Debates

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Wednesday, 2 July 2008

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

Private members business—postponement

Ordered that private members business No 1 be postponed until a later hour.

Climate Change (Greenhouse Gas Emissions Targets) Bill 2008

Mrs Dunne, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MRS DUNNE (Ginninderra) (10.33): I move:

> That this bill be agreed to in principle.

On behalf of the Canberra Liberals, I have pleasure in presenting to the Legislative Assembly the Climate Change (Greenhouse Gas Emissions Targets) Bill 2008. This is a sign of our commitment to addressing the climate change challenge. This is a bill which sets real targets for reductions in greenhouse gas emissions, in both the medium term and the long term. In addition, the bill provides a mechanism for reporting on those targets and reviewing them.

The Stanhope government has set a greenhouse gas target, a target that seems to be a defensible compromise between the unachievable and the inadequate. It could be tougher, but that is not the major problem. The problem is that that target is set for the year 2050. It is a target for our grandchildren. Leaving aside the question of what technology and what new information will be available, let us suppose that, horror of horrors, we or our grandchildren do not meet the target. Who are they going to call?

There are chances that Jon Stanhope will eclipse his esteemed rivals Robert Mugabe and Fidel Castrol for longevity and will still be in power. I know that my colleagues opposite might blanch at that, and I share their pain. But it is pretty obvious that a commitment to meet targets in 40 years time is not a serious commitment. Barring sudden developments in geriatrics, if not cryogenics, there is not much prospect of the people making the commitment being held accountable, and, hence, not much prospect of feeling the need to do something about the target. The Stanhope target is more of a warm, inner-glow political target than a target about real accountability.

With this bill the Liberal Party is putting its money where its mouth is. It is making a real commitment to the electorate and to the environment, with the first target to be met in a little over six years. For a long time, politicians have crossed their fingers and hoped that there would be some new research that would show that climate change was a figment of our imagination. The more we read and the more work that is done, the more it is revealed that climate change is real and it presents us with huge

challenges. These challenges include helping the developing world to modernise while embracing low emissions and progressively shifting our economy from high to low emissions.

My federal colleague Greg Hunt said at a function in Canberra last week:

> Climate change will be one of the greatest challenges of our time. It represents an important economic shift, and will require a portfolio of responses.
>
> The challenge goes beyond an economic shift: it will require a fundamental shift in the mindset of every Australian as each of us makes the adjustment to a carbon constrained world.

For all its talk, Stanhope Labor has done little in the past seven years to encourage that fundamental shift towards life in a carbon-constrained world. After abandoning the previous government's greenhouse strategy on the ground that it was too expensive and, leaving a policy vacuum for a number of years, Jon Stanhope eventually introduced a new climate change strategy midway through last year. Its only target was a reduction of greenhouse gas emissions to 60 per cent of 2000 levels by 2050.

Rather than introduce the portfolio of responses suggested by Greg Hunt, Jon Stanhope cobbled together a mishmash of underwhelming initiatives with no strong policy and a dubious commitment to spending. He called his strategy weathering the change. That is probably the most catchy thing about it. Apart from the catchy title, it received a lukewarm response from key stakeholders. If that were not bad enough, Jon Stanhope's federal colleagues have proved themselves to be even longer on rhetoric and shorter on effective action.

After coming to power late last year, Messrs Rudd and Garrett and Senator Wong turned up at the Bali climate conference waving the newly signed commitment to Kyoto, the ink barely dry. As an aside, I think it was the right thing for Australia to do, and it should have been done earlier. The Howard government had a good record on climate change. This is borne out by recent figures that show that Australia is one of the few countries to meet its Kyoto obligations. But while the previous government scored goals, it lost the war of ideas because it could never really tell the story of its success. I think it undermined its own environmental credentials by holding out against signing Kyoto.

Signing Kyoto was the high point for the Rudd government. Since then there have been policy stumbles, the rebadging of coalition policies, the distancing from Ross Garnaut and the meltdown over emissions trading. The nadir of climate change policy came on budget night, when Peter Garrett announced the effective smashing of the domestic photovoltaic industry. The arbitrary announcement of a means test on the solar homes rebate scheme has brought small businesses across Australia to their knees and made policies such as those we are going to be debate later in the day in relation to feed-in tariffs less effective.

If we want to address climate change, we need more coherent and predictable leadership than we have seen from either Rudd or Stanhope Labor. We need a clear, strong and effective policy. Today is about recalibrating climate change policy in the ACT.

The objective of the Climate Change (Greenhouse Gas Emissions Targets) Bill 2008 is to set targets for reductions in greenhouse gas emissions and report on progress made in the ACT towards these targets. Setting targets will assist in achieving ecologically sustainable development in the ACT by addressing issues associated with climate change, promoting commitment to action to address climate change, promoting community understanding about issues of climate change, and encouraging energy efficiency and conservation in the ACT. That is part of a response which is consistent with national and international schemes designed to address climate change.

Mr Speaker, the main work of the legislation is done in clauses 6 to 12. Clause 6 sets out greenhouse gas emission targets for the ACT. The new principal target is to reduce greenhouse gas emissions to 60 per cent of 1990 levels by 2050. Clause 6 (2) sets an interim target of a 30 per cent reduction by the end of 2020.

Clause 7 sets related targets which are aimed at assisting the ACT in meeting its principal targets. The related targets are at least 20 per cent of all electricity used in the ACT to be from renewable resources by 2014—in six years time—and a 20 per cent reduction in the per capita use of electricity by 2020. Clause 8 sets out the means of determining baseline information about our 1990 levels of emissions. We probably have that information already, Mr Speaker, but it is a technical necessity to set it out in the bill.

Part 3 of the bill is about reporting progress on meeting our targets. Clause 9 requires the minister to report annually on the targets, and clause 10 sets out what must be included in the annual reports, including progress towards meeting the target and, if it is a target year, whether the target has been met. To refresh your memory, Mr Speaker, the target years are 2014 for renewable energy, 2020 for the interim target and the reduction in per capita consumption of electricity and 2050 for the principal target.

The clause sets out the content of the report, including the level of greenhouse gas emissions, the level of renewable energy and the level of per capita energy use. The report must also include an analysis of current measures being used to address the targets and a review of emerging technologies as well as an assessment of the current impact of climate change. The scope of the reports can be extended by regulation.

Clause 11 requires the minister to table the annual report in the ACT Legislative Assembly within three months of the end of the reporting period. Clause 12 requires the minister to conduct a review of the targets every two years and present the results of his review to the ACT Legislative Assembly within three months.

The Canberra Liberals do not see this as a piece of set-and-forget legislation. We aim to ensure that the targets we set will be under fairly constant review. We aim for this to be a living document. We have committed to a biennial review, which we hope to be conducting from the government benches with the science and support that comes from that. We have set interim targets and related targets to help us along the road.

The interim target of 30 per cent reduction by 2020 is designed to stretch us, but it does take into account recent work that tells us that this target is achievable. In March this year, McKinsey and Co demonstrated that Australia could reach this target by a

range of measures, some of which would actually save us money and others that would cost us up to $65 per tonne of CO_2 abated. We can contrast this with the cost of abatement in Mr Gentleman's bill, which is at $488 a tonne.

The related targets we have set refer to renewable energy and energy efficiency. Again, the Stanhope government have committed to legislate for renewable energy use. While their targets are not as strong as those in this legislation, we hope that we can begin a conversation about a more realistic approach.

Mr Speaker, energy efficiency is one of the greatest opportunities for us to make real inroads into our greenhouse gas emissions, especially in the ACT. The great benefit of energy efficiency is that it has the added benefit of saving each of us money. As I referred to in the debate on the feed-in tariff last week, the money we spend on insulation will repay itself in about three years, and after that we will be saving money. There is an opportunity for us to take steps to ensure that, regardless of whether we are rich or poor, we have houses which are comfortable to live in—warm in winter and cool in summer—and that they do not cost the earth to run.

In February this year, the Canberra Liberals promised that in the run-up to the 18 October election we would set a range of targets to help meet the greenhouse challenge. Since February we have been considering our options and consulting with interest groups. Today we deliver on that commitment. The fact that we have delivered on that commitment does not mean that this is the end of the road. The research and thinking on climate change is developing all the time, and it is likely that we will have to change tack and revise as we go along.

What we have today, Mr Speaker, is the commitment of the Canberra Liberals to ensure that climate change is front and centre in our policy making and that it will be reflected in all aspects of what we do in the territory. Our commitment is to set and meet these targets in concert with the community in a way that ensures that our grandchildren will not have to call someone to complain about our inaction. I commend the bill to the house.

Debate (on motion by **Mr Corbell**) adjourned to the next sitting.

Civil Partnerships Amendment Bill 2008

Dr Foskey, pursuant to notice, presented the bill.

Title read by Clerk.

DR FOSKEY (Molonglo) (10.46): I move:

> That this bill be agreed to in principle.

This bill reintroduces provisions that the ACT government removed from its Civil Partnerships Bill in May in order to ensure that the federal government did not feel obliged to override the territory and in the process stymie the civil partnerships scheme altogether. I understand that Labor was in a difficult position.

I am also well aware, given the comments made by both the Chief Minister and the Attorney-General, that these changes were made most reluctantly and that the ACT government's view that the opportunity to create the formal partnership through a public ceremony is a right that should be recognised in law. Clearly, that is not the view of the federal government, and I was very disappointed, as the ACT government was, when the federal government used the threat of its unreasonable powers to override ACT legislation.

I was particularly disappointed because I think we had every reason to believe before the election that a Rudd government would support this particular piece of legislation if it was passed again in the ACT. It would seem that it is simply the result of what we would characterise a pact with the devil—the apparent preparedness of the so-called Christian right to keep their heads down when commonwealth law was amended to remove discrimination against same-sex couples as long as the Rudd government, in return, rejected the ACT's proposed civil union scheme.

Of course the Prime Minister, Kevin Rudd, had also promised on an earlier occasion not to use those powers to overrule ACT legislation. Labor even supported the ACT government's attempts to put in place an even more progressive civil unions regime when it was overruled by the Howard government two years ago. In an article in the *Labor Herald*, in June 2006, with the heading "Howard out of step on civil unions", Nicola Roxon, then shadow Attorney-General, in announcing that Labor would oppose the Howard government's move on the act, wrote:

> The ACT's Civil Unions Act does not create same-sex marriages, and pretending otherwise is just muddying the waters.

And then:

> Labor has long argued for the removal of all these forms of discrimination, so that same-sex de facto couples and heterosexual de facto couples are treated the same when it comes to laws and benefits.

How things can turn around on political convenience! To see the ACT government last May being played for a patsy, with all of its heartfelt commitment to equal rights counting for nothing, was a very sad moment indeed. Nonetheless, the Civil Partnership Act, as passed, was a very important piece of work and I have no intention to put that work at risk with this bill.

The commonwealth parliament and the federal government that controls it have a range of powers over the ACT Assembly. So while the power of the executive to direct the Governor-General to overrule an ACT law expires six months after the law is made, under section 122 of the commonwealth constitution, the commonwealth still has the power to make laws for the government of any territory, and if it so chose it could override or amend any ACT legislation. Nonetheless, the Civil Partnerships Act 2008 will be safe from cursory disallowance after 15 November, which is six months after the act was made.

The initial advice that I have is that the federal government would disallow these new amendments, if they felt so inclined, rather than the Civil Partnerships Act as a whole.

I specifically put that question in regard to amending the existing act, which still fell within the disallowance period. That is still my understanding.

However, the Attorney-General has different advice, I understand; so I think we should look at this carefully. If it becomes clear that a disallowance after the passing of this bill would strike out the existing act, I would suggest that we treat this bill as an exposure draft and look to improve it now, with a plan to reintroduce it after the election so that it can be debated as soon as possible in the next term of the Assembly.

In other words, I think it is really important to keep this issue on the table so that it can be progressed. There are other issues that need to be looked at in the context of a revision bill, such as recognising the civil unions of visitors and new residents of the ACT which the recent legislation removes. That was not a very much noticed aspect of the bill that passed this place, but it means that people who live in and come from cities where they are used to living as a recognised civil union would not have that relationship recognised here, which I think goes against the grain of the ACT's Human Rights Act and of the government's stated intention to establish the rights of civil unions for gay and lesbian couples who live in the ACT and who are residents of the ACT.

There may be other issues that will arise as we look at this bill. There is no doubt that we had a number of years to get it right and there is no doubt that the Labor government did make a promise that it would do its very best to get civil unions up for the gay and lesbian community. The Greens have also made that promise and we have been working very strongly with them. This amendment is a result of those discussions. It is a result of discussions with the gay and lesbian community.

The content of the bill will be very familiar to members, because we have discussed it at least twice in this place. It establishes civil partnerships notaries, exactly as first proposed by the ACT government in December 2006. Eligible people apply for registration to the Registrar General, who takes into account a number of matters, including issues of history and character.

If a person chooses to pursue a legal ceremony to formalise their partnership, they would then need to give notice to a notary of their intention to enter a civil partnership. That notice would be accompanied by a statutory declaration that they satisfy eligibility requirements for entering into such a partnership. The notary would provide them with information about the significance and nature of the legal relationship they are creating. Then, between five days and 128 days after receiving that information, at a ceremony before the notary and at least one witness—although usually before a whole heap of witnesses—the couple would make a declaration that they intend to enter into a civil partnership and that they are doing so of their own free will.

I am still struggling with the intensity of the problem that a small number of people have with this idea. To paraphrase Greens Senator Kerry Nettle in her valedictory speech, it really is a nonsense to discriminate against people for who they love.

I will seek leave in August to table an explanatory statement. Anyone interested in gaining a better understanding of the operation of the bill before them should go to the government's own explanatory statement for the Civil Partnerships Bill which was

tabled in December 2006. I look forward to ongoing dialogue with the government and other members in the next few months in order to progress the Civil Partnerships Amendment Bill.

Debate (on motion by **Mr Corbell)** adjourned to the next sitting.

Education (Parental Control) Amendment Bill 2008

Mr Mulcahy, pursuant to notice, presented the bill.

Title read by Clerk.

MR MULCAHY (Molonglo) (10.31): I move:

> That this bill be agreed to in principle.

It gives me great pleasure to introduce this bill to the Assembly, as I believe that it will have a great deal of success in ensuring that parents are able to maintain proper control over their children's education and get the most out of the public school system. The bill I am introducing today is an important one. It goes to the heart of one of the most important aspects of parenting: the education of children. In our society, we take the view that a child's education is one of the most important aspects of their life. We know that a good education can often be the cornerstone of success as an adult.

There have been many in this place and elsewhere who have observed and commented on the drift away from public schooling towards the private school system. Some have been concerned about this drift and some have regarded it as a problem needing to be solved through greater public funding. I do not see this drift to private education as an inherently bad thing, as many others seem to treat it. However, it does seem to me that, if we are witnessing a drift away from public schools, we ought to listen to some of the complaints from parents who have been dissatisfied with the public schooling system. These complaints may be of assistance to us in diagnosing problems and improving the public education system.

I hasten to add that the drift to private schooling is the decision of parents, and these decisions should be respected. If government wishes to compete in the education market, then it must provide a quality service. This is not simply a matter of funding. We have all heard the mantra, of course, for more funding that inevitably follows any criticism of public schools, yet parents make many specific complaints about the public schooling system which often require only a change in attitude and focus to in fact fix.

When I have spoken to parents who have taken the decision to move their children from public schooling to private schooling, the concern is rarely a lack of funding. It is the approach taken by some public schools that is the problem. Often I hear concerns expressed about the lack of focus on core subjects like mathematics, reading and writing—and I know the minister will quote statistics here giving a very high rating in the ACT, but the belief is not universally held that these are the core areas of attention—and the fact that much time is spent on soft subject matter and highly subjective or even politicised subjects.

Parents are rightly concerned about what their children learn at school. They want to ensure that their children are learning core skills such as mathematics, reading and writing that will give them the intellectual base that they will need to prosper as adults. Unfortunately, many children are being short-changed by a public education system which, instead, diverts much of its attention to attempts to inculcate children with the social beliefs and behaviours preferred by education bureaucrats. And I must say it is not confined just to the public system because I have observed similar scenarios in the private system over the years. But this bill seeks to address what is the responsibility primarily in the territory in the public system. In short, our public school system has been guilty of neglecting core skills—

Mr Corbell: Don't you believe in small government?

MR MULCAHY: I do believe in small government, but I also believe that we ought to give parents some measure of confidence about the politicisation of their children while they are in the care of the education system.

In short, our public school system has been guilty of neglecting core skills in favour of indoctrinating students with political correctness. The practice is completely hostile to the purpose of education. Genuine education, particularly to young children, is about imparting factual information and core skills, while developing children's capacity for critical thought.

The Education Act already has some protections for parents to ensure that the government is not able to step over the boundaries of parental responsibility in matters of religious education. We quite rightly recognise that, in public schools, children should not be exposed to the teaching of specific religious principles without the consent of the parents, and this is already assured by section 28 of the Education Act. In other words, parents have the right to determine for themselves how their children should be brought up as regards matters of religion. This is a valuable protection, as it prevents the government imposing a particular religious orthodoxy on young children against the wishes of their parents.

The bill that I am introducing today expands the existing protections in the Education Act by giving parents control over education involving sensitive subjects like politics and sex. Just as with matters of religion, it is not for the government to impose its own prevailing attitudes on children with regard to political or sexual matters, and this bill protects parents from this kind of interference.

In order to achieve this goal, the bill introduces a new section 29A into the Education Act, which requires public schools to ensure that their students do not receive education or activities about matters of a political or sexual nature without informed parental consent. A school is taken to have received informed parental consent only where it receives consent from a parent after first giving details about the nature of the education or activity, including the facts, ideas, doctrines, opinions and material that will be presented to the student and the name and affiliation of the presenter.

In practice, this would require public schools to give parents some kind of course outline or activity outline for courses or activities which involve matter of a political

or sexual nature, to allow parents to assess whether they want to involve their children in the education or activity in question. This is not an onerous requirement, and it does not prevent public schools from teaching anything that they currently teach. So long as parents consent, this requirement can be satisfied if schools plan ahead and give parents information on what they propose to teach. And of course if a parent does not consent, then this only goes to demonstrate that they do not want their child exposed to the particular education or activity in question.

In order to ensure that teachers are able to respond to students' questions and to engage in anticipated topics of discussion, the bill also includes an exemption clause in section 29A (2). This exemption allows public schools to engage children in education of a political or sexual nature where the matter arises in connection with some other matter for which informed parental consent is not required or when the matter arises in response to a question from a student that has not been solicited by the school. Exemption also requires that the matter be one which the school could not reasonably have anticipated would arise and for which it is not practical to obtain informed parental consent. So this bill has real-world appreciation in terms of its parameters.

The exemption requires that the education or information given to students is capable of being understood and critically assessed by the student, given the student's age, intelligence and maturity. This subsection will allow teachers to deal with students' questions and other legitimate but unanticipated areas of discussion without subverting the intention of the bill.

The bill also allows parents and students to enforce these protections by bringing an action against a public school for breach of the statutory duty imposed by the bill. This action may be for an injunction or for damages, including exemplary damages where applicable. This enforcement mechanism gives direct control to parents and ensures that their wishes are respected.

Finally, the bill also adds a requirement for student reports to include information on matters requiring informed parental consent under section 29A. This gives parents follow-up information after the teaching semester has concluded, to see that the school has complied with the statutory duty.

I have said that we have a problem with political correctness in public schools which in some cases verges on indoctrination. For example, I have recently been shown some stickers given out to 8 and 9-year-old children at a recent environmental activity run by an ACT government primary school. One of the stickers advertises a sporting goods firm that takes a so-called fair trade approach to their business, an approach which is hostile to current international trade laws. The sticker says:

> HAVE YOU GOT THE BALLS TO PLAY FAIR? Etiko fair trade. Join the Revolution.

This is going to 8 and 9-year-old children and it troubles me. It then directs them to a website which complains that international trade "can be used to increase corporate profits without benefit to the wider community" and that the current international trade practices are "a major cause of continuing world poverty". This of course has

nothing to do with environmental education and, instead, is merely a means to inculcate a captive audience of eight and nine-year-olds with political propaganda while attending government primary schools.

I do not expect that the minister necessarily knows all this is going on, but when parents take these issues to me and bring them to my office because they are distressed and concerned I think it behoves the Assembly to put in tighter controls to put an end to this sort of nonsense.

There is another one. In fact, we have recently been alerted to a far more serious inexcusable instance of indoctrination in our public primary schools where blatant political propaganda has been recommended to children in ACT public schools, including ACT primary schools. And I am of course talking about the notorious planet slayer website, which has recently come under investigation in the Senate and has been subject to an avalanche of criticism from commentators all over the world.

Mr Barr: It is a Howard government initiative, is it not?

MR MULCAHY: I do not care if it is John Howard's initiative, Nick Minchin's or Kevin Rudd's; I think it ought to be taken down. This website is explicitly recommended for children under the ACT government's sustainable schools initiative. This initiative applies to all ACT government schools, including ACT government primary schools for children as young as four or five years old. The website is allegedly designed to assist children to learn about the environment.

However, it is in fact nothing more than barefaced political propaganda for a variety of left-wing activist causes and is manifestly unsuitable for children. I will give a few instances of the content of the website, which should give a taste of the kind of alleged education that it involves. Bear in mind, when you are listening to these examples, that they are not arguments or assertions given to university students whom one would expect to have developed a sense of critical assessment ideas; rather, the website and the examples of propaganda that I cite are all designed for young children who lack the ability to critically assess what they are being told.

The website begins by welcoming children with the following message, spelled incorrectly, incidentally:

> Get the dirt on greenhouse without the guilt trips. No lectures. No multinomial bashing (well, maybe a little …). Just fun and games and the answers to all your enviro-dilemas.

That is not correctly spelt. On the website's greenhouse calculator, children are asked to "find out what age you should die at so you don't use more than your fair share of the Earth's resources". For an average Australian, which the website refers to as an "average Aussie pig", the website calculates an emission level of 24.6 tonnes of carbon dioxide per year. At this level, the website informs children:

> Based on the emissions from your greenhouse usage, you used up your share of the planet by the time you were 9.3 years old! … You should die at age 9.3.

This is what this education department is recommending to children in primary school as young as four and five. In another part of the website, the protagonist of the website consults her activist tactical field guide, which states:

> REMEMBER: Most meat eaters are total hypocrites. Try confronting them with a live version of their favourite meat.

There are several other messages on the website which reek of activist indoctrination. When children answer a question on whether they prefer to drink their soft drinks from glass bottles, plastic bottles or aluminium cans, the hero of the website shouts out:

> Forget the packaging, it's all cultural imperialism!

This reads like something you would see in the '70s when the Maoists thought they had half a chance.

Dr Foskey: Gee, the seventies were good.

MR MULCAHY: Dr Foskey says that was a good era.

Dr Foskey: You were there.

MR MULCAHY: I never supported this sort of nonsense. If Dr Foskey supports this sort of nonsense, I would be very surprised. The website also has the following messages for children:

> Organise and socialise comrades. Together we can save the world!
>
> Clean transport—Cheap, clean and healthy—break free of the tyranny of the car!
>
> Consumerism—You are not your possessions.
>
> Nuclear waste—Too many half lives add up to no life at all.

There are several other instances on the website that are blatantly activist in their message to children. These are too numerous to mention, as they saturate the entire website. Throughout the website, the hero of the stories is the epitome of political correctness, a hippie environmental activist whose virtue is presented as unassailable. Contrarily, the website presents anyone failing to live up to this ideal as an insidious enemy of nature.

Meat eaters are presented as brainless tattooed skinheads; loggers are presented as angry psychopaths; people who advocate nuclear power are presented as evil villains; and the core villain of the website is an attractive blonde girl who spends too much time shopping. Her name is X-on.

A review of the ACT sustainable schools initiative conducted by my office in late May alerted me to this website, which is now the subject of a review by the ABC, who host the site. And I acknowledge that they, with funding from Film Victoria,

were the architects of this measure. I gather the designer has now left that role. We cannot be responsible for the ABC at a territory level but we can do something in terms of our own ACT education department.

