrect. I am a product of the sixties, having been born in 1969. I know Ms Gallagher is a year or two younger than I am; so she is in fact a product of the seventies.

Mr Pratt made quite a few comments and quoted quite considerably from Dr Kevin Donnelly's book. I thought it would be interesting to point out that, while Dr Kevin Donnelly was being quoted as some great think-tank in education, Dr Donnelly is, in fact, a member of the right-wing section of the Victorian Liberal Party. He was the former chief-of-staff to Kevin Andrews. He failed in the last rounds of preselection for the seats of Kew and East Yarra. I understand he is sniffing around the seat of Kooyong to try to knock off Petro Georgiou.

Whilst he does have a doctorate in education—that is true—he has never been an academic in the field. His book *Why our schools are failing* is a right-wing rant against progressive education and education unions. It was published by the Menzies Centre. I understand that Malcolm Turnbull wrote the foreword to his book. While that does not necessarily take away from any of the ideas that he puts forward—he has every right to his own ideas—to quote him as an independent thinker on education and an expert would be erroneous and a little misleading, I would suggest.

Mr Pratt made a comment about this government having an issue with living up to national standards; we do not want to be meshed against national standards. I point out that there are only the numeracy and literacy benchmarks. The Chief Minister quite rightly pointed out that the students in this jurisdiction continually top and outstrip the national average in that regard.

It is very important to point out the terms of the issues that Mrs Dunne was raising with regards to curriculum. I was fascinated to hear Piaget being raised. I have not heard that name for quite a few years, since I did my teaching qualification. At the moment, we have no territory-wide curriculum. What we have in the ACT is a school-based curriculum. What is being proposed with the curriculum that has been put forward by the department is a territory-wide framework which will not necessarily take away from the school-based curriculum but will add a rigour that is saying that in most instances we do better than the rest of the country and that in a lot of instances we are up there with the rest of the world. That does not mean we cannot strive for more. And that is what the department of education, under the leadership of this government, is trying to do.

I have got no issues with raising concerns about curriculum. There has been ongoing discussion—there was discussion when I was doing my teaching qualification—in terms of curriculum. But it is erroneous to say that the curriculum causes the problem. Curriculum is a tool; it is not the cause of the problem.

In closing, Mr Pratt raised the issue of bullying. There are frequent examples of proactive approaches to ensure safe learning environments in the ACT. A number of schools in the ACT have won awards for the anti-bullying practices they put in place. That is an issue that needs to be addressed as well, but I am about to run out of time.

Question resolved in the affirmative.

The Assembly adjourned at 6.27 pm.

Schedules of amendments

Schedule 1

Litter Amendment Bill 2005

Amendment moved by Mr Pratt

1
Clause 5
Page 3, line 9—

omit subclause (3), substitute

(3) Subsection (1) does not apply to the exercise of a power by an authorised person under section 17(1) where the authorised person is clearly recognisable as an authorised officer for the purposes of enforcing the Act.

Schedule 2

Tree Protection Bill 2005

Amendments moved by Dr Foskey

1
Clause 3 (1) (a)
Page 3, line 4—

omit

exceptional

substitute

significant

3
Clause 22
Page 16, line 25—

omit

may

substitute

must

4
Clause 36 (2)
Page 25, line 6—

omit clause 36 (2), substitute

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Schedule 3

Tree Protection Bill 2005

Amendments moved by Mrs Dunne

1
Clause 7 (3)
Page 5, line 3—

omit clause 7 (3), substitute

(3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

2
Clause 19 (2)
Page 16, line 4—

omit clause 19 (2), substitute

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

3
Clause 29 (2)
Page 22, line 14—

omit clause 29 (2), substitute

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

5
Clause 37 (3)
Page 25, line 14—

omit clause 37 (3), substitute

(3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

6
Clause 43 (2)
Page 28, line 10—

omit clause 43 (2), substitute

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

7
Clause 59 (3)
Page 37, line 12—

omit clause 59 (3), substitute

(3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Schedule 4

Tree Protection Bill 2005

Amendments moved by the Minister for the Environment

1
Clause 15 heading
Page 11, line 2—

omit the heading, substitute

15 Damaging protected trees—general

2
Clause 15 (4) to (6)
Page 11, line 17—

omit

3
Proposed new clause 15A
Page 11, line 22—

insert

15A Damaging protected trees—work done as part of a business

(1) This section applies to a person who is doing work as part of a business involved in—

(a) property development or maintenance; or

(b) any other activity in relation to land that may affect trees on the land.

Examples of activities for par (b)

tree surgery, building, plumbing, landscaping, installing irrigation, concreting, earthwork, horticulture

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The person commits an offence if—

(a) the person does something that damages a protected tree; and

(b) the person is reckless about whether doing the thing would damage the protected tree.

Maximum penalty: 400 penalty units.

(3) The person commits an offence if the person does something and is reckless about whether doing the thing would damage a protected tree.

Maximum penalty: 200 penalty units.

(4) The person commits an offence if—

(a) the person does something that damages a protected tree; and

(b) the person is negligent about whether doing the thing would damage the protected tree.

Maximum penalty: 100 penalty units.