Despite an avalanche of criticism and outrage from parents, the website is currently still available for viewing on the internet and is still recommended for children by the ACT government under the ACT sustainable schools initiative.

The ACT government is by no means the only guilty party in this disgraceful instance of child propaganda. The website, as I said, was funded by the Victorian government and is hosted by the ABC. And moreover the website is explicitly recommended for children by at least four state and territory governments that I am aware of. I find it ironic that yesterday we were talking about protecting children and here we are looking at a matter today which just shows how we are not protecting young, impressionable children, by subjecting them to this sort of nonsense.

This kind of government-funded propaganda masquerading as education is unacceptable in civilised society. The fact that this is directed at young children in public schools is something of which I strongly disapprove.

Mr Barr: It is all schools.

MR MULCAHY: The minister responds and says, "It is all schools," as though that somehow makes it right. I had issues when my own children were in non-government schools, coming home and telling me that they were meant to do various things that some teacher had decided to impose on them without reference to parents. It does not make it any better.

The purpose of this bill is to address what we here have direct responsibility for, and that is the public system. I do not condone it, whether it is public or private. Parents should not have to put up with this kind of propaganda in their public schools, hidden away from their view in obscure policies and curricula dreamt up by activist bureaucrats. Parents do need some kind of safeguard against this kind of abusive process, and the bill I have introduced will provide that safeguard.

In conclusion, I think that the issue here is not saying that things cannot be taught. The issue here is saying that parents, if there are going to be matters of a political or sexual nature rolled out to students, particularly youngsters of the age I am talking about—and this is where I first became aware of it; some little children who came home with some of this propaganda and started showing it to their parents—then I think that we need to put in reasonable measures that are not unduly cumbersome to observe but at the same time provide parents with a measure of confidence that their children will not be subject to propaganda by people in the education department who think it is fair game.

I first encountered this approach in the early 1980s—in fact in New South Wales. I met with a group of people involved in curricula, and I was staggered; it was the first time I had really become aware of how politicised some of the people designing curricula were willing to be to try to influence the thinking of children and minors on issues that were important to them politically.

I do not think it is the minister's style to go down this road but it will need some courage on his part to put an end to this sort of nonsense. Rather than attempt to defend it, as is often the case, on this occasion the minister ought to direct his people to use a bit of common sense here and get rid of these offensive websites that they are being told to protect.

The schools' defence, when you raise it with them, is: "This is what the education department is telling us we should be referring our children to." And when they cart the kids off on a school excursion they are given these quite offensive stickers—little girls, in this case, who brought them home and talked to their parents about them—then I think that we have a responsibility as legislators to do something about it.

I commend this bill and hope that in due course the government—and I know Mr Seselja is considering the opposition's position—and the opposition will support this initiative.

Debate (on motion by **Mr Barr**) adjourned to the next sitting.

Electricity Feed-In (Renewable Energy Premium) Bill 2008
Detail stage

Clause 1.

Debate resumed from 25 June 2008.

DR FOSKEY (Molonglo) (11.13): It is disappointing that this bill will not be able to be enacted until July 2009. Previously, this bill would have been enacted the day after its notification day. It is disappointing not just for the Greens but for all those people who, in good faith, have been investing in solar panels this year on the understanding that this bill would be passed and enacted in the first half of this year. This is not a small number of people. As members will be aware, the Macquarie SEE-Change group—

Mr Gentleman: On a point of order, Mr Speaker: Dr Foskey is addressing clause 2. I think she means to—

MR SPEAKER: Yes, relevance is a fair point.

DR FOSKEY: I am sorry, Assembly.

Clause 1 agreed to.

Clause 2.

MR GENTLEMAN (Brindabella) (11.15): I move amendment No 1 circulated in my name *[see schedule 1 at page 2651]*.

Several of the amendments I am moving today are required to bring this bill into line with the changes to the regulation of electricity by the national energy regulator. Some are to ensure that the model proposed is more clearly defined as a gross model

of payment. This amendment amends the commencement date in clause 2 of the bill to a day fixed by the minister and, if the act has not commenced by 1 July 2009, it will automatically commence on that day.

Under the provisions in the Legislation Act, this means sections 1 and 2 of the act will commence on the day after notification, so that the act will appear in the legislation register. The remaining provisions of the act will commence on a day set by the minister or on 1 July 2009, whichever is earlier. With this, I hope to achieve a speedy result in the formulation of the regulations.

DR FOSKEY (Molonglo) (11.16): In relation to this amendment, it is disappointing that the bill now will not be enacted until July 2009, whereas previously, without this amendment, it would have been enacted the day after notification. I must say that this is disappointing not just for the Greens but for all those people such as the Macquarie SEE-Change group who are gearing up, getting ready, writing to me, telling me to support the feed-in tariff, and who have shown their goodwill by buying solar panels, hoping that they would be able to get the premium rate this year.

The combination of the delay in commencement with the federal government's means-testing of households which apply for a subsidy for their solar panels is a major erosion of the whole point of this bill, which is to ensure that there are sufficient incentives to get a good proportion of people to find renewable energy production attractive.

My office contacted a number of solar panel suppliers in the ACT and found that many of them are hurting badly because of the means testing and that this might have been the thing that got them through until next year and might have compensated for those orders that will now either be delayed or cancelled. So it is really disappointing. I would be very interested to hear the reasons for it later on, perhaps when Mr Gentleman wraps up on this amendment.

The other issue about the delay of the enactment is the race to get a good model for feed-in tariffs up and running in good time before the COAG discussion about what kind of model should be used nationally. South Australia and Victoria have passed their feed-in legislation but, frankly, they have set in place inferior models that are based on net production, not gross. Mr Gentleman's model, which we are debating today, is a superior model, even before my amendments are included—if they are.

Given that the ACT and Queensland are the next cabs off the rank, it is really important that we get a system established that has been shown to work. I would have hoped that the ACT's better model could then be the model for the establishment of a national scheme. If we could enact our model immediately, this would give us time to show that it works, to ensure that it works, to show the commonwealth that it works, and that it works well.

Delaying the announcement is a way of looking good in time for the ACT election—that is my fear—but not actually doing anything productive. I am concerned that the ACT government is just waiting until the national scheme is set up—one that may be inferior. I look forward to hearing Mr Gentleman say that that is not the reason for the delay.

MRS DUNNE (Ginninderra) (11.19): It is interesting that we are debating the commencement and shuffling the commencement around because last week the opposition received a number of inquiries from members of the public who were interested in the feed-in tariff, and asking why we had delayed the introduction of the feed-in tariff by way of the vote of no confidence that was taken last week, which put a seven-day stay on the passage of some legislation, because they were waiting, as Dr Foskey said, to see the introduction of this feed-in tariff.

I was able to point out with some relish, I suppose, to people who had written to me on this matter that, irrespective of whether it was passed last Wednesday, the Wednesday before or today, it will not change the commencement, which could be as late as 1 July next year. Mr Stanhope and, to a lesser extent, Mr Gentleman, were saying, "We have this really important piece of legislation that we're just sweating on passing so that the people of the ACT can get this benefit," when there was no immediate benefit that would accrue from the passage of this legislation.

Mr Gentleman has said that the passage of this legislation will be delayed, possibly until 1 July this year, because of the complicated nature of the regulations that will underpin this piece of legislation. I suspect that is true. This is a complex piece of legislation because of its impacts on the national energy market and all of those harmonisations arrangements. As a result of this, a large number of amendments are being brought in today by Mr Gentleman because the first version of the bill does not quite do it. This is not to be critical of Mr Gentleman; it just underpins the complexity of what is being done and the difficulty with going it alone. I understand why Mr Gentleman wants to go it alone, and I applaud him for his enthusiasm for wanting to go it alone. But I hope that in the long term the ACT is not going it alone on feed-in tariffs and that we do have a national approach.

The other issue regarding why we are looking at a commencement date which is on or closer to 1 July 2009 is that, on the basis of the information that I received from the ICRC, electricity distribution companies will have to absorb the cost of the application of the feed-in tariffs before that date because that is the next time that electricity prices can go up. So if we introduce the feed-in tariff tomorrow or on 18 October or on Christmas Eve, with respect to the time between when it is introduced and 1 July next year, the 44.8c paid to people as part of the feed-in tariff will have to be absorbed by the utilities.

We know that this feed-in tariff means that the community will be paying more per capita for electricity, but what we will be doing will have a modest impact. It will have only a modest impact in six months; it might be only $100,000. But that $100,000 will also have to be absorbed by the electricity distribution organisations—ActewAGL and others—who are operating in the ACT. That is one of the reasons why the 1 July date is so important.

We will be supporting this amendment, simply because it is necessary. But I put on the record that last week and the week before there was a fair amount of spinning about how the Liberal opposition were holding up this legislation and that we were stopping my constituents in the Jamieson SEE-Change group and other constituents who are keen on the introduction of this legislation from getting the benefits of that. That is not the case. It is up to the fiat of the minister, Jon Stanhope, to commence this bill at some time, and it is more likely than not to be closer to this time next year.

MR GENTLEMAN (Brindabella) (11.24): I want to address a couple of the comments that have been made during the debate on this amendment. Firstly, I want to counter Mrs Dunne's accusation that I said it would be delayed until 1 July 2009. That is not the case at all. It is my intention to have this done as soon as possible, and I hope to be working very hard with the department on writing the regulations so that we get them done quickly. However, we have put the date of 1 July 2009 there to accentuate the fact that we want this done before that. And that is the end time; we want to make sure it is done before that.

Dr Foskey may not have listened to all of my explanation regarding that amendment. As I said, I have moved this amendment in order to have a speedier writing of the regulations. We want to make sure that is done as soon as possible, but we want that hard time line to be there as well.

Mrs Dunne made some comments about the events of last week and our wanting to get this bill in position as soon as possible. The COAG agenda was also raised. Penny Wong has notified Australia that she wants to talk about feed-in laws and tariffs at the COAG meeting which the Chief Minister is attending tomorrow. So it is very important that this legislation, as it will be a leading feed-in tariff in Australia, is finalised today so that the Chief Minister can put forward our case at a national level at the COAG meeting.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3.

DR FOSKEY (Molonglo) (11.26): I move amendment No 1 circulated in my name *[see schedule 2 at page 2655]*. This amendment seeks to add a further object to the three objects of the act. The reason I am moving this amendment is that I think it is most important to add to the aims of this significant bill a reference to climate change and the need for the diversification of our currently fossil-fuel-reliant energy industry. Unless we include these concepts in the bill, decisions relating to it may not take into account this context. By way of clarification, the object that I am adding is object (b), which is to "reduce the ACT contribution to human-induced climate change". We must certainly ensure that any energy-related decisions are made in the context of climate change.

I am very glad to hear that the government will be supporting this amendment. While I understand that they may not wish to support all of my amendments today, I would hope that after the scheme has been in place for a reasonable period of time, perhaps a year, a review will show that some of the other amendments may be sensible additions. I hope that, in rejecting any of my amendments today, it does not mean they will not be reconsidered when there is a review of the scheme.

MR GENTLEMAN (Brindabella) (11.28): The government will be supporting this amendment. As I have outlined previously in the Assembly, it is important that we reduce the ACT contribution to human-induced climate change. As I have outlined

previously, the ACT contributes approximately one per cent of Australia's greenhouse gas emissions. In turn, Australia contributes approximately the same percentage to global emissions. So we as individuals, as a neighbourhood and as a community as a whole, need to work together to start the social change required in addressing climate change. We collectively contributed to the problem before; we must collectively contribute to the solution.

It is also important that we diversify the ACT's electricity supply—something that this government is well underway to achieving. A solar power station is just one of the coming initiatives and investments that the Stanhope government is pursuing in order to achieve a greater diversification of electricity supply, while reducing our ecological footprint. It is also important that we do all we can to reduce the impact that the potential increase in fossil-based fuels will have on the community.

It is the government's view that Dr Foskey's amendment will work towards achieving these goals, and as such we are happy to support it.

MRS DUNNE (Ginninderra) (11.29): I have problems with some of these additions, and especially with (b), because it is not quite the place that I would expect to see an object like this. I suppose Dr Foskey is putting it here for want of any better destination. I do not know whether I said to Dr Foskey or a staff member the other day, when we were discussing these amendments, that they would possibly be better placed in the bill that I introduced this morning or, if we ever saw it, in the sustainability legislation that the Stanhope government promised at the election before last but which has never seen the light of day. I think that is where those sorts of objects should be located.

This piece of legislation is really about encouraging the use of renewable electricity. I suppose the motivation for that, Dr Foskey, is the issue in relation to climate change. But while I am uncomfortable with it, my discomfort is not fatal and I will be supporting the amendment. I think it is worth noting that it could have a better home than here.

Amendment agreed to.

Clause 3, as amended, agreed to.

Proposed new clauses 3A and 3B.

DR FOSKEY (Molonglo) (11.31): I seek leave to move amendments Nos 2 and 3 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 2 and 3 circulated in my name which insert new clauses 3A and 3B *[see schedule 2 at page 2656]*. These amendments are fairly substantial as they give this bill real teeth. Internationally, it has been shown that putting targets in feed-in legislation strengthen it significantly. The take-up rate for feeding-in is shown to be significantly higher in those jurisdictions that have targets.

Including targets gives the government a mechanism to (a) judge whether or not the legislation is working and whether people are choosing to feed renewable energy into the grid; and (b) therefore increase or lower the premium for this fed-in energy. Without such targets, how can the government judge whether we have sufficient take-up and whether we should offer a higher premium? Germany is probably the most successful jurisdiction to cite as an example. Figures show that, driven by feed-in tariff legislation, in 2007 Germany generated 14.2 per cent of its electricity from renewable sources.

Turnover in the German renewable industry rose by 10 per cent last year, to €24.6 billion, and employment in the sector rose to 249,000 compared to an Australian sector that employs an estimated 3,000 people. The German government calculates that, in 2007, savings of 57 million tonnes of CO_2 were directly attributable to the country's feed-in tariff legislation.

I am very sorry that, I believe, the government will not be supporting my amendments relating to targets. It is a shame. I think this government is allergic to targets. Perhaps the government is afraid of setting itself up for failure. However, without targets, we have got no incentives for success either. By not supporting these amendments, it will certainly lead to a less successful scheme.

In relation to proposed new clause 3B, I have suggested that some targets be inserted. For this legislation, the renewable energy supply targets are: by 2010, five per cent of electricity supplied by electricity suppliers from renewable energy sources; by 2015, at least 15 per cent of electricity supplied by electricity suppliers from renewable energy sources; and by 2020, at least 20 per cent of electricity supplied by electricity suppliers from renewable energy sources. These are not "out there" targets by a long shot. In fact, they are quite conservative and quite achievable.

Mrs Dunne: They are not conservative enough.

DR FOSKEY: Indeed, that is exactly the case. If the government cannot support them, there is a real concern here, because we would have to ask: what does it want the feed-in tariff to achieve in terms of renewable energy take-up and greenhouse gas reduction?

MR GENTLEMAN (Brindabella) (11.35): The government will not be supporting this amendment as renewable energy electricity supply targets fall outside the scope of this bill. It is important to understand that this scheme is not designed to reach the ACT government's renewable energy targets all by itself. It is one of several measures the ACT government is actively engaging in to ensure that it reaches those targets. Furthermore, renewable energy targets are specifically outlined as part of the ACT and New South Wales renewable energy target schemes.

MRS DUNNE (Ginninderra) (11.35): The opposition, the Canberra Liberals, will be supporting this amendment with one chastisement, that they do not go far enough. It is delicious, is it not—

Dr Foskey: You are enjoying this, Mrs Dunne.

MRS DUNNE: I am enjoying it immensely when I point out that the legislation that I tabled not an hour ago would actually require, rather than a 15 per cent target by 2015, a 20 per cent target the year before. I am sure that if these targets are introduced into this legislation, when we come back in August to debate our target legislation Dr Foskey and I could work to harmonise the targets and bring in some consequential amendments.

I will be supporting the targets because targets are important. It is one of the messages that the environment group have been giving the Stanhope government, as they have been giving them to Dr Foskey and to me. The community needs targets. You need milestones. You need to know how you are progressing along the way, and steadfastly refusing to have a target of any sort except the 2050 one means that there is no incentive to do anything about it.

It is like when you are at university or school and you are doing an assignment and you end up cramming the night before. If you are not going to do anything until two or three years before your 2050 target, you are not going to achieve it. It is the Prime Minister about elections: you cannot fatten a calf on market day. Well, you cannot meet your 2050 targets if you do not have targets for 2015 and 2020. That is why the Greens' amendment is an important one, although it does not go far enough, and that is why we will be supporting it.

I think it is interesting that Mr Gentleman seems not to want to support an amendment that actually says that we have a set of objects to this legislation and the minister will promote them. I really do question how committed the Stanhope government is to renewable energy and meeting renewable energy targets when they will not even take it upon themselves the task of promoting the objects of what they say is their own legislation.

It is poor judgement on Mr Gentleman's part and the Stanhope government's part not to want to support their own objects and it is poor judgement on the government's part to steadfastly refuse to take on targets. It is without a doubt the case that we will falter and sometimes we will not achieve those targets. That is why you have to set hard targets and you have to have a commitment to them. But I do not see anything in what Mr Gentleman has said or anything in the *Weathering the Change* strategy that shows that this government is committed or even is really engaged. They are just going through the motions.

We have got a glossy brochure. It is called *Weathering the Change*. It has got a nice catchy title but there is very little in it that will get us along the path of actually making real changes by 2050. If you are not prepared to make real changes today and next year and the year after that and measure what you are doing and analysing what you are doing and working out whether you have got a hope in hell of doing it, you will never get there. If we live under the regime of the Stanhope government, we will never meet these targets.

Question put:

> That proposed new clauses 3A and 3B be agreed to.

The Assembly voted—

Ayes 7		Noes 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Berry	Ms MacDonald
Dr Foskey		Mr Corbell	Mr Mulcahy
Mr Pratt		Ms Gallagher	Ms Porter
Mr Seselja		Mr Gentleman	Mr Stanhope

Question so resolved in the negative.

Clauses 4 and 5, by leave, taken together and agreed to.

Clause 6.

DR FOSKEY (Molonglo) (11.45): I seek leave to move amendments Nos 4 to 6 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 4 to 6 circulated in my name together *[see schedule 2 at page 2656]*.

This is a group of amendments that aims to prioritise all technical support mechanisms for renewable energy sources over conventional energy. If the distributor has a number of applications for connection, the distributor should prioritise connecting those sources that will feed renewable energy into the grid. I propose new clause 6 (2A) and (2B). The proposed amendment inserts:

> (2A) If the distributor receives an application under subsection (2), the distributor must—
>
> (a) give the applicant a written statement setting out a detailed estimate of the costs of connecting the occupier's generator to the distributor's network; and …

The proposed new clause continues to give priority to the person who is providing renewable energy. It is especially crucial that renewable energy generating insulations are given priority access to the grid. Proposed new clause 6 (2B) states:

> To remove any doubt, the distributor must not refuse the application on the ground that there is insufficient network capacity.

This clause is particularly necessary as there have been occasions overseas where insufficient network capacity has been used as an excuse not to connect any new renewable energy generators. Of course, this completely goes against the aim of the exercise, which is, I would have thought, to maximise the renewable energy being generated and used here in the ACT. If there was too much energy being produced for

the grid's capacity I would hope that we or ActewAGL would therefore reduce the amount of coal-fired energy being brought into the ACT. Indeed, I would have thought that was one of the objects.

Finally, I am proposing new clause 6 (4) and (5) to extend and strengthen the provision. The first part of this amendment, subclauses (4) (a) and (4) (b), are simply to ensure that renewable energy producers are paid their premium on a regular basis in the billing cycle that they have already chosen to use. This is merely a mechanism to ensure that ActewAGL does not decide to pay producers once annually or similar or whatever suits its agenda rather than that of the individual household supplier.

Proposed new clause 6 (5) relates to the GreenPower program. I have been contacted by a number of constituents and community groups over the past few months who are concerned how this bill will interact with the existing GreenPower scheme. I think we need to step back and understand why the GreenPower scheme was first established. It was originally designed—indeed, it still is—to be a voluntary scheme whereby additional renewable energy is generated over and above that generated by government legislated schemes such as renewable energy targets.

Instead, we have seen the government rely on these additional schemes, such as carbon offsets and purchasing green power, when what we should be seeing is government setting strong renewable energy targets—unfortunately that has just been rejected—which are aimed at reducing the city's energy use, especially from coal-fired and other non-renewable sources, investing in renewable energy power plants such as the government is talking about in this budget and even using the greenhouse gas abatement scheme and its renewable energy certificates.

GreenPower was never designed for government bodies to invest in instead of undertaking these measures. The main point, though, is that we would not like to see renewable energy produced through this scheme and then sold on to others as GreenPower. These should be separate schemes. We do not want to see the community paying for this energy twice, once through the increased cost of our electricity by the absorption of the scheme's costs into our electricity bill and again through people, like, I am sure, many of us, paying a premium for GreenPower. This has the potential to be a big problem. It is very disappointing to me that the government will not be supporting this amendment, as we have been told is the case. They do have time to change their minds, however.

MR GENTLEMAN (Brindabella) (11.50): The government will not be supporting this series of amendments. Firstly, it deems the amendments unnecessary. We will be actually replacing all six. The operation of electricity distribution connection is governed by a comprehensive set of rules known as the national electricity rules. The ACT cannot have unilateral rules as chapter 5 of the rules under the national electricity law specifically outlines provisions for connections to a transmission network or a distribution network.

In regard to Dr Foskey's amendment No 5, the distributor's connection responsibilities are covered under the national electricity rules. The government will not be supporting that amendment. In respect of amendment No 6, it will be the retailers who will be required to pay renewable energy electricity producers. As the

payments of the tariffs to owners of renewable energy generators are essentially repayments of capital investment, it is the view of the government that the owners of the renewable energy electricity generators will not be adversely affected as to when they receive the payments. It is considered that allowing retailers some flexibility in how they undertake this, which is likely to include offsetting against energy bills, perhaps, will help to minimise the regulatory impact of the legislation.

The government will not be supporting the amendment requiring that the distributor must not sell the electricity supply to the network as part of the GreenPower program on the grounds that it is not necessary to exclude GreenPower by ACT legislation. It is also not possible as GreenPower products must—I repeat must—be accredited under the national GreenPower program.

MRS DUNNE (Ginninderra) (11.52): I thank Dr Foskey for raising these issues, especially the issue in relation to GreenPower. This was a considerable concern for people who raised with me the extent to which the feed-in tariff legislation might, in fact, undermine the GreenPower provisions. I think it is a very important issue, and it is an issue that we have to be very vigilant about.

However, I am not prepared to support Dr Foskey's amendments at this stage. I take the advice in relation to the national energy rules and how they apply. In saying that, I do say that we do have to be very vigilant, and the Liberal opposition will be watching very closely the interaction between the feed-in tariff and GreenPower. If it turns out that feed-in tariff electricity suddenly gets accreditation under GreenPower, I think we will be revisiting this.

While I am not prepared to change the structure of the legislation at this stage, it is something that we will be watching very closely. It is something that members of the community are very concerned about. A lot of people who are interested in this as a proposition are also contributing to GreenPower and they are concerned about the fact that, as Dr Foskey said, we might end up paying for this renewable energy twice through both schemes. It is something that we need to be very vigilant about in the process of finalising the regulations. We will be looking at this very closely and if, after the operation of the bill, we see any undermining of the GreenPower scheme, we will be back in here to legislate against it.

Amendments negatived.

MR GENTLEMAN (Brindabella) (11.55): I seek leave to move amendments Nos 2 and 3 circulated in my name together.

Leave granted.

MR GENTLEMAN: I move amendments Nos 2 and 3 circulated in my name together *[see schedule 1 at page 2651]*.

Amendment No 2 changes the heading to part 2 of the bill—a simple change—to better explain that the emphasis is on our electricity network.

As I indicated earlier, amendment No 3 replaces clause 6 of the bill. The new clause to be inserted confirms and clarifies the model under which the feed-in tariff will operate and aligns the roles of distributors and electricity suppliers under the national electricity market hierarchy and the national electricity ACT law. The effect of clause 6 is that, on application by an occupier, it is a condition of the distributor's licence to connect a national electricity law compliant generator to the network. This remains a fundamental requirement to the success of the scheme.

The distributor must reimburse the electricity supplier to the premises the premium tariff relating to the total amount of electricity generated, less transitional franchise retail price in relation to electricity consumed. The distributor must pass on to the occupier any additional metering costs in relation to the electricity generated from the generator. It is a condition of the supplier's licence that they buy electricity generated by an occupier at the premium rate set out in proposed clause 8.

Under this model occupiers receive payment from a supplier at the premium rate for all electricity generated by a compliant renewable energy generator. I felt it necessary to move this amendment as there appeared to be some confusion within the community that those who sign up to the scheme will only be paid for the net amount of electricity generated and supplied to the electricity network.

It is paramount to the success of the scheme that the premium rate be applied to the gross total amount of electricity supplied to the electricity network. The network will then pay the same supplier for all the electricity they have consumed, which is charged at the retail rate, which may be the transitional franchise tariff or an alternative rate as provided by the supplier and agreed to by the occupier under the competitive retail electricity market that exists in the ACT.

I have been advised through ICRC's final decision and price direction for retail prices for non-contestable electricity customers—the report was released this month—that the total retail price for the TFT for 2008-09 will be set at $152.10 per megawatt hour or 15.2 cents per kilowatt hour. Much of the debate today has surrounded independent processes, and I am pleased to inform members that that is the rate set by the ICRC, which, of course, is an independent body.

DR FOSKEY (Molonglo) (11.57): I support very strongly Mr Gentleman's amendment No 2. It has been really interesting to see the evolution of this bill since it was first put into the public arena. We are now, all of us, talking about renewable energy—a much broader category than solar power—so I totally support the change to the title of the bill. I also support amendment No 3.

Again, I regret that the government and the opposition did not support my amendments. We will support these amendments.

MRS DUNNE (Ginninderra) (11.58): We will be supporting these amendments. The necessity for these amendments does highlight the problems which private members have in putting together legislation. The resources of one's own office, the advice that one gets from outside and the resources of parliamentary counsel, as good as they are, sometimes are not enough to make sure that legislation works absolutely swimmingly the first time.

Since the Stanhope government decided that this was, in fact, government policy, it is a bit of a shame that this did not become a government bill so that it could be introduced with the resources of government with their energy policy advisers behind it. We would not now be in the process of having to amend this bill at this stage. It would have come in the first instance. By the tone of the chatter over there, it seems that there was advice from the energy policy people and they got it wrong the first time. It is a problem, when the resources of government are finally brought to bear, that sometimes they do have a better grasp of, say, the complexities of how the national energy market operates and a more effective way of doing it.

The other thing is that this amendment helps to make it clearer that we are talking about things other than just photovoltaics, which was a problem that people raised with me. There are other means of renewable energy. There are other parts of the bill with which I have a problem in relation to that, but we will come to that later. The opposition will be supporting Mr Gentleman's amendments.

Amendments agreed to.

Clause 6, as amended, agreed to.

Proposed new clause 6A.

DR FOSKEY (Molonglo) (12.00): I move amendment No 7 circulated in my name *[see schedule 2 at page 2657]*.

This is a very simple amendment. I am putting it to ensure that there is a clear understanding of the connection fee structure. This amendment clearly establishes that it is the occupier who is responsible for the costs of connection to the fence line, that is, to the front boundary of the property, but it is the distributor's responsibility to pay for any costs of connection to take that energy further, that is, wherever it connects to the grid.

MR GENTLEMAN (Brindabella) (12.01): As I have previously stated in respect of other amendments offered by Dr Foskey in relation to connection to the distributor's network, it is governed by the national electricity rules. The government will not be supporting this amendment.

Amendment negatived.

Clause 7.

MR GENTLEMAN: I move amendment No 4 circulated in my name *[see schedule 1 at page 2652]*.

This amendment replaces clause 7 of the bill. This clause now identifies that the services provided by distributors and suppliers, as outlined under clause 6, are utility services for the Utilities Act 2000.

Amendment agreed to.

Clause 7, as amended, agreed to.

Clause 8.

DR FOSKEY (Molonglo) (12.03): I seek leave to move amendments Nos 8 and 9 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 8 and 9 circulated in my name together *[see schedule 2 at page 2657]*.

Amendment No 8 is another simple amendment to ensure that there are standards set for any relevant connections and associated costs, as well as the proposed standards for the generators. Proposed new clause 8 (2A) is merely to ensure that renewable energy generators are not disadvantaged over standard contracts with distributors.

MR GENTLEMAN (Brindabella) (12.04): Again this will fall under the national electricity rules. The government will not be supporting either of the amendments.

Amendments negatived.

MR GENTLEMAN (Brindabella) (12.04): I move amendment No 5 circulated in my name *[see schedule 1 at page 2652]*.

This amendment replaces clause 8 of the bill and provides a new clause 8A. The new clause 8 provides for the payment rates of electricity generated by occupiers referred to in clause 6.

Increasing the uptake of renewable energy electricity generation is a fundamental step for our community if we are to address the issue of climate change. Those wishing to invest in this technology at present have a high capital outlay which often can deter some people. The rates of pay outlined within this clause ensure that the payback period on the initial capital outlay will be approximately 10 years.

This clause provides a variable rate depending on the size of the generator, with generators not more than 10-kilowatt hours receiving 100 per cent of the premium rate or as otherwise determined by the minister under clause 9A; generators more than 10-kilowatt hours and not more than 30 kilowatt hours receiving 80 per cent of the premium rate or as otherwise determined by the minister under clause 9A; and generators more than 30-kilowatt hours receiving 75 per cent of the premium rate or as otherwise determined by the minister under clause 9A. New clause 8A provides that the minister may determine percentages by a disallowable instrument.

It is important that the minister has the ability to adjust either up or down the rates and percentages outlined within this clause. With technological development in the field of renewable energy moving ahead in leaps and bounds, the minister must have the flexibility to amend these rates to reflect the constant changes within the industry. This also allows the minister the flexibility to determine new percentages of the premium rate for any new renewable energy electricity generator.

MRS DUNNE (Ginninderra) (12.06): This is the smallest, most beautiful part of the legislation that I just do not get. The fact that the premium rate drops away if one has a generator of more than 10-kilowatt hours is something that leaves me rather puzzled and I think it leaves people in the renewable energy industry puzzled. I had a discussion about this with some people who are involved in larger scale generation. Although it is not fatal for them, they are perplexed that they go out and make the effort and they will get a lesser return.

It is important to note how important it is to maintain the high rate for the small-scale people because the small-scale people have been adversely affected by the mean testing—and I mean "mean testing"—from the mean-spirited Rudd government in relation to the domestic solar rebate scheme. So it is increasingly important that the feed-in tariff is there to lessen the blow.

I have had discussions with people who provide domestic solar fit-outs in the ACT and they did say to me how important they thought this legislation was and it would help soften the blow of the means-tested arrangement because it seems that most of their client group has incomes in the area of $100,000 to $150,000. Those people are now starting to seriously rethink their orders.

In suburbs that are growing, such as Forde and the like, where people are trying to be encouraged to be more environmentally friendly, we are going to see fewer solar arrays simply because of Peter Garrett, Kevin Rudd and Penny Wong's stupid and mean-spirited change to the solar rebate scheme. I will be encouraging all my constituents to do what they can do to support the save the solar rebate scheme legislation that has been introduced by my colleague Greg Hunt.

I understand why this amendment is here, because you have deleted it from somewhere else, but I do not understand why smaller is better; if you achieve more, you receive less from the tariff.

MR GENTLEMAN (Brindabella) (12.09): I want to address Mrs Dunne's comments, firstly in relation to the capacity of the generator. I need to point out that these different categories for generation are a result of the ability of a generator to produce electricity, not the amount it actually produces in an hour but the capacity that it has to produce in an hour. I needed to point that out.

Also, studies have shown—and it is very clear to see—that as you install larger capacity generators the actual cost of the installation goes down by the value of units generated. So if you have, for example, a one-kilowatt photovoltaic system on your roof in comparison to a 10-kilowatt photovoltaic system on your roof, it is less expensive per unit of generation for the 10-kilowatt system than it is for the one. What we have done here is institute a sliding scale that appropriates payment in relation to capital expenditure for generation of electricity.

MRS DUNNE (Ginninderra) (12.10): That does not solve the problem. The issue here is that this scheme seems to be almost entirely premised on the fact that this will be for domestic applications only because it only looks at small-scale production. We are waiting with bated breath to see the feasibility study, which I understand is due now, in relation to the solar power plant that the government and ActewAGL are doing.

How does this fit into it? Because it is going to be, presumably, a significantly larger solar farm, it will receive a lower return. And it is artificial; it artificially pushes people towards less efficient, small-scale production. When you put a solar cell on a roof it is not always ideally oriented or tilted; you have to keep it clean; you have to keep it at an optimal running temperature. All of these things militate against efficiency.

The solar farms that you see in Spain are cooperatively owned, owned by individuals. They are up to 30 per cent more efficient than the same level of array on a roof, and that is because they follow the sun, they track, they are maintained, they are kept clean. Because they are tracking the sun, you can reduce the build up of heat in the silicon so that the silicon operates more effectively. Some of those arrays in Spain are now hundreds of kilowatts at a time. But each of those sets of arrays is owned by individuals.

If you are going to have a large array, this process, as it currently stands, militates against the possibility of cooperative ownership of solar farms so that there is more incentive to have a less efficient solar array on your roof than to go and invest that amount of money in a more efficient solar array in a solar farm out the back of Belconnen or somewhere like that. This is the problem with this legislation. When we occupy the government benches after October, this is one of the things that will be looked at.

We do not want to militate against cooperative ownership, as this legislation does. It is an unintended consequence, but I think Mr Gentleman just does not get it.

DR FOSKEY (Molonglo) (12.13): Briefly, it is really important that there be every incentive possible to encourage the whole sector other than the domestic sector to get involved in this scheme. One of the comments about the new data centre, for instance, made by me and by ACTPLA in its informal comments on the first proposal was that it would make a lot of sense to use these huge new roofs for solar panels. You would think ActewAGL, as an electricity supplier, would think of that, would you not? We should be doing whatever we can with this legislation to encourage major schemes as well as, frankly, encouraging our voters to set up their own little mini solar power or other renewable energy schemes.

MR GENTLEMAN (Brindabella) (12.14): I want to come back to this point that I think, unfortunately, Mrs Dunne may have missed and that is that the whole premise of this legislation is for those investing in renewable energy to redeem their capital outlay. As I explained earlier, if you have a small capital outlay it takes less time to pay it off of course; and a large capital outlay, perhaps a longer time to pay it off. We have seen that larger constructed renewable energy generators cost less per unit; so the capital outlay is retrieved over a shorter time.

We have put these three steps in to give a balance between people that are putting perhaps a personal capital outlay on their own homes and those that are doing it for a commercial purpose. We want to see the capital return in around the same time. As I have said, it costs less for larger systems; so they will retrieve now, under this stepped approach, a repay of the capital outlay in about the same time it takes for smaller generators.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clause 9.

MR GENTLEMAN (Brindabella) (12.16): I seek leave to move amendments Nos 6 and 7 circulated in my name together.

Leave granted.

MR GENTLEMAN: I move amendments Nos 6 and 7 circulated in my name together *[see schedule 1 at page 2653]*.

Amendment 6 replaces part of clause 9 (1) with the words "reflecting the model set out in the amended clause 6". This reflects the alignment of the hierarchy in the national electricity law.

Amendment 7 ensures, among the other requirements set out within the clause, that the minister, when determining the premium rate, gives priority to any cost under this act that would impact on all electricity consumers. It is imperative that all people be involved in the scheme; as we are all contributors to the problem, so must we all be part of the solution. Having said that, it is important that consideration be given to those less fortunate when determining the premium rate. As such, I have written to the Deputy Chief Minister asking that the cost of the feed-in tariff be taken into consideration when reviewing the concessional rebate scheme next year.

Amendments agreed to.

DR FOSKEY (Molonglo) (12.17): I move amendment No 10 circulated in my name *[see schedule 2 at page 2658]*.

This amendment is another simple one, just to ensure that the minister, when he or she makes a determination on the premium rate to be paid for energy fed into the grid from renewable sources, takes into account the urgent need for action due to climate change. I do believe that this is one the government can support without losing any skin off its nose.

MR GENTLEMAN (Brindabella) (12.18): I am pleased to announce the government will be supporting this amendment. There have been countless academics preaching the need to address this issue for many years now and the deadline to act is fast approaching and, according to Professor Ross Garnaut in his recent lecture, faster than we all thought. One area that we can facilitate instant change is that of our electricity production from renewable sources.

The ACT government has clearly outlined its intentions to pursue effective climate change policy that highlights the need to reduce the likely effects of climate change. While it is the government's view that the minister responsible will, as a result of the objects of the act, take into consideration such a need, including such a clause can only strengthen that claim.

Amendment agreed to.

MR GENTLEMAN (Brindabella) (12.19): I seek leave to move amendments Nos 8 to 10 circulated in my name together.

Leave granted.

MR GENTLEMAN: I move amendments Nos 8 to 10 circulated in my name together *[see schedule 1 at page 2653]*.

Amendment No 8 replaces the reference to "customers" with "occupiers", to retain the consistent references in the bill. I spoke to Mrs Dunne about this a little earlier.

Amendment No 9 replaces clause 9 (3) (b) (i). The new clause sets out a revised model in amended clause 6, with references to amounts payable by distributors, amounts payable by suppliers, and any additional metering costs passed on to an occupier under the proposed section 6 (2) (c).

Amendment 10 changes the reference in clause 9 (4) to "the highest retail price of electricity for a domestic customer". The amendment means that the transitional franchise tariff retail price is the base rate to which the multiplier is applied to calculate the premium. The transitional franchise tariff retail price is the default price provided in the ACT retail electricity market and is set by the Independent Competition and Regulatory Commission, consistent with what an effective supplier would provide to the market.

Members should be aware that this amendment now increases the incentive to generators, making this feed-in law model the most effective and generous feed-in law in Australia. The TFT set by the ICRC is now over 15c per kilowatt hour. This greater incentive, we believe, will cause a slightly higher cost to be borne by other consumers. Our modelling shows the initial cost of 80c per year to all consumers will now rise to approximately $1.05 in the first year. While this does raise our contributions, it is worth while to note that Dr James Prest from the ANU's environmental law division mentioned previously on ABC radio that the cost to offset the tariff is the equivalent of replacing two incandescent light bulbs with compact fluorescent ones in your own home.

DR FOSKEY (Molonglo) (12.22): I certainly support these amendments but I do seek clarification that the new phrase "additional metering costs that are passed on to the occupier" does not mean that people who participate in the feed-in tariff will not being paying anymore in their metering costs than other householders.

MRS DUNNE (Ginninderra) (12.22): In passing these amendments, I need to point out to members that my previous calculation of abatement of $488 a tonne has just gone up to $501 a tonne. It is very expensive abatement. Mr Gentleman and I have discussed that. Although we go into this with our eyes open, we should be, at the same time, working on some of the cheaper abatements that this government has steadfastly avoided doing.

Amendments agreed to.

Clause 9, as amended, agreed to.

Clause 10.

MR GENTLEMAN (Brindabella) (12.23): I move amendment No 11 circulated in my name *[see schedule 1 at page 2654]*.

This amendment removes unnecessary words from clause 10 (1).

Amendment agreed to.

Clause 10, as amended, agreed to.

Proposed new clause 10A.

DR FOSKEY (Molonglo) (12.24): I move amendment No 11 circulated in my name which inserts a new clause 10A *[see schedule 2 at page 2658]*.

I am, as people probably would be aware, a very keen supporter of the role of annual reports. In this new clause 10A, I am suggesting that a new section of the annual report be included. It means that the chief executive must include an account of the amount of electricity supplied from renewable energy generators for electricity networks during the year. There are a number of other provisions. It is there in front of you. What it does is bring each department and each program that the government runs to account each year and it is an opportunity for members of the Legislative Assembly and the public to find out in closer detail what the government has been doing.

This clause provides a mechanism for reporting on how much energy is being produced as a result of this bill, as well as the rate of progress, the cost of production, the range of benefits and ecological impacts. It also requires reporting towards particular milestones—indeed, those elusive targets—because, without them, there are few performance indicators which would let us know whether or not this bill has been successful. How are we going to know? That is why I have included this amendment and why I think that the annual reports are the obvious place where this information needs to be placed.

MRS DUNNE (Ginninderra) (12.26): I will support this amendment. I support the notion. I know that Dr Foskey is a great one for annual reports and for performance indicators that are meaningful, as am I. But when this bill is passed and when we come back to debate the climate change and greenhouse gas emissions target bill in August, I think we might look at a way of finessing this sort of annual reporting into a larger structure because we will be in fact be reporting about renewable energy.

I do like the point that Dr Foskey wants individual departments to do annual reporting on their achievements, but we also need to have a wider level of reporting. I would welcome amendments from Dr Foskey in relation to the annual report provisions in the bill that was introduced this morning as well, to round it off and to make sure that they all work together.

MR GENTLEMAN (Brindabella) (12.27): The minister will need to investigate and analyse all matters within the scheme annually to determine whether the tariff will require adjusting. Through that process, the minister will have the opportunity to provide the reporting that Dr Foskey has outlined in this amendment.

The purpose of an annual report is not to report on the achievement of a policy but to report on the operations of a particular department and, as such, is not relevant here. Several aspects of the reporting as outlined in Dr Foskey's amendment, in particular in relation to the renewable energy targets, also fall outside the scope of the relevance to this particular piece of legislation.

I would like to reemphasise the point that this legislation is just one of many actions outlined within the ACT government's climate change strategy, and to legislate reporting as part of this bill will require reporting on renewable energy targets. The annual cost of renewable energy sources and the ecological effects of the use of renewable energy are such that we find that reporting unnecessary. Furthermore, reporting on the economic, social and environmental benefits of this act also fall outside the objects of the act. As such, the government will not be supporting this amendment.

MRS DUNNE (Ginninderra) (12.28): I would like to make the point that I suppose it would be very difficult for the government to report upon targets because it steadfastly refuses to have any.

Question put:

> That proposed new clause 10A be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

Question so resolved in the negative.

Proposed new clause 10A negatived.

Clause 11.

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 12.33 to 2.30 pm.

Ministerial arrangements

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women): As the Chief Minister is absent from question time on official business, I will be taking any questions without notice that members have across his range of portfolios.

Questions without notice

Schools—closures

MR SESELJA: My question is to the Deputy Chief Minister, Ms Gallagher. On 27 May 2008 the ACT government awarded GHD Pty Ltd a $244,819 contract for "further development options for former school sites" via a single select tender process as documented in a letter of acceptance. Can you clarify for the Assembly and the people of Canberra how, in awarding a significant tender in this fashion, you are complying with the exemption clauses set out in the Government Procurement Regulation 2007?

MS GALLAGHER: I thank Mr Seselja for the question. On 27 May the government engaged a well-known local firm, GHD, to undertake a community consultation process on the future use of eight community sites. As part of the $24 million budget initiative to enhance community facilities, the government had announced a further round of community consultation to be undertaken over the next two to three months, with a report to government on the community's views in August 2008.

During May 2008 the Chief Minister's Department, with assistance from ACT Procurement Solutions, undertook a procurement process in line with the Government Procurement Act 2001 to engage GHD to undertake the consultation. Given the short time frame in which this particular procurement activity needed to be completed to meet the project time frames, ACT Procurement Solutions advised that a single select tender would be appropriate on this occasion as it satisfied the relevant criteria. The Chief Minister's Department explored the suitability of a number of known firms before it determined it would engage GHD to undertake this work.

Under clause 10 of the Government Procurement Regulation 2007 the responsible chief executive officer for a territory entity may, in writing, exempt the entity from the requirement to go to open tender only if satisfied on reasonable grounds that the benefit of the exemption outweighs the benefit of compliance with the requirement. The regulation provides examples where exemptions may be given, including "the time within which a particular procurement activity must be completed prevents public tenders being called".

MR SPEAKER: A supplementary question, Mr Seselja.

MR SESELJA: Minister, why was there such urgency in this case, given how long the process has taken to date?

MS GALLAGHER: This has been called for by the community. The urgency was to ensure that the government had before it prior to the election information to which we

could respond to the community. I think you have been calling for that. You, amongst other community stakeholders, have been saying that we need to be up-front about what we are going to do with this land. I think you are certainly in the same position. All members of the Assembly and all candidates in the election are going to have to be up-front with the community around what the future use of the land that we are consulting on is going to be. If you do not consult, you are criticised; if you consult, you are criticised. We just cannot win on this. The opposition has a vote each way.

The issue is that we went out and consulted extensively over large parcels of land that related to the Purdon inquiry. That came back to government. It raised some further questions which the government wanted to investigate further, including the decisions that we had taken to create and establish community hubs, to build community halls, to create community parks and to retain large open spaces relating to the ovals attached to the schools. We made all of those decisions, and there are small parcels of land on eight sites about which we had not made decisions. I guess we could have said, "We'll put this there and this there and this there," and I imagine the opposition would have had a media release out quick smart saying that we should consult with the community. That is what we are doing. We are consulting with the community.

We understand how long the process has been going on, but there is, I think, a genuine desire by the community to get involved. That has been seen, to some extent, by the attendance at the meetings. Mr Seselja alluded to this yesterday in the MPI debate, when he said that the most common request was to reopen schools and that the second most common request was to have non-government schools established in those facilities. That is simply not correct. That is not what has come out of those community consultation forums. A whole range of ideas have come from them, but there has not been overwhelming support to have the schools reopen. In fact, there has been a level of acceptance that the decisions have been taken.

I have to say that most of the community feedback is for a mix of options, but overwhelmingly it is to retain most of the land for community facilities and open space. That has been what is coming back from the consultation, Mr Seselja. Your informants are wrong; it is not the two issues that you have raised.

The short story is that we have consulted, further issues were raised, and we have gone back to consult again. The opposition can continue to criticise and carp and whine and whinge on this issue, or they could come out and do something positive and tell everyone what they are going to do.

Planning—access to solar energy

DR FOSKEY: My question is to the Minister for Planning and is in regard to solar access. In the light or, should I say, shadow of the ACT's electricity feed-in tariff legislation and the resulting imminent boom in photovoltaic installation across the roofs of Canberra, it has come to my attention that the current planning laws do not protect the right of property owners to assured roof solar access. Current planning laws only ensure that living areas, not roofs, are to receive a minimum three hours of sunlight.

Is the government committed to amending planning or any other related laws to ensure people who have invested in solar panels or who might be considering installing photovoltaic panels that their panels cannot be overshadowed and rendered ineffective?

MR BARR: I thank Dr Foskey for the question. Of course these matters are the subject of ongoing policy review. I did indicate that, upon the passage of the new territory plan and the new planning and development bill, we had moved out of, if you like, the policy neutrality straitjacket that was applied to that process and that these matters could then be considered in the context of a broad policy review across a range of areas within the planning system.

The issue that Dr Foskey raises is a relevant one and one that the government will consider in the future policy developments.

MR SPEAKER: A supplementary question, Dr Foskey.

DR FOSKEY: What is the government's time line for consideration and is the government introducing a scheme to compensate people whose solar panels get overshadowed because of this disconnect between solar tariff and planning laws or will it leave it to people to seek remedies through private civil law action?

MR BARR: The process of policy review has already begun across a range of areas within the planning system. I will be making further announcements in due course in relation to the government's response across a range of issues.

Children—protection

MRS DUNNE: My question is to the Minister for Children and Young People and it is in relation to care and protection. Minister, during estimates I asked you questions on notice regarding the relationship between ACT Policing and care and protection which your office asked my office to remove as you deemed them to be irrelevant to the estimates process. During question time yesterday, you said, in relation to the relationship between ACT Policing and care and protection, that "there have been some issues brought to our attention" as a result of the recent incident. In regard to the relationship between ACT Policing and care and protection, minister, what is it that you did not know? Did you choose not to know or did you simply not think that the issue was important enough?