(5) The person commits an offence if the person does something that damages, or is likely to damage, a protected tree.

Maximum penalty: 50 penalty units.

(6) For subsections (2), (3) and (4), strict liability applies to the circumstance that the tree is a protected tree.

(7) An offence against subsection (5) is a strict liability offence.

4
Clause 16 heading
Page 11, line 23—

omit the heading, substitute

16 Doing prohibited groundwork—general

5
Clause 16 (4) and (5)
Page 12, line 22—

omit

6
Proposed new clause 16A
Page 13, line 3—

insert

16A Doing prohibited groundwork—work done as part of a business

(1) This section applies to a person who is doing work as part of a business involved in—

(a) property development or maintenance; or

(b) any other activity in relation to land that may affect trees on the land.

Examples of activities for par (b)

tree surgery, building, plumbing, landscaping, installing irrigation, concreting, earthwork, horticulture

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The person commits an offence if—

(a) the person does prohibited groundwork in—

(i) the protection zone for a protected tree; or

(ii) a declared site; and

(b) the person is reckless about whether the groundwork is prohibited groundwork in—

(i) the protection zone for a protected tree; or

(ii) a declared site.

Maximum penalty: 200 penalty units.

(3) The person commits an offence if—

(a) the person does prohibited groundwork in—

(i) the protection zone for a protected tree; or

(ii) a declared site; and

(b) the person is negligent about whether the groundwork is prohibited groundwork in—

(i) the protection zone for a protected tree; or

(ii) a declared site.

Maximum penalty: 100 penalty units.

(4) The person commits an offence if the person does prohibited groundwork in—

(a) the protection zone for a protected tree; or

(b) a declared site.

Maximum penalty: 50 penalty units.

(5) For subsections (2) and (3), strict liability applies to the circumstances that—

(a) the tree is a protected tree; and

(b) the groundwork is done in—

(i) the protection zone for the tree; or

(ii) a declared site.

(6) An offence against subsection (4) is a strict liability offence.

7
Clause 17 heading
Page 13, line 4—

omit the heading, substitute

17 Exceptions—tree damaging and prohibited groundwork offences

8
Clause 17 (1)
Page 13, line 5—

omit

Section 15 and section 16

substitute

Sections 15 to 16A

9
Proposed new clause 17 (1) (c) (iia)
Page 13, line 14—

insert

(iia) a condition of a development approval that requires a person to do or not do something in relation to—

(A) a protected tree; or

(B) the protection zone for a protected tree; or

(C) a declared site; or

10
Clause 17 (1) (d)
Page 13, line 18—

omit

11
Clause 17 (2)
Page 14, line 19—

omit

12
Clause 17 (3), proposed new definition of *development approval*
Page 14, line 24—

insert

development approval means an approval in force under the Land Act, part 6 for a development.

13
Clause 18 (1) (c), proposed new example
Page 15, line 16—

insert

Example of tree protection condition for par (c)

A condition that the applicant comply with tree protection requirements of a tree management plan.

14
Clause 18 (3)
Page 15, line 20—

omit clause 18 (3), substitute

(3) A person commits an offence if—

(a) the person engages in conduct that contravenes a tree protection condition of the development approval; and

(b) the person engages in the conduct in doing work as part of a business involved in—

(i) property development or maintenance; or

(ii) any other activity in relation to land that may affect trees on the land.

Maximum penalty: 50 penalty units.

Examples of activities for par (b) (ii)

tree surgery, building, plumbing, landscaping, installing irrigation, concreting, earthwork, horticulture

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) An offence against subsection (3) is a strict liability offence.

(5) In this section:

engage in conduct means—

(a) do an act; or

(b) omit to do an act.

15
Proposed new clause 24 (2) (f)
Page 18, line 5—

insert

(f) if the application relates to an Aboriginal heritage tree—each representative Aboriginal organisation.

16
Clause 28 (1)
Page 21, line 2—

omit

17
Clause 28 (2)
Page 21, line 11—

after

given

insert

to the person

18
Clause 34 (2) (a) and (b)
Page 24, line 9—

omit clause 34 (2) (a) and (b), substitute

(a) the lessee of, or land management agency for, the land where the tree is located; and

(b) if the tree is on leased land—the lessee of, or land management agency for, land that—

(i) adjoins the land where the tree is located; and

(ii) is within 50m of the tree; and

19
Proposed new clause 34 (2) (d)
Page 24, line 14—

insert

(d) if the plan is for an Aboriginal heritage tree—each representative Aboriginal organisation.

20
Clause 47 (1) (b)
Page 29, line 20—

omit

tree protection zone

substitute

protection zone

21
Proposed new clause 48 (3)
Page 30, line 17—

insert

(3) If the tree is an Aboriginal heritage tree, the heritage council must consult, and consider the views of, each representative Aboriginal organisation before giving the conservator advice on the proposed registration.

22
Proposed new clause 55 (3)
Page 34, line 23—

insert

(3) If the tree is an Aboriginal heritage tree, the heritage council must consult, and consider the views of, each representative Aboriginal organisation before giving the conservator advice on the proposed cancellation.