MS GALLAGHER: Another gem from Vicki Dunne! In your preamble you alluded to my office requesting you to remove questions on notice. That is news to me; I certainly was not aware of that, and I will follow it up. I do not know if you withdrew them; that is certainly news to me and I will follow it up as to why it was requested. It is the first I have heard of it.

With respect to the issues that I alluded to yesterday—and I am trying not to go to matters that are currently before the court—in an issue that usually deals with care and protection, the police SACAT team and care and protection work together. There is a memorandum of understanding which sets out this joint process of appraisal,

investigations of physical assault, sexual abuse, exploitation and neglect of children and young people. From all my dealings with previous cases, this MOU works very effectively. There are very close working relationships between the police and care and protection workers when matters relate to the safety and wellbeing of children in the community.

With respect to the issues that this has raised for me that I am most concerned about, I responded to this straightaway last week when I became aware that the issues had emerged, and particularly around the amount of public information. I asked that the department meet with the police and work through how these issues arose. As I said, they are around public information and how that information got into the public and thereby to the media and across the nation. They are the issues I was most concerned about. It is not usual for that to have occurred, and I think primarily it is because the SACAT team were not the team that were initially involved. That was due to the nature of the issues they were investigating in relation to an individual. Those matters are currently before the court.

As soon as these issues came to my attention, I spoke with the Chief Executive of DHCS. I questioned why information was in the public arena. I asked that they follow it up and that they meet with the police. All of those meetings have happened. I will await the outcome of the advice about exactly how this happened.

Mr Smyth: It's in your brief.

MR SPEAKER: Order, Mr Smyth!

MS GALLAGHER: Mr Smyth, you mumble and I can't hear you.

Mr Smyth: Read your letter.

MR SPEAKER: Order!

MS GALLAGHER: I don't have a letter, Mr Smyth.

MR SPEAKER: Order! Direct your attention to the question; ignore Mr Smyth.

MS GALLAGHER: I am talking off the top of my head. So that is the answer, Mrs Dunne. I have followed up all the issues that I see arising from that case from where I sit. It is unusual and it is unfortunate that these matters have occurred.

MR SPEAKER: Is there a supplementary question?

MRS DUNNE: Thank you, Mr Speaker. Minister, will you now answer the questions I placed on notice or do you still consider them to be irrelevant?

MS GALLAGHER: I never considered them to be irrelevant. I had no idea that you were requested to withdraw them. I am surprised, even if there was a request, that you did withdraw them. It seems very unlike your character to do that. But obviously you have, and you must have had a reason why. I am more than happy to answer them.

Health—smoking

MR MULCAHY: My question is to the Minister for Health and it relates to the Tobacco Amendment Bill. Minister, you introduced the Tobacco Amendment Bill 2008 to the Legislative Assembly on 6 March this year. A number of members have received correspondence today indicating that you have not yet met with key stakeholders such as representatives from British American Tobacco. Minister, notwithstanding your important work in reducing the incidence of smoking, why have you not yet agreed to meet with representatives from all major stakeholders?

MS GALLAGHER: I have taken the view that I do not meet with tobacco lobbyists. I have not met ever with any and I do not intend to. My staff have met with them, at my request. But it is just one of those decisions that I have taken as the Minister for Health that I will not meet with a company that promotes the use of tobacco, and it is one that I stand by. I am just being up-front about that. I have considered the issues but I feel my responsibilities are as Minister for Health. We know the damage that tobacco does to people's health; it is the single biggest killer in Australia and the leading cause of preventable death in Australia and for me to be holding private meetings with companies that seek to promote the use of tobacco—I formed the view that that is not appropriate for me.

In terms of the legislation that is currently before the house, I think the contentious area is around point-of-sale displays. I have met with local stakeholders around that. I have met with tobacconists. I have received correspondence from a number of small supermarkets and newsagents concerned around the potential implications of point-of-sale display. I have asked that health protection services go out and meet with those people, those individuals, individual business in Canberra, rather than the peak lobby groups. Those meetings have occurred and I have got to discuss further with Health how we move forward on that aspect of the bill because I just feel that there are some genuine issues around the viability of people's businesses that we as a government and as a community need to consider.

But that does not make me walk away from my belief that this is where we should end up. I think we should end up with point-of-sale display bans. It is one of the last ways that tobacco advertisements can occur and they do occur at the cash register in highly visible places. But it is about how we move down that journey that we have got to still finalise. Those consultations at a local level are ongoing. I will be taking a position back to cabinet in the near future about how to move forward.

MR MULCAHY: Thank you for the clarification. Can you also advise the Assembly of your planned schedule for implementation of these changes?

MS GALLAGHER: That is still to be finalised. We have put a position out in the bill. It has created quite a lot of response from individual stakeholders. They have put counterarguments and counterproposals to me and I just need to have a look at that, talk with Health about that and how we move forward.

It is interesting that New South Wales have just recently begun a process around consulting about point-of-sale displays. One of the things that always affect us when

we are looking at changing regimes, particularly over the counter, is the close proximity of Queanbeyan with here. So I have asked to be informed about how the New South Wales process is going—when they look like finishing and what they look like they are going to do. But, as I said, I am still committed to point-of-sale display bans, but I think how we get there and when we get there is the issue that I need to look at further.

Children—protection

MR SMYTH: Mr Speaker, my question is to the Minister for Children and Young People. Minister, on Monday, 30 June you were quoted in the *Canberra Times* as saying that it was cheaper to send a team to Britain to recruit child protection staff than run a national campaign. You said, "Over here we can spend $15,000 recruiting, putting advertisements in every national paper and not get one applicant."

Minister, the opposition has been made aware of senior Australian social workers, highly experienced in child protection and related areas, being told by your department not to bother applying for positions or being told they "do not meet the criteria". Approximately how many applications for positions in child protection have you received from Canberra-based and other Australian-based applicants each time you have undertaken to advertise locally for these positions? How many have been rejected, and why?

MS GALLAGHER: I am interested in the question because the underlying insinuation is that we have a store of locally available people well qualified and suitable for the positions that we are refusing to employ. That is the question in a sense, shorter and more succinct than the question Mr Smyth asked. That is the argument that I understand he is now putting forward—that we have an abundance or even one or two or three staff here locally that are prepared to work and we are refusing them.

They are pretty serious allegations to lay at the feet of the department. It is very similar to an argument that Mrs Burke ran, probably a year ago or maybe a bit longer; I cannot keep up with the changes in portfolios. I believe that Mrs Burke was the shadow spokesperson for children and young people at one stage and she ran a similar argument—that there were people that were willing to be employed and ready to be employed and were refused employment—

Mrs Burke: It is true. Are you saying we are liars? Is that what you are saying?

MS GALLAGHER: I am just saying that it is an interesting line to run. Recruitment is handled in accordance with legislation and proper process and merit based processes, yet you are saying that those processes are not working. Maybe these people have been for an interview with Mrs Burke and she has given them the thumbs up, but that is a bit different from the process that has to be undertaken in government. Maybe Mr Smyth has given them the thumbs up, too. I do not know. I do not know who you are talking to. We have had a constant, ongoing recruitment program nationally in care and protection. I think for the last national recruitment program we ran we did not get one applicant from across the country. From memory, that is correct.

In relation to the detail of the question, which is how many and who did not get a job and why did they not get a job, I will take that on notice. It will probably take some time to reply to that because it will mean going back and looking at each individual interview.

The issue here is that when the government could not fill positions, when we were unable to fill positions, we did the right thing and coordinated an overseas recruitment program to go and get the staff that we need to fill these positions. We did not just sit down and say, "No-one wants to work for us here. There is a shortage of care and protection workers. New South Wales is recruiting, Queensland is recruiting and Victoria is recruiting." In fact, Victoria were overseas just before we were doing exactly the same thing.

Instead of just saying, "That's it; we are going to struggle through with 20 vacant positions," we have actually taken the initiative and sent a team overseas, including UK recruits that came out a few years ago and are still here. We had 110 applicants and 90 interviews. They are all extremely skilled professionals and my understanding is that hopefully we will be able to make offers of employment to around 50 of them. With that, we will be able to fill the vacancies we have got in care and protection that we have been unable to fill locally or nationally through local or national recruitments.

I will get back to you, Mr Smyth, as to the detail of how many, who, why and when. As I said, it will take some time, I think, because it will mean going back through each individual file of interview. I totally reject the allegation being run by the opposition that our merit-based recruitment processes have refused to employ suitably qualified and available staff for a reason unknown to me.

MR SPEAKER: A supplementary question from Mr Smyth.

MR SMYTH: Thank you, Mr Speaker. Minister, given that I am told that New South Wales has recently recruited something like 600 workers, is it therefore that the conditions you are offering here are less than New South Wales or does your government have a policy of preferring overseas social workers to Australian and Canberra social workers?

MS GALLAGHER: I would argue that the fact that New South Wales are out recruiting 600 may actually have something to do with the reason why we are struggling. Each jurisdiction is out there aggressively seeking people to fill these positions. New South Wales have a high vacancy rate at times, as does every child protection agency. From my understanding, our conditions of employment are as good as anywhere else in the country. Our staff turnover rate in care and protection is one of the best in the country. We retain staff here.

That can be seen by looking at the previous UK recruits. We have lost, I think, five out of 32 that were recruited. A couple have gone home and a couple have gone interstate. But the rest are all here. They have bought houses and they are staying here with their families. That does not exactly send me a message that people do not want to come and work for disability, housing and community services in their care and protection area.

I have to say it is the hardest area of government business. There is a shortage of social workers and psychologists across the country—indeed, across the world. There is a whole range of areas where psychologists and social workers can choose to work, one of which is care and protection. The other obvious area is in the health system, and people are making those choices. We cannot force people to come, and just because they are a social worker and they apply to work for the ACT government they have to work in care and protection. People make these decisions for themselves.

I should also say that in 2004 we had, I think, about 35 or 36 care and protection workers. We have now got 88. We have double what we had. We have double because we have increased our resources in care and protection by 87 per cent since coming to government—again another one of my areas where we have responded to the chronic underfunding and systemic problems that you guys left, that you guys were responsible for.

We have responded. We have got double the staff dealing with these issues. We want to get it to 110. That is where we are going. That is why we have gone overseas, and that is why we will continue to run recruitment programs locally, nationally and, if we need to, internationally.

ACTION bus service—network

MR GENTLEMAN: My question is to the Minister for Territory and Municipal Services in his capacity as minister for transport. Minister, the government introduced ACTION's network 08 on 2 June, with an objective of achieving significant improvement in the quality of service to Canberra's travelling public. Can you outline to the Assembly what outcomes have been achieved since 2 June?

MR HARGREAVES: I acknowledge Mr Gentleman's continuing interest in matters of transport in the ACT. ACTION and the ACT government are committed to building a better bus service for the Canberra community. Following a comprehensive review of ACTION's bus services, ACTION introduced its new network on 2 June 2008.

ACTION is introducing network 08 in two phases, due to the need to recruit more bus drivers to accommodate the requirements of the new network. Phase 1 has Monday to Friday bus routes and services. In this phase, ACTION will continue to deliver its current network's weekend bus services. As part of the changes to the weekday routes, an upgrade of school bus routes was conducted. As a result, there have been a number of modifications to school bus services. These changes were advised to all affected schools and are also posted on ACTION's website.

ACTION has received approximately 1,200 emails from customers regarding the new bus network. All feedback is being considered by ACTION's scheduling and customer service teams, and travel solutions and options are being provided to customers.

Following this feedback, ACTION has introduced a number of immediate changes. Examples of immediate changes are: route 25/225 has now been redirected to service

Mirinjani residents at Weston Creek. A new school service has been provided for students residing in the Gungahlin area. There are two earlier bus services for Giralang and Kaleen residents, an additional morning service, route 60, from Tuggeranong to the city, an additional afternoon service, route 51, from the city, via Gungahlin Market Place, to Belconnen.

ACTION will continue to assess requests for changes to specific route services and, where possible, will introduce these at the beginning of the next or following school terms. ACTION is also working with customers with accessibility issues. ACTION has received positive feedback regarding the new bus network. For example:

> Dear ACTION—

that is a good start, is it not—

> I discovered today that there was a new bus service for Radford College taking Nicholls and Ngunnawal residents directly to their suburbs. This is very welcome news indeed and caters perfectly for this community. It is the most convenient service we have had in 7 years of living in Nicholls. Thank you very much for your consideration of the difficulties we faced. My daughter should now be home by about 4.0 pm—the earliest ever. Neighbours who have never used the bus service because it took too long are now going to use it.

Another one:

> Many thanks, that is excellent news and I am very grateful that at least there will be an earlier scheduled service from Giralang to Civic. You have restored my faith in the ACT public transport system. Once again, many thanks.

Another one—

Opposition members interjecting—

MR HARGREAVES: These guys just do not want to hear it, but they are going to have to:

> A big thank you for taking our feedback/request into account in introducing a morning service to Telopea School. The proposed bus 504 morning service from the Woden interchange is a big relief for us and will ensure we get to work on time, as we no longer have to worry about how to get our children to school first. We know other parents who have commented the same.

With regard to patronage, there have been full passenger loadings on a number of bus services. This is due to ACTION's adult patronage increasing by approximately 10 per cent with the new network. Since the introduction of network 08, ACTION has experienced seven days where adult boardings have topped 25,000. One day it reached the 25,674 milestone. Get that. In the previous network, daily adult boardings averaged 22,500 a day. The average adult daily boardings for the first four weeks of network 08 increased by 9.38 per cent on the same period last year and 2.48 per cent on the two weeks prior to the introduction of network 08. Note that the Queen's birthday public holiday was not included.

Where possible, ACTION is rescheduling buses to meet demand. For example, we have needed to reschedule articulated buses to the morning and afternoon services on the express route 703 from Fraser to Barton.

Phase 2 will see the full introduction of network 08, providing the same bus routes seven days a week, as soon as we have enough bus drivers to staff the bus routes. Network 08 is really good news for the travelling public.

MR SPEAKER: A supplementary question, Mr Gentleman.

MR GENTLEMAN: Minister, I note the government commenced yesterday its gold card initiative to provide free travel on ACTION services for Canberrans 75 years of age and older. Are you able to report on how this initiative has been received by older Canberrans?

MR HARGREAVES: Again I acknowledge Mr Gentleman's continued interest in this. I note that there is a distinct disinterest from those people across the chamber in the gold pass, even though I think some of them may very well be eligible to get one! Those members opposite ought to listen to this, because this is an initiative of the Stanhope Labor government which their grandchildren will be talking about. They will not be talking about them, because they will not have been introduced, but, nonetheless, they will be talking about this initiative.

I am pleased to announce to you, Mr Speaker, that on the first day of this initiative ACTION recorded 102 trips by gold card holders taking advantage of free bus travel. That is 102 trips on day one. How about them apples! You like that one, don't you, Mr Pratt? He is lining up in the queue to get his bus pass. Good on you, sunshine!

Mr Speaker, get this—members of the opposition are not going to like this bit either, but that is bad luck—on the first day of the initiative, 572 ACTION gold cards were issued at Canberra Connect shopfronts. How about that? According to my calculations, that is about 2½ to three times the total of the entire membership of the Liberal Party in the ACT in one day! I reckon that was something brilliant.

ACTION is receiving extremely positive feedback regarding the free bus travel for older Canberrans. We committed $500,000 over four years towards this initiative. Any Canberran who is 75 years of age or older can apply for an ACTION gold card, which will give them access to ACTION services any time of the day free of charge for the rest of their days. Providing free travel demonstrates the government's commitment to encourage older Canberrans to continue to lead active lives.

The gold card is linked to the existing older drivers awareness program, where it is recommended that drivers over the age of 75 consider their driving circumstances. However, Mr Speaker, there is no requirement to relinquish a licence—it is not a requisite.When eventually that day rolls around for you, Mr Speaker, when you can line up for the gold card, you may maintain your forklift licence, if that is your wont. We will have no call upon your licence at all.

What we would like to do, however, is encourage drivers over the age of 75 to consider surrendering their licences. They may not be capable of driving on the roads,

but, more importantly, even if older drivers are involved in car accidents that are not their fault, they take considerably longer to heal, and sometimes they never do. We believe, in fact, that the road can be a particularly dangerous place. Our older driver handbook that we issue when people come to the age of 75 actually has a graph in it at the back, which I draw to the attention of those opposite who can read. It shows an incredibly sharp spike at the age of 75. Of course, those guys opposite know about sharp spikes!

This government is committed to public transport that will greatly assist the travel of our older citizens when they are wheelchair bound. By 2012 some 55 per cent of our buses will drop to the pavement, again, like the opposition—on 19 October, they, too, will drop to the pavement! That initiative is for older people who are having accessibility problems and/or wheelchair problems.

Mr Speaker, I am particularly proud of our public transport initiatives. We have put millions and millions of dollars into them, and I look forward to the press release from Mr Pratt saying, "I think this older drivers initiative for free bus travel for people over 75 is a good idea." I look forward to him giving us his blessing and throwing bunches of roses and gladioli over this side of the chamber, because the flower power man of the opposition knows a good thing when he is on it. When we are on a good thing, we are going to stick to it.

Gas-fired power station

MR PRATT: My question is to the Deputy Chief Minister. Deputy Chief Minister, when did you receive a briefing about the proposed Tuggeranong gas power station respectively as a shareholder of ACTEW and as minister for disability services?

MS GALLAGHER: I will get back to the member with the exact date. I think that is what you are after, is it?

Mr Pratt: Yes.

MS GALLAGHER: I think I have answered this in estimates. I will check the *Hansard* and I will get back to you. I will see whether I can provide you with that information.

Mr Pratt: That is for both of those, please.

MS GALLAGHER: Yes.

Mr Pratt: And you have been briefed on both those occasions?

MS GALLAGHER: I will answer that to you on the date, which is the question you ask.

Hospitals—waiting times

MRS BURKE: My question is to the Minister for Health. Minister, why are the ACT's public hospital emergency department waiting times still the worst in Australia,

according to the latest commonwealth government *The state of our public hospitals* report, despite the government spending more in recurrent expenditure per person than any other jurisdiction in Australia except the Northern Territory?

MS GALLAGHER: I thank Mrs Burke for the question because it gives me the opportunity to put on the record a number of very significant achievements of the ACT health system, as reflected in both the AIHW and *The state of our public hospitals* reports.

In a nutshell, what the AIHW report shows is that in Canberra our hospitals are busier than ever before. They have seen six per cent growth—of course, this data goes back to 2006-07; that the rate of ACT public hospital usage is 11.8 per cent higher than in the rest of the nation; that our relative stay index is better than the national average; that we have seen improvements in emergency department waiting times across all the categories, which is something that we wanted to see; and that, when you are admitted, we provide the most efficient service and treatment when compared to national figures.

This report contains a lot of good news. It sees improvements in areas in which I have wanted to see improvement. In fact, I have come into this Assembly a number of times and said that these are areas that I wanted to see improvements in across the board, including in our emergency departments and in our elective surgery waiting times.

The report from the AIHW shows that, with respect to our category 1 patients, 100 per cent are seen on time. I think that makes us the best in the country. With category 2, we have seen an increase, up to 78 per cent, while the Australian average is 79 per cent. With category 3, we have seen a three-point improvement, to 51 per cent. In category 4, we have seen a two-point increase, to 50 per cent.

These are the areas that we have been focusing on. We have wanted to see improvements in emergency department waiting times. We understand that that is the area where our hospital system is under the most stress. We are continuing to see that in terms of the presentations to the emergency department. They are continuing to be as high as in jurisdictions such as the Northern Territory. We are looking at ways to improve access to GPs through some of the funding in the second appropriation that we have delivered. We have implemented a range of initiatives in the emergency department that we believe will see further improvements. In fact, this data is already a year old. All the data provided to the AIHW for the next report is already closed. So we are dealing with data that is a year old. In the quarterly performance reports, you can see more up-to-date data which shows the continued improvements in the emergency department.

We have almost finished the paediatric waiting area in the emergency department. We have nursing staff there to provide waiting room care. We have outlined to the Assembly and the community our vision for health infrastructure plans for the future. Of course, that involves doubling the size of our emergency department—doubling the number of beds available in the emergency department.

One of the biggest issues that affect timeliness in the emergency department is the number of beds that are available in hospital, to get people through the hospital if they are going to be admitted. Around 25 to 30 per cent of admissions through the emergency department actually need to be admitted to the hospital. That is where we get access block, when we can't get them through the beds fast enough. And, of course, we have been responding by replacing the 114 beds that the Liberals cut out of the system. I think it is quite incredible that the 147 that we have already put back into the system just got us to where we were 10 years ago. We almost have the same number of hospital beds that we had 10 years ago, before the slash-and-burn Liberals cut them all out of the hospital.

Mr Smyth: That's not true.

MS GALLAGHER: Mr Smyth says it is not true. I have already tabled documents in this place that prove this about bed numbers. This is AIHW data. We know it is uncomfortable and we know you don't like to hear it. We know Mr Smyth and Mr Stefaniak are probably the only two who were in the place when those decisions were taken, but they are still here, and they are responsible for the fact that our hospitals are under stress in terms of number of beds available. That data has been tabled. The opposition have not come back and said that the data is wrong. We will wait for that. If they can prove that the AIHW figures are wrong, I will be interested to hear that argument. But that data which is provided by AIHW clearly shows the cut in bed numbers that was overseen by the previous government. We have now got bed numbers back to where they need to be.

MR SPEAKER: Supplementary question, Mrs Burke?

MRS BURKE: Yes, thank you, Mr Speaker. How can the people of Canberra have any real confidence that there will be any improvements further in our emergency department waiting times under your leadership given your results to date?

MS GALLAGHER: In every area that is outlined in this report it shows continued improvement of the public health system, and that is directly down to the government's injection of resources and of our overhaul of and introduction of new services to the health system. The people of Canberra can believe the $300 million that we have put in this budget to start off the complete rebuild of our hospital system infrastructure—

Mrs Burke: But they're still waiting too long.

MS GALLAGHER: Mrs Burke needs a lesson 101 in public hospitals and the operation of public hospitals. "Still waiting too long": yes, they are still waiting too long—because we need more beds. And what are we doing? We are injecting more beds—because what have you done? You have cut the beds. It is a pretty simple equation: the Liberal government cut 114 beds from the public hospital system and since 2001, every single budget, we have included beds in our budget; every single budget we have included beds. In fact, the cornerstone of the previous election campaign, under Mr Smyth's leadership, of course was 100 new beds. Because they were so guilty that they had cut 114, they had to replace the 100 that they had cut. That was really the focus of their entire election campaign.

We have done that; we have replaced the 100; we have added another 47 and by the end of this budget we will have added, I think, another 24; it may be a few more than that. There are acute care beds, there are critical care beds and there is a new intensive care unit at Calvary, providing more beds. This is what the people of Canberra can believe. And do you know what they do not know? They do not know what you guys are going to do, because we have not had your health policy—not one idea, not one initiative, not one forward-thinking vision for this city.

We have a vision for this city. It is not all about hospitals; it is around the future of the public health system. We have outlined to the community what we are going to do. And I think, 14 weeks out, it is about time that you guys outlined what you are going to do.

Schools—computers

MS PORTER: My question is the Minister for Education and Training. Would the minister advise the Assembly the steps the Stanhope Labor government is taking to ensure ACT public school students are ready for their futures in the computer age?

MR BARR: I thank Ms Porter for her question and her longstanding interest in the education portfolio. I know that those opposite immediately start squirming as, again, Ms Porter demonstrates a commitment to inquiring about our education system—an interest in our education system that is greater than the combined interests of the Liberal opposition. And the former shadow minister sits up the back and yawns. Let the record note that.

The government is well aware of the vital importance of information and communication technology in our schools, just as it is vitally important in our everyday lives. I hazard a guess that, when most of the members in this chamber went to school, it was whiteboards or possibly blackboards, and even, for some opposite, the old chalk slate boards were effectively the media of record-taking and communication within our classrooms. When most of us went to school, computers were a topic to be studied and they were kept in a lab. But now—as the Prime Minister has observed—computers are not a subject to be learned, but are the key to learning all subjects.

What this government is doing to ensure access to computers—information technology—can be summarised in three actions. Firstly, we are investing record amounts in infrastructure. We are working cooperatively with the commonwealth to deliver on-the-ground results in our schools and, most importantly, changing the culture around technology, most particularly computers, in our ACT public schools.

As a result of this year's budget, the Stanhope Labor government has invested in state-of-the-art information and communication technology for our schools to the tune of some $27.7 million cumulatively from 2006-07, including the additional initiatives in this year's budget. There is an extra $7.7 million provided this year designed to help students, teachers and parents realise the immense range of opportunities provided by the latest technology. This includes ensuring every ACT public school is connected to fast broadband, fibre-optic cable and wireless, putting ACT public schools at the ICT forefront both nationally and internationally.

Infrastructure has already been provided to buy the replacement of school servers, proxy servers and core infrastructure upgrades. Wireless networking is being progressively introduced to public schools to significantly enhance the flexibility of ICT provision. Other projects include video-on-demand, video conferencing, video projectors, podcasting and datacasting, all of which will improve access to information and allow the classroom to move beyond the school.

Parent portals will be established, particularly to provide a window for parents to access their child's class work and what is going on in the school environment. Secure and private online access for senior secondary students already allows these students to access their year 12 grades and UAI scores.

The final phase of the smart schools: smart students program will provide an online library system shared by all schools, providing access anywhere, anytime to school library catalogues. A new multimedia and innovation centre will be the showpiece for ACT public schools, providing a facility where they can evaluate and utilise the latest technology.

This $27.7 million in ACT public schools builds on the investments made by the Stanhope government since 2001. This includes $11 million invested in improving information technology for all schools and over $1 million towards the provision of interactive whiteboards, leading to a 570 per cent increase in the number of these educational aids available in ACT public schools.

Now that we finally have a federal government interested in investing in education, the ACT government has been able to work closely with them to deliver the first round of the $1.2 billion digital education revolution. This has meant that nearly $3 million in new funding has been made available to ACT schools—2,847 new computers in classrooms in ACT schools.

This is a great example of the commonwealth and ACT governments working together to achieve a positive outcome for students in the ACT. This is a once-in-a-generation opportunity—when you have an ACT Labor government working with a commonwealth Labor government—to deliver tangible benefits to public education. Only one political party in this country is interested in this area: the Labor Party. Both the ACT and the federal Australian Labor Party are working together to deliver outstanding benefits for our public schools.

Schools—closures

MR STEFANIAK: My question is also to the Minister for Education. Minister, can you confirm to the Assembly whether your department has received an approach from the non-government school sector to reopen schools that have been closed? If so, can you indicate which schools are subject to these discussions?

MR BARR: I understand that at least one non-government school has formally made an application for the registration of an additional campus. That school is the Emmaus Christian school. I have met with Emmaus and indicated that the government's preference for new non-government schools would be in a new greenfield area

development, most particularly in Gungahlin and the Molonglo Valley, where provision has been made for new non-government schools.

In terms of closed school sites, the government has indicated a policy position that those will not be made available for non-government schools. The rationale for that is that in those areas there is not sufficient student demand. As members would be aware, there are provisions within the education act whereby the education minister must assess levels of demand. The entire rationale—

Mrs Burke: You've got the demand there.

MR SPEAKER: Order!

MR BARR: The entire rationale—

Mrs Burke: They've put the case to you.

MR SPEAKER: Order!

MR BARR: The entire rationale for the rationalisation of the number of schools in the ACT is most particularly predicated on declining school-age populations.

Mrs Burke: Emmaus have put the case to you. You're cutting off your nose to spite your face.

MR BARR: In a number of areas of the city, the school-age population has declined dramatically. That is the one of the key factors. It would be a perverse policy position to suggest that, having made the assessment of reduced student demand, you would then seek to open up alternative schools in those areas. The priority for new schools in the ACT is in Gungahlin, and it will be in the future in the Molonglo Valley.

Mrs Burke: Not even if the community demonstrates a need?

MR BARR: Those areas are where there is demand for and growth in the school-age population. If there is anything that those opposite can take out of this entire process it is that proper planning and careful consideration of current and future demands for student enrolments must dictate that new schools in the non-government sector in the ACT be in Gungahlin and Molonglo.

Mrs Burke: Even if you can show a demand outside of those areas. How silly is that!

MR BARR: That is where the student demand is.

Mrs Burke: That is inflexible—

MR SPEAKER: Order, Mrs Burke!

MR BARR: In terms of the registration of additional non-government schools, the government has made it very clear that we have reserved sites as part of the planning process for new non-government schools in those growth areas.

Mrs Burke: So nobody else can access them.

MR BARR: At this point there has only been one application received from a non-government school to register an additional campus in the area and to seek to occupy—

Mrs Burke: That is so inflexible and silly, it's not true.

MR SPEAKER: Mrs Burke, I warn you.

MR BARR: There has only been one application received from a non-government school to seek to occupy a former government school site. I understand that the Catholic Education Office has expressed interest in locating a new Catholic primary school in the suburb of Harrison. That is a growth area where there is, indeed, demand for an additional education facility. That piece of land has been planned for a non-government school, and the Catholic Education Office is expressing interest. That is an appropriate growth in non-government schooling in the ACT.

MR SPEAKER: A supplementary question from Mr Stefaniak.

MR STEFANIAK: Thank you, minister. You have indicated at least one skill, then. How do you explain the interest by that non-government school sector in reopening the schools you have closed when the basis for closing them in the first place was based on their being deemed inefficient? Incidentally, I am aware of a couple more instances, too.

MR BARR: Thank you, Mr Speaker. The nature of the application from the Emmaus school is simply for an additional campus. That is in terms of reducing their own costs, as they did with their current campus in Dickson, which used to be St Brigid's Catholic primary school which—surprise, surprise—closed. Schools close from time to time. Then, a number of years later, that school became the Emmaus Christian School. So it went from one non-government school to another, just as one of my old schools, the AME School, closed and is now the home of the Orana School.

From time to time within the non-government sector schools will close and new ones will reopen. The government has a process, a very clear legislative process, for assessing applications for new non-government schools. At this point, whilst there has been some interest from Emmaus for a small additional campus, I have met with them and indicated the government's preference for them to consider sites in Gungahlin or Molonglo for any expansion. I think that is appropriate. That is where there is growth in student demand and we can certainly expect, in the next 10 to 15 years, an increase in the school age population in those parts of Canberra, whereas in other parts of the city it is clear that student populations will continue to decline.

Health—organ donation

MS MacDONALD: My question through you, Mr Speaker, is to Ms Gallagher in her capacity as Minister for Health. My question is: minister, could you update the Assembly on the Australian government's announcement of a new funding package to encourage organ donation and what this means for the ACT?

MS GALLAGHER: I thank Ms MacDonald for the question. As members would know, this morning the Prime Minister, Minister Roxon and Parliamentary Secretary McLucas announced a package for organ donation to be proposed at the COAG meeting tomorrow. The ACT government welcomes this announcement. The package represents world-best practice in organ donation and will seek to make a real difference to a nationally coordinated approach.

The commonwealth have announced they will be contributing new funding of $136.4 million over the next four years to support this announcement today. This is an issue of national significance and one that is very welcome, from our point of view.

Key elements that are proposed include $67 million to fund dedicated organ donation specialist doctors and other staff in public and private hospitals, $46 million to establish a new, independent national authority to coordinate national organ donation initiatives, $17 million in new funding for hospitals to meet additional staffing, bed and infrastructure costs associated with organ donation, $13.4 million to continue national public awareness and education and $1.9 million for counselling for potential donor families, and other significant measures including enhanced professional education programs, consistent clinical protocols, clinical trigger check lists and data collection for organ transplants in hospital. A new organ donation and transplantation authority will be set up by 1 January 2009 to drive and oversee this comprehensive set of reforms.

Most importantly, the package includes enhanced national education and training for health professionals involved with organ donation and an ongoing community awareness program. We know that education and support for organ donation for communities and for affected families are so important and can mean the difference between life and death.

Already, with the increased awareness through media and public debate, we can see that our numbers of organ donations locally are on the rise. The ACT has had 23 donors this year to date, comprising two multi-organ donors including corneas, and 20 corneal donors. This compares to the same time last year, showing nine ACT donations, and represents a significant increase in local organ donations. Similarly, more people are registering for organ donation. In February 2001, we had 1,429 people registered in the ACT. As at May 2008, that number has increased to 47,319 people.

Education campaigns like the national mail-out in July 2005, clearly, had an effect, with nearly 7,000 ACT residents signing up in September 2005 in response. Following increased attention to the issue in recent months, we have seen around 500 added to the list every month since February this year.

I would like to take this opportunity to thank donors and families for the gift of life they have given another person and another family. The donation of a person's organ in death is probably the most significant contribution one person can make to another, one that makes a profound difference to another person's life and, in many cases, saves many other lives. I would also like to pay tribute to the teams of health professionals from TCH, Calvary, the police and coronial staff who so rapidly respond to potential donations, often with lateral thinking, in order to save a life.

The package announced today is consistent with discussions that states, territories and the commonwealth have been having for some time through Australia's health ministers meetings. The measure today will greatly assist the cause of organ donation. I congratulate the federal government on this great package of initiatives. I urge all members, if they are not already, to consider adding their name to the ACT's organ donation register.

I ask that all further questions be placed on the notice paper.

Supplementary answers to questions without notice

Canberra spatial plan

MR BARR: Yesterday in question time Dr Foskey asked me a question in relation to reviews of the Canberra spatial plan. I can confirm, Mr Speaker, that a review of the Canberra spatial plan that was released in April 2004 was undertaken after two years and that my predecessor, Mr Corbell, made a ministerial statement in this place on 24 August 2006. This comprehensive statement can be found in *Hansard* on pages 2650 to 2656. Mr Speaker, the second review of the spatial plan is being undertaken as part of the current review of the Canberra plan, which, of course, includes the spatial plan. I can also advise Dr Foskey that the five-year review of the spatial plan will fall due in the term of the next Assembly and will be a matter for the government at that time.

Gas-fired power station

Mr BARR: Mr Speaker, on 26 June 2008 Mr Seselja asked me whether I, my office or ACTPLA received any advice at any time from the Chief Minister or his officials regarding ActewAGL's approach for fee relief for its development application for the data centre and power station development in Tuggeranong. He asked if that was the case and what was the advice.

As Mr Seselja is aware from the documents provided to him through the FOI process, my response to the Chief Executive Officer of ActewAGL was to advise him that Treasury had guidelines to assess applications to waive fees and charges. I suggested to the chief executive officer that he raise the matter of any fee waiver in respect of the development application fees for the data centre and power station proposal with the Chief Minister and Treasurer. Just to clarify, I suggested that ActewAGL approach the Chief Minister and Treasurer.

I am not aware of any such approach made to the Chief Minister and Treasurer by ActewAGL for such fee relief associated with the development application. I can confirm that neither I nor, I am advised, anyone from my office had discussions with anyone from the Chief Minister's Department or office regarding the provision of fee relief. I am advised that there were discussions between officers from ACTPLA, Treasury and the Chief Minister's Department regarding this matter, however, I am advised that the relevant scheduled fees were paid when the DA was lodged.

In relation to Mr Seselja's supplementary question as to whether fee relief has been provided to ActewAGL and, if so, what was charged and what was the amount of fee relief provided, as I said at the time, this is a matter for the Treasurer. However, I can

confirm that ACTPLA proceeded to assess and apply the relevant fees for the development application.

Yesterday in question time, Mr Speaker, I was asked by Mr Stefaniak what I did to attempt to arrange fee relief as I promised to do in my letter to Mr Mackay—and that is an interesting interpretation of my letter. I responded that, from recollection, I referred the matter to the Chief Minister. Well, I referred ActewAGL to the Chief Minister, Mr Speaker. As I have just said in my answer in regard to the question that Mr Seselja asked last week, I did not refer the matter directly to the Chief Minister but instead suggested that ActewAGL approach the Chief Minister.

I did not attempt to arrange fee relief for ActewAGL. As the response in my letter dated 25 March 2008 to the Chief Executive officer of ActewAGL indicated, I asked ACTPLA to examine the quantum of the expected fees associated with this proposal and to advise me of any options that may have been available. ACTPLA's advice was that it could only apply fees that have been determined under the relevant fees and charges determination and that the matter of any fee waiver was for the Treasurer under the provisions of the Financial Management Act, hence my suggestion to ActewAGL that it approach the Treasurer. ACTPLA proceeded to assess the fees under the relevant fees and charges determination.

Further to my response to Mr Stefaniak's supplementary question as to whether I or my office had discussions with anyone from the Chief Minister's Department regarding the provision of fee relief, I can confirm that neither I nor, I am advised, anyone from my office had discussions with anyone from the Chief Minister's Department or office regarding the provision of fee relief.

Gas-fired power station
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Mrs Dunne, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Seselja and Mr Smyth proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Mr Smyth be submitted to the Assembly, namely:

> The failure of the Government to release all documents in relation to the Gas Fired Power Station and Data Centre.

MR SMYTH (Brindabella) (3.36): Mr Speaker, I want to start with this quote from the Deputy Chief Minister. It is from 8 June 2008:

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

That was the Deputy Chief Minister, Katy Gallagher, being quoted in the *Canberra Times* of 8 June 2008. The Deputy Chief Minister said that we cannot point to a single document that says:

> … ultimately that the government took decisions around this project specifically about where it was …

The minister should look at the July 2007 brief to the Chief Minister, which says that TAMS should be advised that their cabinet submission should be deferred until the Chief Minister has determined which of the three sites is to be offered to ActewAGL. There is the first chink in the armour of the Deputy Chief Minister. She told the *Canberra Times* that there are no documents that the government took decisions around this project specifically, and yet here is a brief to the Chief Minister saying that, until he has determined which of the three sites is to be offered to ActewAGL, other things should not happen.

There is the first chink in the Deputy Chief Minister's armour, and there is the first chink in the government's case that there is no case to answer here. Ms Gallagher is wrong, and Ms Gallagher should write to the people of Canberra through the *Canberra Times* and withdraw that statement. To a certain extent, when she pointed that out, Ms Gallagher was probably fairly confident that nothing incriminating would be released. When you look at the number of documents that have come out of the three departments that have responded to freedom of information requests, we have only received 21 per cent of the available documents. Yes, that is right. Of the 3,876 documents listed to date, 3,048 are unavailable to the opposition and the people of Canberra for scrutiny.

You have to remember that this is a government that when in opposition said, "We will be more honest, more open and accountable. We will not hide behind commercial in confidence; we will not hide behind cabinet in confidence." On every occasion when requests have been made for the government to be more honest, more accountable and more open over the last several years, particularly over the last several months, what we have is stonewalling by this government.

It is interesting to run through the numbers. In the Chief Minister's Department, the total pages come to 1,922 plus two cabinet submissions. Of these, 389 pages were released, so about 20 per cent. Unfortunately, of that 20 per cent, almost half were very heavily censored. It is odd that documents from other departments were not censored in the same way. They did not believe they were subject to any sort of exclusion. Then there are the pages that were released to the media and not to the members of the Assembly or the estimates committee. They are the five pages that went to the media to somehow make the government's case.

How many pages were tabled in parliament or the estimates committee by the government? Absolutely none. The Leader of the Opposition has actually tabled more documents in this place than the government has. I suspect the Leader of the Opposition and members of the opposition have probably read more of the documents than the Deputy Chief Minister has. The proportion of pages suppressed by the Chief Minister's Department comes to 80 per cent. It does lead to an interesting interpretation of being more open and more accountable.

As to the Land Development Agency, which is also under the control of the Chief Minister, of the total of 1,954 pages available for release, 939 were released, of which

only seven were partly censored. That is interesting. The LDA has not gone out of its way to release pages to the media. Then again, no papers from the LDA were tabled in the Assembly. So, from the LDA, 1,515 pages were not released, representing 78 per cent. The Chief Minister's contribution to honesty, openness and accountability applies only about 20 per cent of the time.

Now we get to ACTPLA. ACTPLA does not actually list the number of folios; it actually lists documents, of which there were 183. Some 156 of the documents, of which only 17 were partly censored, were released. None have been released to the media and none were tabled in the parliament or at the estimates hearings. We cannot tell you the numbers of pages because we have not finished counting them yet, but the proportion of pages suppressed was only 15.

What is it that makes it so hard for the Chief Minister to release these documents when, quite clearly, the Minister for Planning can release his? What is the total? The total—excluding ACTPLA documents because we do not know the number of pages—comes to 3,876. Some 828 were released, of which 182 were censored. Five pages have gone to the media. However, 3,048 pages, or 79 per cent, were not released. So much for being more honest, more open and more accountable.

We can certainly find one document which contradicts 100 per cent what the Deputy Chief Minister said and belies what she told the *Canberra Times*, because there it is in black and white in a brief to the Chief Minister from his department officials: "When you make the decision on which block will be offered." The government was involved, contrary to what the Deputy Chief Minister said. The government did have actions undergoing in this debate, even though the Deputy Chief Minister denied it. The government was an integral part of the process that saw a $2 billion development in the ACT shunted from one block to another.

It is interesting that on the weekend we found out that the block that the project could not have because it had Aboriginal artefacts on it was up for tender. It was up for sale. It can be flogged now. It was not available to a $2 billion project for the ACT, but it is now mysteriously available for a subdivision. Why is that, Madam Assistant Speaker? I think Mr Mitchell put it so eloquently in the estimates when he said, "Well, of course, there are substantial opportunity costs when you release something for subdivision rather than for a large-scale development." What are those substantial opportunity costs? You make more money. You make bigger profits before you consider the people that are affected by this and have to live with this development for the rest of their time in their suburb.

The government is very good at slurring the Macarthur people as being NIMBYs. But I have had correspondence from as far afield as Macgregor. I know of reports from Wanniassa and Kambah, from Isaacs and Curtin, from Farrer and Chisholm and people all across the territory who are worried by this, unlike the government.

The government has withheld documents from the opposition, and they have withheld them for one reason. They put the lie to what the Deputy Chief Minister has said. If there was nothing in these documents, then I am quite sure they would be delighted to release them to the public, to shame and embarrass the opposition and to prove that we were wrong. But they cannot and they will not. They cannot release them because

they will be embarrassed, and they will not because there will be several reputations on the government benches that will be destroyed by this, particularly that of the Deputy Chief Minister as a result of her far-reaching statement that there is not a single document.

If Mr Stanhope has nothing to hide, why has he refused to release over 1,500 pages of documents held by his department on this issue? Of the 1,754 pages of documents initially admitted to by the Chief Minister's Department on the issue, the opposition initially only received 239. Of those, 105 had been heavily attacked by the censor, so much so that they had become nothing more useful than blank pages. Subsequent to the 1,754 pages that were initially made available to the opposition, CMD found another 168 documents—surprise, surprise. It blacked out the text on 70 of those documents and entirely suppressed another 18 documents. They got caught out at the first hurdle, they fell at the second hurdle, and they collapsed at the water jump.

Mr Stanhope's own department is by far the worst offender in failing to release documents under FOI. It has been far worse than ACTPLA or the LDA, which suggests to me and, I think, to all others that it is the Chief Minister himself who has the most to hide. Perhaps when the Chief Minister made her statement that the opposition would—

Ms Gallagher: Deputy, mate.

MR SMYTH: Well, Chief Minister one day. You know the pre-sets on the computers; we all heard about that. Perhaps the Deputy Chief Minister said the opposition will not be able to prove in any way, in any document, that there was any improper involvement, or ultimately that the government took decisions around this project specifically about where it was because they talked with her. Maybe she was saying what she thought was the truth, because the Chief Minister had not told anybody. When the Deputy Chief Minister makes a contribution to this debate, I hope she can tell us how she knows there was nothing in these documents. Has she seen them all? Has she read them all? Has she viewed them all? Have her staff seen them all, read them all, viewed them all? Has her department seen them all, read them all, viewed them all? If the Deputy Chief Minister cannot say that that is the case, then she has to tell us the validity of that statement when she made it. If she has not read them, she cannot know, and it goes to her credibility. It goes to her ability to look people in the eye and say that this government had no hand in this.

We know that a number of key documents have been suppressed, such as the 9 May 2007 letter from John Mackay, Chief Executive of ActewAGL, as well as his letter of 16 August 2007. We know that the letters attached to the briefing that I have just quoted from that the Chief Minister signed off on 18 July 2007 were later given to the opposition, but it was very, very late in the day. Indeed, they were given to the opposition on the Monday evening before the Wednesday debate of no confidence at 4.57 in the evening, hoping someone would not notice that they had sneaked them into the office.

Mr Stanhope has not been telling the public the truth about what he released. He said:

> There is a letter which Mr Seselja has in his possession because he flashed it around yesterday, which he didn't mention to you, a letter from me dated 19th July to John Mackay … Vicki Dunne held the letter up in Estimates yesterday.

That was what the Chief Minister said on 2CC radio on the morning of 17 June 2008. Wrong! When he was challenged the next day by the Leader of the Opposition during an interview on 2CC on whether the document had been released, Mr Stanhope lied again. The transcript states:

> *Mr Seselja:* "His department specifically denied me access to this very document, so the Chief Minister now needs to clarify what he meant."
>
> *Jon Stanhope*: You're not telling the truth again."

That was on 2CC on 18 June 2008. Wrong again! The indexes to the documents released by the Chief Minister's Department under FOI law very clearly show that the Chief Minister's letter signed on 19 July 2007 was suppressed under section 27 (1) of the FOI act. The Chief Minister's Department is still consulting with ActewAGL on whether to release this document in whole or in part. The relevant folios are 174 and 175 of file 07/7920.

What you held up, Madam Assistant Speaker, was not a copy of the letter of 19 July 2007. What was held up was a copy of a related document that had been heavily censored by the government. I quote Mrs Dunne from the transcript of the estimates committee of 16 June 2008, page 1,239:

> Can I just point out, for instance, Chief Minister, in accordance with the Freedom of Information Act, the Leader of the Opposition requested a document which is folios 10 to 15 of the FOI request, which looks rather like this—I am sorry, but for the *Hansard* record there are big black squares on the page. I just need to show you this, Chief Minister, and I will be happy to table it when I am finished it.
>
> This, Chief Minister, is a draft of the submission—

not the letter—

> that you received on 17 July and signed off on on 18 July. The opposition did not receive the final version of this.

This is the government that promised to be open and accountable. This is the government that promised it would not hide behind cabinet in confidence. This is the government that promised its public servants would not become entrepreneurs. This is the government that has breached its promises.

This government has released documents to the media that it would not release to members of the Legislative Assembly under FOI. This contemptuous behaviour of Mr Stanhope in providing a select group of documents to the media without providing them to the opposition is yet another nail in the coffin of his government. He said his government would respect Westminster convention, yet majority has gone to its head.

This Chief Minister relies on the numbers and has already shown us more than once that he will use them to save his own skin. This government has shown no interest in governing for the community, in answering to the community or even telling the community what it is doing.

Ms Gallagher did not say nothing untoward occurred. She said there were no documents relating to improper involvement. If documents exist that will clear the government of improper involvement, I would urge the government to release them. We may never know what nods and winks passed between Mr Stanhope, his officials and the proponents, and the government should table these documents to clear the issue. *(Time expired.)*

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (3.52): I have asked my office to send down the papers that Mr Smyth referred to. In the 15-minute speech made by the deputy opposition leader, the allegation he raised was that the Chief Minister had been personally involved in withholding documents from the opposition through the FOI process. That is the central theme of his argument. Of course, this is an argument that cannot be substantiated or supported by any evidence. I imagine that, if it could, we would have already seen that evidence being put before the Assembly.

Mr Seselja: He is releasing some documents and choosing not to release others.

MR SPEAKER: Order! Mr Seselja, you will have a chance to speak on the matter in a moment.

Mr Seselja: I will.

MS GALLAGHER: The issue here, Mr Seselja, is that you are alleging that the Chief Minister personally withheld these documents. That is the argument, and if you are going to run with that argument, you need to prove it. It shows that Mr Seselja has a complete lack of understanding of the FOI laws, which surprises me, because he touts himself as a senior lawyer with experience in these areas.

The argument that Mr Smyth has put forward today is that the Chief Minister has personally looked at 1,922 files from the Chief Minister's Department and has personally only allowed the release of 389 of them—that is, 20 per cent. So Mr Stanhope has personally approved the release of 389 documents and he has inappropriately interfered in the FOI process. That is the argument that Mr Smyth is running. Of course, it is one that he cannot support with any evidence. He can come in here and say it as many times as he likes, but he can't support it with evidence, and that is what he needs. That is what he is desperately searching for and that is what he desperately needs.

In relation to the comments that I made in the *Canberra Times*, I stand by those comments. In going to my credibility and my ability to look people in the eye; I can tell you that I have no problem with my credibility and the community has no problem with my credibility; we all know that. My ability to look people in the eye and to let them know that whenever they hear me quoted in the media and whenever they see me talking, they know—

Mr Seselja: Like the promise not to close schools.

MS GALLAGHER: When they hear what comes out of my mouth, they know that it is true, and I take significant offence at the insinuation that I am not telling the truth. I think Mr Smyth used the word "belies" rather than standing up and accusing me of lying to the people of the ACT, because he cannot prove it. I take significant personal offence at that.

Mr Smyth cannot prove it. I stand by the comments that I made, and that were selectively reported and repeated by Mr Smyth when he dropped the word "inappropriate" to suit the purposes of his argument. My comments were that there was no document that would indicate improper involvement by the government in this process. The opposition has failed to prove that there has been any improper involvement by the executive of the government, which is what I was talking about and what I was quoted about. It has failed to substantiate any proof of that.

In fact, we went into all of these matters in the debate on the motion of no confidence last week, and the opposition failed even to sway any non-government crossbenchers. No-one supported its motion of no confidence in this house. I know that it is easy to turn it around and say that everyone did support you, but they did not. The history, as reflected in the record of this debate of the Assembly, will show that the no-confidence motion failed by 11 votes to six, and that was because of the opposition's failure to substantiate its case.

Mr Seselja: How many thought he misled?

MR SPEAKER: Order, Mr Seselja!

Mr Seselja: Everyone but you guys. How many?

MR SPEAKER: I warn you, Mr Seselja.

MS GALLAGHER: I know it hurts, Mr Seselja, but that is what occurred last week.

MR SPEAKER: Direct your comments through the chair, Deputy Chief Minister.

MS GALLAGHER: Thank you, Mr Speaker. Mr Smyth selectively quoted from the briefing notes. He quoted a couple of lines from page 1. He failed to quote anything that goes to other sites mentioned in the appropriate briefing note to the department. Incredibly—and to support the purposes of his argument, presumably—he failed to quote the fact that, with respect to other blocks, if they were to be selected by ActewAGL and the private consortium, further measures would need to be taken regarding the future release of industrial land.

With respect to the argument that Mr Smyth put forward that there was a selective release of documents, I would argue that the opposition have been extremely selective in the information they put forward today. They quote from one page of a document but they do not quote from the whole document; and, incredibly, they do not link it to the letter that the Chief Minister signed off, which clearly puts all of the sites on the table for ActewAGL and the private consortium to consider.

Mr Smyth: You haven't given us the letters.

MR SPEAKER: Mr Smyth, you have already spoken.

MS GALLAGHER: So with respect to what the opposition is accusing the government of doing, we can equally come back and accuse you of doing it. You have put out information and you have run on information that suits the purposes of the argument and the scare campaign that you seek to run on this project.

Mr Smyth: No, we want the project.

MR SPEAKER: I warn you, Mr Smyth.

MS GALLAGHER: I have not quite worked out why the opposition has taken an objection to the Canberra technology city. Many Liberals have come up to me and said the same thing: they are uncertain why the Liberal opposition has taken a view which seems to be to want to run this project out of town and not support it. I think that is an unusual argument particularly for Mr Smyth, who has been calling for years for diversification of the ACT economy. When we have the single biggest opportunity to do that, the Liberals decide they are against it and want to run the project out of town. It seems to me that they will not be happy until they do so.

In relation to the documents, Mr Smyth did not indicate to the Assembly that many of those documents, as I understand it, that have not been released are subject to further processes. I imagine that many of them will be released once those processes are complete. I do not know how many, because the executive does not get involved in these decisions; it is improper to do so.

We regularly have FOIs in health. I think there is a standard one that goes every month. I do not see what the nature of that FOI is, and it would be improper for me to see it. I do not know whether the opposition understand that that is how this process works. It is completely at arm's length from government. I might get some information around an FOI, but that occurs after the information has been made available to the opposition, and that is exactly what would have happened in this case. As I said, I think I was Acting Chief Minister—I am pretty sure I was—on the dates that the opposition must have received some of this information through FOI, and the first time I knew about it was when the *Canberra Times* journalist rang me and asked me a question about information that had been released to the opposition. That is the first time I knew about it, and that is quite proper.

I said to the journalist at the time, "Where is this coming from?" He said, "The opposition have had documents released under FOI." I said, "Right, okay." I rang to take advice before I answered some of the questions surrounding it, as it is not normally my area of responsibility. The department informed me that, yes, an FOI had been forwarded to the opposition. That is the first I knew about it, and that is right and proper—arm's length from the process.

The other interesting angle that the opposition are running here is that they are accusing public servants of not doing their job properly; that is the argument. They are

accusing particularly staff in the Chief Minister's Department. They are saying they have not applied the relevant sections of the FOI act. If you accept Mr Smyth's argument, you accept this: that the Chief Minister became aware of the FOI; that he personally got involved; that he personally approved or declined information to be made available to the opposition; and that public servants allowed that to happen. That is the argument that the opposition are running, and it seems to be a very odd one, from an opposition that seek to become the government of this town and have these staff working for them, that they would seek to run this campaign against public servants.

They can sit there and say that is not what they are doing, but that is exactly the argument that Mr Smyth just ran. He was saying that FOI officers—officers trained and charged with applying freedom of information principles to freedom of information requests—inappropriately forwarded that information to the Chief Minister and then asked him, "Which of these documents would you like to release?" That is the ludicrous argument. It is unbelievable. You cannot prove it and you have got no evidence to support it. In essence, and apart from everything else that Mr Smyth belts on about, that is the argument that he is running. These public servants are highly trained, highly skilled professionals who would work for the government of the day, whoever it is. I expect that they would apply exactly the same principles regarding who is in government and who sought that information under FOI.

The opposition are alleging that these public servants went to the Chief Minister and personally asked him, "What should we release and what shouldn't we? What are you comfortable with, Chief Minister?" And it is alleged that the Chief Minister said, "Well, leave it with me and I will approve some and I won't approve others." That is the most outrageous allegation, and I will wait to hear from Mr Seselja, because no doubt he is the big gun that is coming to support his deputy, so he will be able to prove all of this. But they will not be able to do it; they can't do it. The comments I have made around supporting the government's appropriate role in this process are ones that I stand by and ones that cannot be argued with.

I know the opposition have a different reading of this, but if they took the emotion out of it, read all the documents, did not selectively quote and drop things like "inappropriate conduct" or "inappropriate involvement" then they would see that the comments I made in the *Canberra Times* were true and correct and accurately reflected the record in terms of the information they had been given.

The government has been appropriately briefed on this project at all times. That is the appropriate role for government. It is a significant proposal and a significant project that potentially will occur here in the ACT. It is one which the government welcomes, but it is one which we have always said, right back to the beginning, needs to go through the appropriate processes, and that is what is occurring now. Under the health impact assessment, the government has sought further information and further work around the impact of this on the community. That is based on community concerns that have been raised through the independent statutory planning process, and that is appropriate.

The conduct of the government has been appropriate at all times and the opposition is unable to prove otherwise. That is uncomfortable for you. I accept that it is uncomfortable. You have not got the smoking gun that you are after. That is unfortunate, because you have really stuck your neck out on this one.

Mr Pratt interjecting—

MS GALLAGHER: You are tying yourself to the tractor to stop it from ever happening. Don't forget that. There is going to be a personal bondage arrangement on the front of a tractor to stop this project occurring.

Mr Pratt: Your officials have been lazy, at best.

MR SPEAKER: Mr Pratt!

MS GALLAGHER: Mr Pratt is already on the record. I would say that it is inappropriate for a member of the Legislative Assembly, while the community consultation process is going on, to take that view, when you do not have all the information available to you. None of us have, because we are still going through the process—

Mr Pratt: What was starkly clear—

MR SPEAKER: I warn you, Mr Pratt.

MS GALLAGHER: That is the process that has to be allowed to occur—an independent statutory planning process involving community consultation. The government has sought further work to feed into that process. That has been in response to community concerns, and I think there has been a reluctance to accept some of the studies that have been done by the proponents. We have responded to that.

Today, I made the announcement about the health impact assessment steering group and the eminent experts that will sit on that steering group and provide advice to the government, through me. I will provide that advice to the Minister for Planning or to ACTPLA, whatever the appropriate channel is, to feed into ACTPLA's consideration of the overall project. That is the government's role. It is an appropriate role. It is a role whereby broadly we support the project, but outside that we need to await the outcome of the processes that every project like this would go through, and that is the issue here.

I think the site selection and site identification matter has been done to death. If the opposition have anything new to add to this debate and can prove some of the allegations that Mr Smyth has laid on the table today—that is, that the Chief Minister inappropriately involved himself in an FOI, and that public servants inappropriately applied the principles of FOI law to that application—then I await with interest the ability of the Leader of the Opposition to substantiate those claims.

MR SESELJA (Molonglo—Leader of the Opposition) (4.07): It is difficult to know where to start when Ms Gallagher gets on her feet and throws all these things at us. As

I was not able to respond anymore across the chamber, it was difficult to restrain myself. Ms Gallagher apparently was not listening when Mr Smyth was quoting her and she apparently was not listening to anything that he said or anything that was in fact said during the debate on the no-confidence motion. But given that she was not, I might remind her of what Mr Smyth said and what we have said and what we have not said, just for the record, so that we can be clear on what she said and what standard we are holding her and the government to.

The quote that Mr Smyth referred to, which Ms Gallagher has now discussed, was in the *Canberra Times*. She said:

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

In the second part of that statement, Ms Gallagher is saying that, ultimately, it is incorrect to suggest, and we will not be able to prove, that the government took decisions around this project specifically about where it was because that is just not the case. We could go into the mountain of documents that disprove that and we have tabled all of those in this place. Ms Gallagher is fully aware that only one site was ever offered and that in fact we say—

Ms Gallagher: That is not true.

MR SESELJA: It is true. The documentary evidence says only one site was ever offered and the Chief Minister said on the record only one site was ever formally offered; yet you say, "We had no involvement; we did not take decisions around this project specifically about where it was." You did take decisions. You took decisions about where it was.

First, you narrowed the field and then you made an offer of a specific site. What part of that is not taking a decision in relation to where this project is? What part of that is incorrect? Ms Gallagher is walking out the door because her argument is so weak. She obviously either did not hear or chose to misunderstand what Mr Smyth said. What she said and what the documents show is there in black and white. It is interesting that she does not want to stay and listen. She gave this 15-minute tirade where she challenged me to produce things, and as soon as I produce what she said and what is in the documents she walks out of the room. It is interesting. I repeat it. She says:

> The Opposition will not be able to prove … that the government took decisions around this project specifically about where it was, because that's just not the case.

They made a number of decisions, including narrowing the number of sites and eventually offering one particular site. That is fact. That is a fact that Ms Gallagher cannot deny.

As to the second part of Ms Gallagher's tirade, she claims that Mr Smyth and others have been making all sorts of allegations about public servants. That is simply not the case. I will make it really simple for Ms Gallagher in terms of what we have said. In

fact, the Chief Minister backed this up in what he said: "We had no follow-up process. That went through statutory process."

We are not happy about how many documents were suppressed but we have made no allegations in relation to that. What we have said very clearly is that the Chief Minister has the ability to release every one of those documents if he likes. He could table them in the Assembly; he could have tabled them at estimates; he could release them to the opposition.

And how do we know that? We know that because the Chief Minister told us. Of course we knew it already, but the Chief Minister has told us he chose to release some of the documents to the media. And if he can release some of the documents to the media, if he can selectively release documents to the media, then he can release other documents. He chooses not to release those documents that would, if we were to believe the government, prove the case. He could release them.

Why does he choose not to release them? We can only assume that if the Chief Minister had documents that proved his case he would release them; he would come and table them in this place in a heartbeat. But he has chosen not to. He has chosen to suppress them when he could release them.

For Ms Gallagher's benefit one more time, for the *Hansard*, what we are saying is this: the Chief Minister has released documents, personally authorised their release. He has said that. He can choose to release many more. He has chosen not to. Therefore, he is withholding; he is unreasonably withholding documents that would shed light on this process. And that is a fact.

Ms Gallagher can try to put all sorts of allegations out there that have not been raised to try to divert attention from the fact that she does not appear to understand the role of a minister and she does not appear to understand the ability of ministers to release documents if they like. That is a prerogative that the Chief Minister has exercised in this case but he has exercised it in a very narrow and very selective manner.

The two central claims Ms Gallagher has made are, firstly, that in fact her quote was right:

> The Opposition will not be able to prove … that the government took decisions around this project specifically about where it was, because that's just not the case.

The government did take decisions; they took a number of decisions; they offered one site. That is what they did. That is what the documents show.

In terms of the release of documents, we know—and the Chief Minister has said—that he could release more documents but he has chosen not to. He is suppressing these documents and he is suppressing them, we can only assume, because he is embarrassed by their content, because they do not prove his case, because in fact they prove our case. Every other document points to it.

It is instructive to look at the approach of the different agencies in relation to FOI and to look at what has been released. Everything that we got from LDA and ACTPLA pointed to the Chief Minister's Department and to the Chief Minister; they pointed to our case; they built the case that this government had steered the proponents in a particular direction, that they had pushed them away from certain sites which they deemed to be too valuable; and in the end that they had contributed to the situation directly where a totally inappropriate site was chosen for this proposal. There is no doubt about that.

What then transpired was that the government were extraordinarily embarrassed by this. They were extraordinarily embarrassed by their role and they sought to distance themselves from it.

The only way for all the facts to be on the table and for us to have a proper debate, with all of the facts, is for the Chief Minister to do the right thing and release these documents. We asked him just yesterday in this place in relation to a specific document or specific advice that he had received. I am sure that if that specific advice backed up what the Chief Minister was saying he would have tabled it. He would have answered that question and he would have tabled it. But he chose not to. He has chosen to suppress document after document after document because he is embarrassed, and this government are embarrassed, at how poorly they have handled this process.

From day one this government has stuffed this process up. There is no doubt about that. No-one outside the Labor Party—and in fact, off the record, even within the Labor Party—in the ACT believes that this process has been well handled and believes that this is anything other than a major stuff-up by this government. The classic response, it would seem, and the response of this government when they stuff things up, is to hide and to suppress. We had this comment that is instructive, in terms of the debate today, from the Chief Minister on 16 June:

> Any suggestion that I … have something to hide … is counter-intuitive, without foundation and profoundly offensive.

Chief Minister and Ms Gallagher, if you did not have anything to hide, why would you not release these documents? Why have so many documents been suppressed? And why does the Chief Minister, who does have the ability to release these documents, to put them out into the public arena, continue to suppress them? He continues to hide them. He can choose today to release them but he has chosen not to.

We can only draw conclusions from that. We draw conclusions from the Chief Minister's behaviour and we draw conclusions from those documents that have been provided to us, which all point in one direction: that this government stuffed up this process. It also points to the fact that Ms Gallagher's statement in the *Canberra Times* was incorrect. It is profoundly wrong and has been proved to be the case today. *(Time expired.)*

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (4.17): This afternoon, the opposition seek to again litigate the myth about

withdrawal or withholding of documents in relation to the data station proposal in Tuggeranong.

I think it is important in this discussion this afternoon that we reflect on some of the principles and processes that apply to the freedom of information process, because, as the Chief Minister has said, the opposition simply have not made the case that the government has in any way sought to deliberately withhold documents in relation to this proposal. And I would like to reflect a little on the operations of the Freedom of Information Act in that regard.

It is not a secret that the aim and underlying philosophy of freedom of information legislation is to ensure that government is more open to public scrutiny and thus more accountable for its actions; further, that a community that is adequately informed and has access to information is more likely to participation in the policy-making process and in government itself. Such legislation allows groups and individuals who are affected by government decisions the right to seek access to the reasons and criteria applied in making those decisions.

FOI legislation also provides every individual with the right to know what information is held in government records about them personally, subject to certain exemptions to protect essential public interests; allows the inspections of files held about or relating to themselves; and have inaccurate material held by an agency about them corrected. The territory's Freedom of Information Act came into force as part of self-government in the late 1980s. One of the objectives of the act is quite relevant in relation to the matter that is before us today. It states:

> … a general right of access to information in documentary form in the possession of Ministers and agencies, limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by agencies.

The benefits flowing from such a general right of access to information relate to the concept of open government and democratic principles. Put simply, the greater the degree of information which is publicly available, the higher the quality of public debate on issues of current concern, and that has an influence on the quality of government decision making. Against this general right of access, though—and I think it is the often the point the opposition miss in this debate—the act provides for particular safeguards to protect information in certain contexts; namely, "essential public interests and the private and business affairs of persons".

Public interest tests in general dictate the degree of weight to be given to the benefit as against the harm flowing from disclosure of information. While the public interest tests are not defined in the act, there are common law definitions that, in essence, characterise the public interest as something that is of serious concern or benefit to the public, not merely of individual interest. In other words, public interest does not mean of interest to the public but the interests of the public.

The public interest changes over time, of course, and in accordance with the individual circumstances of each case. Decision makers must have the flexibility to consider what is in the public interest by balancing all relevant considerations when

deciding whether to withhold information under an exemption or in disclosing that information.

With that, I would like to turn to some of the specific issues raised in the MPI about the alleged failure of the government to release all documents. And of course, one of those matters that the opposition seek to advance is the matter of the release of documents that might relate to cabinet decision making. I would draw the opposition's attention to one of the cornerstone exemptions in the legislation, which is the executive documents exemption, section 35 of the act. It does not have an additional public interest test because the importance of the exemption is so clear. It is unfortunate that those opposite do not seem to understand it.

This exemption recognises the role of cabinet as the peak decision-making body in the Australian Capital Territory, which entitles its deliberations and decisions to a high level of confidentiality. Ministers involved in cabinet deliberations must be entitled to express their views with openness and candour. It would cause great harm to the integrity of the decision-making processes were ministers unable to enter into robust debate about matters before cabinet if that debate could become public. It would also lead to a situation that could see a minister unable to discuss matters without intervention from lobbyists and others because of a release of information.

In this regard I would draw members' attention to the recent review of the Queensland Freedom of Information Act, which was released less than a month ago, where it commented on the issue of cabinet document exemptions. And in that report the author, Mr Solomon, and others said:

> Cabinet and the doctrine of ministerial responsibility are at the heart of the Westminster system of government. The system relies on secrecy to protect its central tenet: unity of the executive government. Every country and every sub-national government that subscribes to the Westminster system has included within their freedom of information laws special exemption for Cabinet documents.
>
> The doctrine of collective ministerial responsibility requires that all ministers subscribe to policies determined by (or on behalf of) the Cabinet, irrespective of their personal views. This means that material of any kind that indicates a minister made a submission to Cabinet at odds with the view finally determined by the Cabinet or that he or she dissented from a Cabinet decision whether during debate or when a decision was taken, must not be publicly revealed.

This is particularly important and explains and, indeed, outlines the rationale that the Chief Minister has adopted in relation to the release of documents that those opposite seek to have released. The findings made by the review conducted by Mr Solomon include a recommendation for a more liberal approach by government to the public release of cabinet documents, such as agendas and material on which decisions have been made but not in breach of the doctrine of ministerial responsibility. At no point does the report recommend the removal of an exemption for cabinet documents, noting that the doctrine of ministerial responsibility is so fundamental that to do otherwise would undermine the deliberative processes of executive government.

Opposition members interjecting—

MR SPEAKER: Three warnings have been issued to that side of the house.

MR CORBELL: Part 3, section 10 of the act provides for "the right of access to a document of an agency (other than an exempt document) or an official document of a Minister (other than an exempt document)". An official document in relation to a minister means "a document that is in the possession of the Minister in the Minister's capacity as a Minister being a document that relates to the affairs of an agency, and includes a document that has passed from the Minister's possession if the Minister is entitled to access the document and the document is not a document of an agency". There are a range of other exemptions which are not relevant to our discussion today.

Mrs Dunne: Most of the speech is not relevant.

MR CORBELL: I note that the opposition are not interested in understanding how the Freedom of Information Act works, but this whole MPI is a critique of the government's alleged unwillingness to release documents. But when the government seeks to give a clear and detailed analysis of the principles that we seek to abide by when it comes to the release of documents, they are suddenly not interested. They are either interested in a debate about the release or otherwise of documents or they are not.

Mrs Dunne: There is a different set of rules for Jon Stanhope.

MR SPEAKER: I warn you, Mrs Dunne.

MR CORBELL: You need to understand the rationale upon which the government has taken these decisions. And if you do not like it, it just shows the shallowness of your argument.

In most cases, the "documents held by a Minister and which are accessible under the FOI Act are also the documents of an agency although the Minister would be in possession of a copy of such a document if it were retained" in his or her office. It is usual, therefore, "for Ministers to transfer FOI requests to the Agency that holds the documents, so that it is the Agency which processes and makes a decision in relation to the request". And I think that is a very pertinent point, because those opposite seek to say, "Just release them anyway."

The point, of course, is that there is a clear statutory process for making decisions in relation to documents, including those documents that are held directly by ministers. And in no way has the opposition been able to demonstrate that this government has sought to deliberately withhold material requested through the FOI process. Indeed, we have held ourselves strictly in accordance with the FOI principles, as I am outlining today, and our commitment to ensuring that it is applied rigorously and independently. Indeed, this "operational process is essential in keeping a Minister at arms length from the process of identification, examination and decision-making in relation to release requests".

DR FOSKEY (Molonglo) (4.27): The subject of this matter of public importance is the failure of the government to release all documents in relation to the gas-fired power station and data centre. I guess there is an irony in this. I do believe Ms Gallagher called upon the opposition to produce the evidence, but the evidence is that the documents are missing so they cannot be produced. The evidence cannot be produced. Only the government can produce the evidence and, if they produce the evidence, the opposition's case would be proven. So we are here in a bit of a stalemate. That means that we are left to find out the truth of this assertion or not by other means available to us.

I do need to remark on Ms Gallagher's sort of taunt, I guess, that neither the independent nor the Greens supported the opposition's no-confidence motion. She did conveniently forget that we had tried to turn it into a censure motion, which is not a light matter. Ms Gallagher and Mr Corbell argued long and hard that it is appropriate that the minister must remain at arm's length from the process and she spent quite a lot of time proving this. But there are two questions that this raises: did they and, secondly, should they, the shareholders?

While we are very happy that the government seems to have come, rather lately, to the view that this is an issue of concern requiring serious consideration and not just a brushing off as a NIMBY project or an opposition obsession, the Deputy Chief Minister, the Minister for Health, did call for a health impact assessment, oddly enough at the scaled-down end of the project. Interestingly enough, it could not be done when the bigger project was on the board because it would have been inappropriate to announce it before the end of the preliminary assessment process. But it was announced before the end of the preliminary assessment process for the downgraded proposal.

We have a problem here: we have not got the documents so we cannot prove they were missing. I guess the only thing we can do really, and it raises questions if not answers—it is a question and it is not an answer—is to look at the cover letters for the freedom of information documents. I have here cover letters from the Chief Minister's Department and from the Land Development Agency. They are in different fonts but their wording is, interestingly, extremely similar. If I were a *Media Watch* presenter, I would probably regard this as conclusive evidence. But I am not a *Media Watch* presenter, so I just point out that there are some repetitions of words here which indicate that there was certainly cross-communication, if not a format that comes from somewhere else. Remember: Land Development Agency and Chief Minister's Department. I am reading—not that it makes much difference—from the Chief Minister's Department's letter here and here are some of the words:

> I have decided to exempt from release under section 35(1) of the Act all draft Cabinet submissions, and material describing the content of Cabinet documents, together with comments from agencies that constituted part of the process of drafting those submissions. Such comment is found in both emails and briefs.

I will not go on; I could tender these as evidence. I will do that. Mr Speaker, I seek leave to table these documents.

Leave granted.

DR FOSKEY: I table the following documents:

> Gas fired power station and data centre—Freedom of information request—Various papers (4).

Finally, I want to quote from the Freedom of Information Act because it really is the crux of this. Section 36, under the heading "Internal Working Documents" on page 42 states:

> (1) Subject to this section, a document is an exempt document if its disclosure under this Act—
>
> (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and—

that is pretty broad and maybe could apply—

> (b) would be contrary to the public interest.

Not once was the matter of public interest invoked in relation to any of the documents that were released or any of the documents that were not released. It is a concern to me and my office that the public interest does not appear to have been at the base of the decisions—it certainly was not declared to be—and therefore I think that the jury is still out on whether the government released all documents. It is very clear that there is a period in which there is quite a black hole in terms of document availability and so I think it is a very reasonable question to ask.

MR PRATT (Brindabella) (4.33): Why did the government fail to release all these documents? My colleagues have gone through chapter and verse what those documents were and what those numbers were. I want to go straight to the core of why the government did this. It is quite clear that the government wanted to keep the project shrouded. They wanted to keep the processes shrouded. They were embarrassed by stuffing up.

Nobody on this side is directly accusing anybody, officials or others, of corruption. What we are simply saying is that the government were hell-bent—or, to quote an ActewAGL official, "no matter what it takes"—on pushing and ramming this particular project through. And it is because of their failure to push that process correctly, to take the community into their confidence with what they had planned to do, the severe embarrassment of the way that they failed in their governance of this whole project, that they have not released documents, that they have withheld documents. That is fundamentally what is at the heart of Mr Smyth's MPI.

What we have seen here today is clearly an argument put forward again which would indicate that officials minimised at all times from July 2007 onwards the efficacy of

the project, the details of the project, the scope of the project and the likely impacts on the community, because that was their modus operandi. When they have been caught out by an incredible community reaction, the government has gone running to conceal the evidence of that. So it is a case of officials stuffing up, ministers stuffing up, ministers failing to exercise leadership and, on a $2,000 million project when the community was up in arms about this, not more closely looking at what their officials had done and perhaps then saying: "Oh, well, these procedures are only a guidance, so let's exercise some leadership. Officials, let's put everything on the table. If there have been some stuff-ups, we'll admit that, but we'll learn from these stuff-ups and then we will make better decisions." But that has not been the case here.

The Stanhope government has blundered from whoa to go on this. It has tried to shovel beneath the radar a $2 billion project. It has upset the community. The community no longer have trust in it and therefore, through its failure of governance, it has now put at risk even a down-scaled project. The community are bruised. They are so bruised they can no longer trust this mob. Consequently, that is why the Chief Minister, with twitching face, white face, looking embarrassed and with furtive glances at his colleague Mr Barr in question time, is making sure that the evidence remains withheld—not because the government is corrupt but because it is ashamed and embarrassed of the failure of its governance in the handling of the gas-fired project.

MR SPEAKER: The time for this discussion has expired.

Mr Seselja: I seek leave to move a motion in relation to this matter.

Leave not granted.

Standing orders—suspension

MR SESELJA: I move:

> That so much of the standing orders be suspended as would prevent Mr Seselja from moving a motion in relation to the release of documents concerning the gas fired power station and data centre.

The reason we need to suspend standing orders in relation to this is that we have seen in the response of this government and the government representatives in this debate their total arrogance and contempt for the people of the ACT, particularly in this case for the people of Tuggeranong, in simply refusing to put all of the documents on the table. We have no choice but to seek to move this motion because the government continues to suppress the relevant documents.

We saw, unfortunately, the embarrassing performance from the Deputy Chief Minister when she got it wrong on so many occasions. She simply did not hear what was said and she simply did not appear to understand the argument that is being made. The argument is this: there are thousands of documents that have been suppressed in relation to this matter. The government has the ability to release them. If it believes they will prove its case—this issue would be put to rest in fact if they would prove its case—it could table them; it could release these documents. But the government is

refusing to do so, and by refusing to do so it is saying to the community: "We don't need to respond to you. We don't need to be open and accountable in our handling of this matter. We will continue to ignore your concerns and ignore your very real concerns about this process."

It must be said that every time a document is released it seems to put the government in a worse light. Every time a document actually makes it into the public arena it undermines the government's case and it highlights how poorly this government has handled this process from the start. We understand its motivation in seeking to suppress these documents. That motivation is one of embarrassment; it is one of severe embarrassment and of seeking to cover the government's tracks in its handling of this process.

But the very clear message to the community is that the government do not need to be accountable; that they can suppress documents, relevant documents, thousands of relevant documents, which they have decided it is not in the public interest to be seen. But of course the Chief Minister undermined that argument when he chose to selectively release some of those documents to the media. By choosing to selectively release them, he completely undermines his claim and the government's claim, through the FOI process, that it is not in the public interest to do so or it is within the scope of one or other of the exemptions and it is important that these documents not be released.

The Chief Minister, through his actions, has undermined what was done through the FOI process. He has undermined what was said there and by doing that it absolutely begs the question: why not release them all? Why not release these other documents? We know the answer. The answer is that the documents do not back up the government's claims. They do not back up the government's claims that this process was well handled and Ms Gallagher's claims today that the opposition will not be able to prove that the government took decisions around this project, specifically about where it was, because that is just not the case.

We know that when documents are released they prove exactly what Ms Gallagher said could not be proved, and we know that if more documents were released, if all the documents were released, we would get to the bottom of it; we would see that the case that we have been making, and which is pointed to very clearly in a number of the documents that have been released, would absolutely be confirmed, and that is that this government mishandled this process; this government chose, for reasons which are clear—profit, in particular—to push the proponents in a particular direction. And that direction the government pushed them in was Tuggeranong; there is no doubt about that.

We have no doubt that any documents that they release would back up our claim. In fact, if they would not back up our claim, I am sure the Chief Minister would have tabled them. He would have tabled them by now; we would have seen them released, because he was prepared to release selective documents to the media which in fact did not prove his case, but they were the best that he could come up with. So release the rest of the documents. That is why this motion should be allowed to proceed, so the government can be forced to put all the documents on the table and so the community can get the answers that it deserves.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (4.42): The government will not be supporting this motion today. This is just a stunt by the Liberal Party. It is as simple as that. It is an appalling stunt.

This is not a new issue. The opposition have been seeking to advance this issue for a number of weeks. They could have, if they had had their act together, put it on the agenda for private members' business at the meeting yesterday which determines the agenda for private members' business for today. But of course Mr Seselja is not that organised and so he has a brainwave at 3.00 pm today and decides that he is going to move the motion now. It does not matter that all the other members have been getting in the queue to get their business dealt with. No, Mr Seselja thinks that he is different and special and that he can just move it whenever he wants.

Mr Smyth: He is special.

MR CORBELL: He is special, Mr Smyth, but not in the way that you are recognising.

This is just a stunt by the Liberal Party. The government has answered all these questions on this matter. So important do the opposition think this is that they did not even raise this during question time. Where was the request of the Acting Chief Minister during question time to release the documents? They did not even bother. For them to come into this place now and to seek the suspension of standing orders to try to rapidly inflate the deflating tyre is really very sad.

The bottom line is that there are other important items of business on the notice paper, items of business that members have been waiting a considerable time to have addressed. The opposition should stop interfering in private members' business in this way. The government wants to get on with private members' business and we will not be supporting this motion.

MR SMYTH (Brindabella) (4.44): This is a worthy motion, and it is a worthy motion because it is an important issue. We know when Mr Corbell manages to get four or five minutes of stunts into a three-minute speech that he has nothing to say, that he has no fallback and he has no defence to stop this. Every time he says the word "stunt" he costs himself more votes in places like Isaacs, Garran and Hughes in his electorate from people who do not believe that this is a stunt, from people who I know are losing sleep over this issue, from families that have been disturbed by this issue, from people who are having to comfort their children who are concerned about what is going on today.

All Mr Corbell can say is that it is a stunt. That just heightens how poor the government's defence is. There are huge areas of concern out there in the community. People want to know what went on. They want to know what nods and winks were made. They want to know what handshakes were given. They want to know when the meetings took place—who had quiet chats with whom, whose back was scratched. They want to know whose retirement plans were involved. That is the sort of thing that will be going through people's heads—because they do not know the truth.

We got the statement from Ms Gallagher as Acting Chief Minister that, one, the opposition will not be able to prove in any way in any document that there was any

improper involvement or, the second part of her sentence, ultimately that the government took decisions around this project specifically about where it was because that is not the case. But it is quite clear from that single document, the brief to the Chief Minister: "You have to make the decision and send it to the proponents." So the documents do prove that the government made decisions, that the Chief Minister makes decisions. What we do not know is what other decisions were made.

We would like to thank Mr Corbell for his patronising lecture about the FOI. I want to give him back a bit of a lecture from the Chief Minister. What did the Chief Minister say on 14 March 2001 in his "A code of good government" speech? Jon Stanhope, as Leader of the Opposition—"I forgot to read my speech later on"—said:

> These are parts of Labor's core values—fairness, openness, responsibility—and they are the qualities that will characterise a Stanhope Labor Government.

Not! And he goes on:

> An open government.
>
> ACT Labor believes that responsible governments are open and accountable governments.

Well, live up to your code of good conduct. Be open. Table these documents. Prove us wrong. But the sad thing is that the documents do not prove us wrong. In fact, they will confirm that we are right.

The Chief Minister, or then Leader of the Opposition, went on to say:

> Labor won't hide behind the cloak of confidentiality.

Well, yes they are. Then it goes on to say:

> It is essential that there is always a paper-trail when the expenditure of public money is involved.

If it is always essential that there is a paper trail, show us the paper trail of how you got to this decision. He then goes on to say:

> Labor rejects the notion of public servants as entrepreneurs.

Well, we know that people were trying to make more money out of the blocks in Hume; the head of the LDA said that. It just keeps going on, but this is the best of it:

> There will be no gloss.
>
> There will no beating of the breast.
>
> … … …
>
> We will try not to make mistakes, and if we do, we will be open about them.

Open? Open? I am not sure of the dictionary definition of "open" he was using when he said, "If we make mistakes we will be open about them." If the Chief Minister wanted to be open, if he wanted to live by the code he wrote, the code he took to the election at which he became Chief Minister, he would be open about this. Ms Gallagher said she knew there was nothing untoward in the documents, but I cannot understand how she would know that if she has not read all 3,044 pages that have not been tabled, so I think the Deputy Chief Minister is flying a little bit blind there. But why won't the Chief Minister and his government honour the code of conduct?

Where is accountability when the Chief Minister can give selective documents to the media but he cannot give them to the estimates committee or he cannot table them in this Assembly? This is not just about the FOI process. We have asked for these documents. I think we asked for them yesterday: "Minister, will you table the documents?" "Ooh, I don't think so." In estimates, "Minister, will you table the documents?" "No, we can't possibly do that. We're reviewing the FOI that you asked for."

The Chief Minister can ask for all of these documents. He could come down here if he was in the building. The Deputy Chief Minister could come down here and table them now. Mr Corbell could table them. Instead, he has been giving patronising lectures—like some university tutor that he will end up as after 18 October. He can table all the government documents. The ACTPLA minister, the planning minister, the health minister, the disability minister and the Chief Minister can choose to table their documents as they see fit. They saw fit to give them to the media but they do not want to give them to the people of the ACT.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (4.50): I think it is a bit of a sad reflection on those guys opposite, Mr Speaker, that they cannot count. Perhaps in fact we ought to replace the four-minute symbol over there with an abacus, with the first eight digits clearly marked in iridescent red—because these guys clearly cannot count. They are up for a stunt every now and again. I think that is probably why they were really upset when we started doing parking on the futsal slab—because it removed the big top where they would normally be able to perform once or twice a year.

There was a no-confidence motion moved on the Chief Minister. The same arguments were run then, and they were lost. There was a motion run the other day and it was lost. What part of "the people are not interested" do these guys across there not understand?

Mr Smyth talked about families consoling their children of a night time. I seriously doubt that. He chucked in little ones, hoping to get a bit of a run on them—this is how contemptible some people can be when they go down into the gutter and stare upwards. He said that the people out there want to know whose retirement plans we are interested in. Well, I can tell you whose retirement plans we are interested in. They are those of Mr Smyth and Mr Pratt. We are interested in their retirement plans, particularly those of Mr Pratt, because I think he ought to go to some pre-retirement

planning; I really do. These arguments have been run by this opposition ad nauseam, and they have got absolutely nowhere.

MR SPEAKER: The time for this discussion has expired.

Question put:

> That the motion (**Mr Seselja's**) be agreed to.

The Assembly voted—

Ayes 5	Noes 10	
Mrs Dunne	Mr Barr	Mr Gentleman
Mr Pratt	Mr Berry	Mr Hargreaves
Mr Seselja	Mr Corbell	Ms MacDonald
Mr Smyth	Dr Foskey	Mr Mulcahy
Mr Stefaniak	Ms Gallagher	Ms Porter

Question so resolved in the negative.

Electricity Feed-in (Renewable Energy Premium) Bill 2008

Detail stage

Clause 11.

Debate resumed.

Clause 11 agreed to.

Clause 12.

MR GENTLEMAN (Brindabella) (4.55): I move amendment No 12 circulated in my name *[see schedule 1 at page 2654]*.

This amendment includes a new subclause in clause 12 of the bill, which provides for review of the act at least every five years after commencement. The new subclause requires consideration of the impact to customers of costs passed on under the act and whether these costs are equitable.

DR FOSKEY (Molonglo) (4.56): While I support this, I am concerned that we have got an ambiguous phrase here. I understand that Mr Stanhope was concerned about the equity issues surrounding this bill, as were the Greens. However, I do not understand why the government could not, in this case, support my amendments to be moved regarding concessions. In our office we thought long and hard about these equity issues and consulted quite a number of groups in our community about them. The Greens believe that we must fight climate change in an equitable fashion so that no group suffers. The amendments that we are proposing today, we think, address these concerns equitably. I have already been told the government will not be supporting our amendments, and I will not oppose this amendment in that case.

MR MULCAHY (Molonglo) (4.57): I support the amendment, but I have an overarching opposition to the bill on the grounds of equity. Mr Gentleman made some comment about the low financial impact on households from this and cited only a relatively modest number of people that have the capacity today to take advantage of this measure once it is introduced.

MR SPEAKER: You should remain relevant to the amendment, Mr Mulcahy.

MR MULCAHY: I am talking about cost; this is to assess the cost, Mr Speaker. The purpose of this measure is not to stand still. In fact, the reason the whole thing is being brought in is to ensure widespread take-up of this initiative; otherwise it would not be forthcoming. When we look at the area of reviewing costs, it is vital that we consider what the overall impact will be in terms of households. It is very important when you look at the government documentation to note that if 10 per cent of households were to partake in the scheme, the average household's electricity bill would increase by $218. As I said at the outset, I understood from Mr Seselja that he was not at all keen on this initiative, and then, after I heard Mrs Dunne's initial speech, I was none the wiser. The drift I get today is that the opposition seem to think it is now a good idea. I am not quite sure whether they are checking which way the wind blows on this.

Whilst it is implicit in this amendment from Mr Gentleman that there are cost impacts, I do not think there is sufficient recognition of the inequitable arrangement that this entire initiative involves when you talk about a 10 per cent uptake leading to an increase of $218 per year on the average Canberra household. This is in a climate when people are facing rising grocery charges, rising fuel costs and recently approved ICRC increases in electricity. We have got increases in water, and we are now turning around and saying, "If this works, be ready to cop another $218 a year if you are not part of this group that will be able to avail itself of the initiative." A lot of people in Canberra will not be able to cover the capital cost.

It has been mentioned earlier that the Labor Party have upended the federal solar rebate, so they have undermined a lot of this. I certainly acknowledge that the model that Mr Gentleman has devised here is the best if you are going to have this particular initiative, but I am worried in the current climate that the cost impact on households will be severe. I believe the entire initiative is badly timed. I am glad this concession is in here about assessing the cost impacts. For that reason, I will support that as a matter of principle.

MR GENTLEMAN (Brindabella) (5.00): I just want to address some of the statements Mr Mulcahy has made, especially in relation to extra costs that he has perceived as $218 a year. I indicated during the in-principle stage that our modelling shows that we currently have around 110 renewable electricity generators in the ACT. If this bill is enacted and payments are made immediately, that cost would relate to around 80c per household per year. However, with the amendments we have made today to increase the size of the rebate with regard to the transitional franchise tariff, that has now gone up. Our modelling shows that it will now cost $1.05 per year for all of those that are currently generating electricity from home.

Mr Mulcahy said that 10 per cent take-up will cost $218 a year. It is going to take a very long time for 10 per cent of households to take up this initiative. We would like

to see that, of course. Over that period of time, the amounts will be reviewed by the minister each time. We want to ensure that electricity consumers in the ACT are not hardly done by as a result of this legislation, especially those who are less able to afford it. I have written to the Deputy Chief Minister, asking that the potential costs of the feed-in tariff be taken into consideration when undertaking the concession scheme review. We believe the cost for that particular group of people would be covered under the concession scheme review.

Amendment agreed to.

Clause 12, as amended, agreed to.

Clause 13.

MR GENTLEMAN (Brindabella) (5.02): I will be opposing this clause. To assist Dr Foskey and the opposition, I am moving to omit this clause and clause 14 to update the bill. They deal with the Independent and Regulatory Commission Act 1997. Under the national electricity market arrangements, this act does not regulate electricity prices, so these clauses are irrelevant.

Clause 13 negatived.

Clause 14.

MR GENTLEMAN (Brindabella) (5.05): I oppose clause 14 for the same reason that I opposed clause 13—that is, under the national energy market arrangements, the Independent and Regulatory Commission Act does not regulate electricity.

DR FOSKEY (Molonglo) (5.05): I seek leave to move amendments Nos 12 and 13 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendment Nos 12 and 13 circulated in my name together *[see schedule 2 at page 2659]*.

The Greens, as well as the government, I understand, want to ensure that the feed-in tariff does not impact negatively on low-income earners. I am sorry that Mr Mulcahy has gone, because he might have supported this amendment. It has been shown that low-income households will be most affected by the consequences of climate change simply because they are likely to live in the least energy-efficient houses, have the least financial capacity to adapt, and their cars and appliances are likely to be more expensive to run and so on. There is strong evidence that low-income households on average use around half the energy in annual consumption tonnes as high-income households do. Even so, they spend a greater percentage of their income on energy bills. It seems that a proportional levy rather than a stepped rate is being proposed.

The Greens believe low-income households should be exempt from price increases, as any increases will, as I explained, impact these low-income households much more than others. We are aware that a concessions review is in progress, and it should be

extended to consider the implications of this bill and applied to a broader range of low-income households. To solve this problem, as well as providing an incentive for householders and businesses to lower their energy use, varying rates should be introduced—a lower rate for low consumption and higher rates for higher consumption. This is already done for water, whereby, when people use more than a certain amount, excess water is charged at a higher rate. I believe this was proposed in a submission by the Essential Services Consumer Council.

This skewing of energy costs is exacerbated by the fact that high-income households often have many more appliances, including air conditioning systems, which they often use during peak time or mid-afternoon. If energy were priced at a higher rate in the afternoon, costs could be more fairly spread across income brackets as well as providing an incentive for those households with air conditioning to be more energy efficient, to be more solar aware and to get better insulation. It must be noted that low-income households are already subsidising households and large corporate buildings which use air conditioning by using electricity at a peak time but paying a standard rate. We believe this subsidy is far larger than the additional cost of a feed-in tariff from photovoltaic installations would be.

It is an indubitable fact that energy prices are going to go up, feed-in tariff or not, emissions trading or not. We have just seen the ICRC recommend a rise in tariffs, and this has happened without either of those things being in place. We are going to be having similar debates around this as we are having around petrol at the moment. I think we are being done a disservice by the Rudd government here. It is a great pity that we do not talk about climate change; we do not talk about the fact that oil is a finite resource. Instead we talk about the price of petrol. We are going to have to face more expensive electricity costs. We do have to work out a way to make it equitable, but we cannot avoid the fact that that will happen. If we want to stop climate change, that might happen a bit more, but we owe it to future generations to have a go at it, Mr Mulcahy.

MR MULCAHY (Molonglo) (5.09): So as not to offend against the standing order in relation to repetitive and tedious comment, I will be brief. I simply say that I am pleased to support any initiative that is directed at taking into account the position of low-income earners. I do not believe that matters in relation to the treatment of concession holders will go far enough. My view of those who will be impacted goes beyond those who might be holding benefits cards of various sorts. My concern relates to mainstream families who are finding it extremely difficult.

I agree with a fair chunk of what Dr Foskey said—things will go up in price. When we see the looming impact on gas, we will also see those energy costs escalate, as we are seeing with electricity, due to external events which so far have not impacted on the eastern seaboard in the same way as they have in the west. Initiatives that can go towards addressing climate change through energy conservation all do make sense.

I reiterate that I am concerned about measures that will further hurt those who are suffering from the escalating cost of energy. I am under no illusion that we are going to see substantially more increases, just as we are seeing them on the fuel front and on the food front. A lot of these things are interrelated, of course. I think the amendment is certainly a step in the right direction. I am a bit curious why Mr Gentleman will not support this initiative. I think the principle behind what Dr Foskey is saying is sound.

MRS DUNNE (Ginninderra) (5.11): Mr Speaker, I support the principle behind Dr Foskey's amendments, but, unfortunately, they are wrongly placed. These two provisions in relation to the ICRC have to be deleted from the legislation simply because the ICRC does not have the role that this legislation paints for it. That is a mistake in the drafting, and that mistake in the drafting has to be fixed. The ICRC does not have the role that Mr Gentleman's first draft of the legislation envisaged. If you cared to take a briefing from the commissioner, you would have understood how this situation works. The opposition has to support Mr Gentleman's opposition to this clause because it is just making wrong law.

I cannot support Dr Foskey's amendment to insert it into a clause that must be deleted. I support the concerns of Dr Foskey and Mr Mulcahy that we do all we can to minimise the impact on low-income earners. But this is not the place to do it, unfortunately. It is really about doing your homework and determining the best place to move your amendments. If you had had a stand-alone amendment about concessions, we would have been able to support it. But as Dr Foskey proposes to amend a clause that needs to be deleted, I cannot support the amendment.

MR GENTLEMAN (Brindabella) (5.13): I did not explain it very clearly, but Mrs Dunne has. The omission of the two clauses is specifically because the ICRC does not have the ability to make those changes. Therefore, we cannot make amendments to its act to try and make those changes. We will be opposing these amendments.

Amendments negatived.

Clause 14 negatived.

Dictionary.

MR GENTLEMAN (Brindabella) (5.15): I seek leave to move amendments Nos 15 and 16 circulated in my name together.

Leave granted.

MR GENTLEMAN: I move amendments Nos 15 and 16 circulated in my name together *[see schedule 2 at page 2654]*.

Amendment No 15 provides a new dictionary term of "additional metering costs", which is referred to in clause 6. The definition refers to the cost of a meter to measure electricity generated. Amendment No 16 provides a new dictionary term of "electricity supplier". The definition refers to the dictionary in the Utilities Act 2000, which defines "electricity supplier" in relation to the supply of electricity to premises. It means a utility licensed to supply electricity to the premise.

Amendments agreed to.

DR FOSKEY (Molonglo) (5.16): I move amendment No 15 circulated in my name *[see schedule 2 at page 2659]*.

In relation to both my amendments relating to hydro power, it is really important when we are talking about renewable energy to differentiate between small and large hydro power plants. Establishing large hydro power schemes cannot be included as renewable, as large rivers need to be dammed for their establishment. As rivers are not unlimited, they cannot be included. Small hydro power, however, as we have seen down on the Molonglo, has a lot of potential and, indeed, may be something that we will be considering in the future as we are looking for a broader range of renewable energy sources.

MR GENTLEMAN (Brindabella) (5.17): The bill presently allows for wind and solar, with any other form of renewable energy electricity generation prescribed by regulation. The bill also has a great deal of flexibility to allow for other renewables to be included and for the minister to adjust the rates accordingly for all the determinations as prescribed within the bill.

The renewable energy technology industry is growing at an exceptional rate. There are new technologies being announced on a regular basis that are likely to be available on a commercial basis within the next five to 10 years. Allowing the flexibility for the minister to determine what renewable energy electricity generation device will and will not be included will ensure that any such proposal will be subject to an examination of the potential positive or negative impacts it may have on the surrounding environment. The government sees no need, then, to amend this part of the bill and, as such, we will not be supporting this amendment.

MRS DUNNE (Ginninderra) (5.19): I will not be supporting this amendment, nor will I be supporting Dr Foskey's other amendment in relation to extending the definition of what a renewable energy source is. This is an issue that Mr Gentleman grappled with, and I grappled with it as well, in framing the Climate Change (Greenhouse Gas Emissions Targets) Bill. I contemplated putting in a long list regarding what renewable energy is. But, as Mr Gentleman has rightly said, if we do that, we end up hog-tying ourselves and having to come back and amend the legislation unnecessarily.

Therefore, the provisions as they currently stand in Mr Gentleman's bill, and in the bill that I introduced today, which leave most of the decision-making power in regulations, are probably the best way to go about it. I understand the enthusiasm for putting in a long list and telling everybody how much we know about renewable energy, but I do not think it serves to make good legislation.

Amendment negatived.

DR FOSKEY (Molonglo) (5.20): I move amendment No 16 circulated in my name *[see schedule 2 at page 2659]*.

It is pretty obvious that it is not going to be supported. I do take on board what people say, and I understand that they are probably right about the ministerial power. I do not think it hurts to point out that there is a broad range. I was not aware that I was showing how much my office and I knew, but I guess that is just a political response. I will speak about the concession amendment because my adviser has given me a note. You were right, Mrs Dunne, but when we first drafted these amendments the ICRC

clause was still there. There is no doubt that, had we been more on the ball, we would have moved these amendments elsewhere. I think this is something for another day.

MR GENTLEMAN (Brindabella) (5.22): As I outlined in my comments on Dr Foskey's third amendment regarding renewable energy electricity supply targets, the government will not be supporting this amendment as the targets outlined within this amendment fall outside the scope of the bill.

Mrs Dunne: Mr Deputy Speaker, I seek your direction. Dr Foskey's amendment No 16 relates to a clause which was not introduced into the bill. With all the best will in the world, I would really like to support renewable energy supply targets, but that amendment seems to have lapsed. I seek your guidance on that.

MR DEPUTY SPEAKER: My ruling is that Dr Foskey is entitled to move that amendment. It will all come out in the wash shortly.

Amendment negatived.

MR GENTLEMAN (Brindabella) (5.23): I move amendment No 17 circulated in my name *[see schedule 1 at page 2655]*.

This amendment removes the definition of "renewable energy generator", which is no longer required.

Amendment agreed to.

DR FOSKEY (Molonglo) (5.24): I move amendment No 17 circulated in my name. *[see schedule 2 at page 2660]*.

This deals with the big list. This amendment is to extend the range of energy source options that can be included under the feed-in tariffs. We believe that the government should consider promoting all the energy sources listed in my amendment and extending the feed-in tariff bill to include small-scale hydro-electricity, solar thermal, geothermal hot dry rock, biomass, biogas and waste heat recovery.

The bill as it stands includes a clause whereby the minister can add energy sources as needed, but I believe that we need to promote, not just accept, renewable energy sources from the outset. Some figures show that solar photovoltaics are currently six times more expensive per unit of energy generated and carbon emissions saved than other renewable energy sources such as wind, hydro, geothermal, landfill gas and biogas sources, and about two to three times more expensive than existing solar thermal.

At present market prices, wind, geothermal and hydro are the most viable and significant renewable energy sources for large-scale, cost-effective measures. There is currently no provision in this bill for geothermal or small-scale hydro. The expansion of the photovoltaic industry, driven by schemes such as this, should see costs reduce dramatically over the next few years.

Renewable energies, especially solar photovoltaics, are commercially viable, especially if start-up subsidies and feed-in tariffs such as this are made available to accelerate the technology developments. The wind and hydro sectors can certainly be commercially viable, and the more these technologies are explored, the more we will see scientific innovations, especially those focusing on the large level of energy used in water heating and space heating. We need to see more about solar thermal energy development here, as this is one of the most efficient ways to heat water, and even space.

Currently, it is most economic to install wind generators in rural areas, but there is a lot of research and development in this area, which we hope will be sped up by this bill and similar ones, as well as the increase in our MRET. I draw the Deputy Speaker's attention to the fact that in Melbourne there has been at least one wind generator built in one of the developments in the inner city, so that residents in that multi-residential development can see their energy source right up close.

It would be preferable to utilise sewage gas, a long-term reliable source, rather than relying on landfill for biogas generation, which should be reduced. It can also be noted that the ACT operates landfill methane collection, which should be seen only as a small and interim measure and not relied on. Instead, the government should focus on a strategy to reduce our waste generation by 2010.

We would have liked to propose varying tariff rates to reflect the varying costs associated with production of the various renewable energy technologies. However, this would be a complex calculation that would be better left until later on in the scheme, when more energy types are being produced, or left to the national scheme.

Not only do we need governments to create incentives and competition to encourage the development of a number of renewable energy technologies, as well as implementing various types in public buildings as demonstrations; we also need to encourage private and community sector participation. There are some great examples of this in Freiburg, Germany, where Mr Gentleman went to research this bill.

There is a huge range of both public and private buildings that are run solely on solar energy. Areas could be grouped and shareholdings established to promote viability. Community-based solar projects should be encouraged as well as the private application of feed-in laws as, despite best efforts, only a minority of households and others are likely to make use of the solar feed-in tariff. I believe I read that for something like 1.5 per cent of households in Germany this tariff is extremely successful.

We also need to see, most likely in partnership with the commonwealth and New South Wales governments and industry, the identifying of areas for the establishment of large-scale wind farms around the ACT. We need to provide better incentives for solar hot-water installation—something that is absolutely great and which is overlooked; it works fantastically well in the ACT and we do not hear a word about it. We need to identify and use geothermal sources in proximity to the ACT, and we need to investigate further biomass energy sources, including methane extraction and power generation. Perhaps these are things that the government is already considering with respect to that much-awaited energy strategy.

MRS DUNNE (Ginninderra) (5.30): I am in agreement with Dr Foskey on everything except for the necessity to list them all in the definition. The Stanhope government's performance on most of the measures that Dr Foskey has spoken about is poor. Really, the performance of most governments in Australia on these things has been poor and we are lagging behind the world. When you consider that we live in a much sunnier city than Freiburg or any of the other standout cities in Germany, we really should hang our heads in shame. The fact that there are very few incentives or rules relating to solar hot water is a great shame.

We had an opportunity at the last election, and the planning minister and the environment minister have had a number of opportunities to change the building laws so that it would be necessary, when you replace a hot-water system, to replace it with a solar hot-water system. We have seen one small innovation which I congratulate ActewAGL on—a loan scheme to allow people to put a hot-water system on and then pay off their solar hot-water system through the reductions in their energy bills. I applaud ActewAGL for that.

It is the beginning of the process that we took to the last election, which we called the green bank scheme—giving people loans that they could repay through their reduced energy bills. It was interesting that, when the Canberra Liberals floated this as an idea at the last election, Mr Stanhope went into complete paroxysms and told us that he was not going to allow anyone to open up a bank, essentially, to do these things. He did not understand the concept; he did not really look into it. He was just nay-saying, as was his wont. But it was interesting that when Kevin Rudd made almost exactly the same proposal before last year's federal election, he was all over the place like a rash, saying what a great idea it was.

Eventually, I suppose, the Stanhope government will come around. It was interesting to note that, before the 2004 election, in its assessment of environment policies, the Conservation Council said in its summary that, no matter who came to power in the 2004 election, the green bank scheme should be introduced. We have waited for four years; Mr Stanhope has said over and over again that we cannot possibly do it. He was embarrassed because Kevin Rudd took up the idea, but he still has not been embarrassed enough to do anything about it. It is something for which we are still waiting with bated breath, and I hope that before the next election Mr Stanhope adopts the policy.

We have a long way to go in making this a truly sustainable city that works well on renewable energy and cuts the amount of energy that we use. Mr Gentleman's measure is a small one but it will not do it in isolation. We need to do a lot more. That is why I again commend the framework that we started with this morning. It is a wonderful coincidence that we had a discussion this morning about new bills involving targets. We are in the last few minutes of finalising Mr Gentleman's renewable energy premium bill and we will then move on to a discussion about the quality of housing stock in relation to energy efficiency and other things. It has been a good day for airing the issues but we have to move on from just airing the issues and actually get Jon Stanhope off his—

Mr Hargreaves: Derriere.

MRS DUNNE: derriere; thank you, Mr Hargreaves—and actually do something in relation to energy policy to improve the energy outcomes for the ACT.

MR GENTLEMAN (Brindabella) (5.34): As I outlined in my response to Dr Foskey's 15th amendment, the government sees no need to change the existing wording of the clause, as it already allows flexibility for the minister to determine new and other existing technologies after an appropriate evaluation of the environmental benefits of those technologies. The bill also allows the minister to administer varying rates for those technologies. Coming back to some of Dr Foskey's comments regarding different rates for different sorts of generation, as new technologies evolve and the minister allows those to be part of this feed-in law, he can determine the rates for those as well.

In regard to some of Mrs Dunne's comments, she spoke many times in this debate about the Stanhope government doing nothing over the years. Mrs Dunne said that the Stanhope government had done little to address climate change issues and that this legislation represented one small part of our push against climate change. It is one action within the Stanhope government's *Weathering the Change* initiative on climate change, which contains 43 actions.

Mrs Dunne: You are not doing any of them.

MR GENTLEMAN: Mrs Dunne interjects across the chamber that we are not doing anything, so perhaps I could bring her up to date on what we have done. With respect to the achievements to date under *Weathering the Change*, action 3 is to establish an energy-efficient fund for ACT government agencies. The fund commenced in November 2007. The first round of applications closed in mid-February 2008. The successful applications are those for CIT and Canberra Stadium.

Under action 5, with respect to legislation passed, the variation to the Utilities Act and the green power opt-out scheme will commence on 1 January next year. Under action 8, with respect to commencing audits of ACT Housing properties, work will begin later this year. Under action 9, solar hot-water rebates are to be provided through the EnergyWise scheme. Under action 10, the ACT government is working as a member of COAG with other governments on a national emissions trading scheme. Under action 11, schools are being assisted to become energy-neutral. Fifty-two schools have already had energy audits and environmental management plans put in place.

Under action 12, ACTION buses are being replaced with low-emission CNG buses. Under action 13 of the strategy, 1,713 energy-efficient street lights have already been installed, and a further 5,600 will be installed in 2008-09. Under action 14, bike riders can now ride on ACTION buses for free, and bike racks have been installed on buses on key routes.

Under action 18, the feed-in tariff legislation is being finalised today. Under action 21, integrated transport networks have been planned for the future development areas of Molonglo and East Lake. Under action 23, new homeowners' entitlement to trees and shrubs has been doubled. Under action 25, the urban forest replacement program has

been initiated. Under action 27, a community groups grants program has been developed and will commence in this financial year.

Under action 31, the ACT government has supported the COAG framework on national adaptation. Under action 36, the million trees program has commenced. Under action 37, a community education program has started and includes promoting sustainable water, energy and waste practices. Under action 38, the best practice guide for sustainability in schools was launched in November 2007 as part of the sustainable schools toolkit.

Under action 39, the ACT government has implemented renewable energy showcase projects, including new car park lights at Macarthur House which are a combination of LED and solar. Under action 40, the first meeting of the business and academia climate change roundtable was held on 24 June this year. Under action 41, the ACT government has established a bursary at the Fenner school at ANU to promote solar energy research. And under action 42, legislation was passed in the middle of 2007 regarding the fuel sale data for emissions monitoring.

So there is clearly a lot going on. A lot has already been done, but of course there is a lot more to be done. Going back to the amendment, I felt that I needed to update the Assembly on what has been happening with the climate change strategy. The government will not be supporting Dr Foskey's amendment.

Amendment negatived.

DR FOSKEY (Molonglo) (5.40): I move amendment No 18 circulated in my name *[see schedule 2 at page 2660]*.

I am not going to speak to it because I have already spoken to it generically in relation to the other amendments. I would be interested to hear what others think.

MR GENTLEMAN (Brindabella) (5.40): The government will not be supporting this amendment, for the same reasons outlined in relation to the previous amendment.

Amendment negatived.

MR GENTLEMAN (Brindabella) (5.41): I move amendment No 18 circulated in my name *[see schedule 1 at page 2655]*.

This amendment provides a new definition of transitional franchise tariff retail price, which is referred to in clause 9 (4). This is defined as a price direction by the Independent Competition and Regulatory Commission.

Amendment agreed to.

Dictionary, as amended, agreed to.

Title.

MR GENTLEMAN (Brindabella) (5.41): I do wish to speak to the title. I thank members for their contribution to the debate. Today, with the passing of this bill, the ACT will lead the nation with a forward-thinking piece of environmental legislation. This bill, titled—

MR SPEAKER: But you will be talking about the title, will you not?

MR GENTLEMAN: This bill titled, Mr Speaker, the Electricity Feed-In (Renewable Energy Premium) Bill 2008, will provide the framework for the ACT community, including commercial businesses and industry, to actively pursue an increase in the uptake of renewable energy electricity production. It will stand as an important building block, ensuring a stable foundation for the future development of renewable energy industries here in the ACT.

MR SPEAKER: But only if the title is agreed to.

MR GENTLEMAN: Indeed, Mr Speaker. I want to thank those that have contributed during all the time we have been getting this title and the bill ready. I applaud all members who supported the bill, and I particularly want to go to those that helped me with that title.

There are many people I would like to thank in relation to the legislation, including Luke O'Conner and the members of the Labor Party environment committee for their contribution to the initial proposal and the title. I would like to thank James Prest from the ANU's environmental law division for his ongoing support and assistance; Dr Janette Lindsay, Andrew Glikson also from the ANU. I would like to thank Justin Ryan from Armada Solar, Andrea Gaffey from BP Solar, Phil Moody from Solar Tech Renewables and Phil from Green from Frog Solar for their support.

I would also like to thank those who assisted in the organising and conducting of the community forums and Parliamentary Counsel for their patience, assistance and clarification on all things legal, including the title. I would like to thank my office staff, Luke Austin, Dave Carroll and former staff members who contributed, including Michael Smith, James Macdonald and Claire Bongoirno, for their work over the past two years. And I would like to thank members here today for their contribution.

I would finally like to thank the people of Canberra for their ongoing support and all of those who attended the public forums, those who made the submissions, including on the title. I would like to thank those who authored hundreds of emails, letters and phone calls of support. There are many people out there in the community waiting for this bill to pass. With that, I would like to conclude by saying: remember, members, the sun does not send us any bills.

Title agreed to.

Bill, as amended, agreed to.

Residential Tenancies Amendment Bill 2007

Debate resumed from 21 November 2007, on motion by **Dr Foskey**:

> That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.44): The government will not be supporting Dr Foskey's bill this evening. Dr Foskey presented the bill to the Assembly on 21 November last year. The bill seeks to require all landlords of ACT properties to disclose an energy efficiency rating when advertising a lease. This will require owners of properties without an existing energy efficiency rating to have the property assessed before advertising a rental vacancy.

I have to say that the government does share Dr Foskey's concern about climate change and sustainable housing in the territory. The government has made a commitment to sustainability and meeting the climate change challenge. It is one of our top priorities.

This commitment is illustrated by the government's $100 million climate change strategy announced in August last year, along with the first of a series of comprehensive five-year action plans. This is a $100 million long-term investment in tackling climate change and implementing a plan for reducing greenhouse gas emissions.

In addition, the government has previously implemented a number of other programs and policies to reduce emissions, including initiatives focused on residential buildings such as the ACT energy wise program which provides home energy audits and rebates for energy efficiency improvements and the home energy advisory service which provides advice to residential and small businesses on energy efficiency measures.

Highlights of the 2007-2011 action plan include a number of actions and initiatives focused on household energy consumption. Action 20 of the plan deals with energy saving appliances and technologies for new homes. Action 19 states that the ACT has in place an energy rating scheme that applies to residential properties at point of sale, to increase awareness of energy use.

Where practicable, the ACT government will extend this program to include commercial and rental properties. The key issue here is "where practicable". Dr Foskey has failed to provide, in her introduction speech, a thorough analysis of whether this measure is practical at this point in time. Before introducing a requirement that would have far-reaching consequences for both landlords and tenants in the ACT, the government believes it is necessary to undertake a thorough examination of the practicality of extending the requirement for the energy rating to all rental properties at this point in the rental cycle.

One of the key issues, of course, is: will it have a significant impact on market behaviour? I think it is important to note that delivering information about energy uses to the property sales market is a very different proposition from delivering that same

information to the rental market. The factors and considerations that renters make when it comes to leasing a rental property are very different from those that relate to someone that is seeking to purchase a property.

Indeed, it is clear that the analysis that is undertaken in the energy rating scheme for the sale of residential properties does serve a very valuable purpose in educating new homeowners about the potential to improve the energy performance of their dwelling and, therefore, reduce their energy costs and their emissions. However, it is not the same when it comes to the rental market. Indeed, renters have limited ability to influence the energy performance of a dwelling. They do not own the property, nor are they in a position to make immediate changes—aside, potentially, from some very straight forward and basic ones—to the energy performance of the dwelling.

Combine that with the issues on the opportunities and choices that currently exist in the ACT rental market. The rental market is very tight. We are all aware of some of the pressures renters are facing. For that reason, the government believes that further consideration and detailed investigation must be undertaken before a decision is taken to simply implement a scheme.

I think, in many respects, this is a fairly cheap gesture by Dr Foskey. By seeking to highlight an initiative the government has said will be subject to further consideration, she is trying to portray the government as not acting on something it has put into its own strategy. Of course, that simplistic assertion fails to acknowledge the factors that I just outlined.

The rental market does perform differently from the property sales market. The factors and the ability of renters to influence the energy performance of dwellings are different from those related to someone who owns the property. Further, the choices available to people in the current housing rental market militate against them being able to choose against the relative energy performance merits of dwellings that they may be seeking to let.

So for all of those reasons, at this time the government does not support the bill. We will, however, be conducting, in the coming 12 months, our own detailed analysis about the applicability of the requirements of the energy rating scheme as it applies to rental properties and commercial properties. That will allow us to make an informed and considered decision rather than achieve a political point. At this stage, the government cannot support Dr Foskey's bill.

MRS DUNNE (Ginninderra) (5.51): The Canberra Liberals will not be supporting this bill either and we have consistently opposed the proposals that the Greens have put forward in relation to residential tenancies and energy efficiencies. The bill is designed to compel landlords to commission an energy rating and publish it every time that they advertise the property for rent. And this is slightly different from the current situation which says that if you have one you must publish it. The issue that Mr Corbell touched on is: will this affect renters' actions? I do think that it will.

Of course, it does not take away from the fact that the quality of some of Canberra's rental housing stock is appalling and has been for a long time. I think that all of us know or have known someone who has lived in an appallingly cold box in Canberra.

Usually renters tend to have a small bar heater in one room and, if you want to go to the loo or down the corridor or to the kitchen, you have got to put on a beanie and gloves to walk down the corridor in wintertime because the houses are cold and the fellow with the little bar heater in his bedroom is in fact very effectively heating the outside air.

Those issues, unfortunately, will not be addressed by this measure. The issue about the quality of Canberra's housing stock will be addressed by modifications to that housing stock, which is one of the impetuses for the Green-backed scheme that the Canberra Liberals put forward at the last election; it was to provide an opportunity for people to improve the quality of the housing stock and to repay the cost of that through their energy bills. A landlord could have insulated a house or fixed up the gaps in a house and things like that. They may have put the rent up but the tenant would have had lower energy bills, which would compensate for the rent going up.

This is what the scheme was about and the only way we will address the emissions from our poor housing stock is to go to the base and look at why our housing stock performs so poorly. It is uninsulated or under-insulated; there are gaps everywhere that need to be addressed; they have old and antiquated hot water systems; and landlords do not have any motivation for changing them to more efficient ones because they are not paying the bills. And until we address those issues, we will not address the issue of emissions from our housing stock.

It is interesting to note that a large proportion of our rental housing stock in the ACT is ACT Housing stock, which is appalling as well. There are some innovations that we have seen as part of the second appropriation bill, which I applaud; I think it should be rolled out a lot faster than the rate at which ACT Housing is allowed to roll it out by the government with its parsimonious attitude.

I think that this proposal unnecessarily adds to the cost of renting. The advice provided to me is that the cost of an energy efficiency audit ranges from something between $150 and $500, depending on the size and complexity of the house, but a three or four- bedroom house would cost somewhere between $200 and $250.

The thing is that that energy efficiency audit is voided every time someone does something like changing the structure of the house by adding a door or a window or even a skylight. You might be a landlord who says, "Okay, you have got a really dark corridor. I will put a skylight in it," and you have just blown your $500 or your $250 that you have paid out for an energy efficiency audit. The next time you have to rent the property you have to go and get another one.

I want to see landlords and tenants and the government working to improve the quality of the rental stock in the ACT, in the same way as I want to see owners and the government improving the quality of the housing stock generally in the ACT. Unfortunately, this is not the way to do it.

However, the Canberra Liberals have been consistent in our opposition to this approach. I think it is hypocritical of the Stanhope government to oppose it, as they have on and off in the past, and then put it in their strategy but, when confronted with it, say, "No, the time is not right." We have been talking about implementing our

greenhouse strategy on and off all day. Mr Gentleman stood up here and said how much we have done, and what he came up with was a list of, essentially, busy work items. It is a lot of activity and not much achievement.

But if the Stanhope government was serious about this, when Dr Foskey put this on the table they should have been up and about trying to find a means of making it work, because if they wanted to make it work they could. But they have been sitting on their hands since July last year, when they introduced their greenhouse strategy. Dr Foskey introduced this in November last year. Then, at the last minute, they come in and say, "No, the time is not right yet. We have not done our consultation." It is hypocritical of them and they should be roundly condemned for being hot and cold on this issue, because that is what they are.

MR MULCAHY (Molonglo) (5.57): There seem to be a number of bills coming before the Assembly which deal with environmental matters, but there seems to be a constant reluctance to consider any of the economic or cost implications of these interventions. I share the view of the attorney about not knowing what the impact will be on the market. For that reason, I am not willing to support the bill.

I think that we need to be very careful before we starting bringing in imposts in a very tight property market, as exists at the present time, that have not been fully thought through. Certainly the trend towards disregard for economic consequences in relation to legislation being introduced on the environmental front worries me. That does not mean I am some environmental heretic, but I do believe that you have to think about what the impact is on our community.

I have long advocated a no-regrets approach. Mr Gentleman said the other day that that was something from the dinosaur age. If reducing million dollar energy bills in hotels, if producing low-energy lighting, producing massive savings on gas usage in kitchens, in catering and other facilities, if changing lighting in car parks to reduce it in terms of energy but making it safe for people who are working or using those facilities is from the dinosaur age, good luck to it.

The fact is that there are an enormous range of measures. Some of them are in the government strategy. I am a little critical of their approach to these matters, but I certainly think there are a lot of measures that we can undertake that are not going to disrupt the market and are not going to cause financial adverse consequences.

This bill proposes a small change to existing laws pertaining to the energy efficiency ratings of properties. It is, nonetheless, important that the incentives and consequences of this proposal are first of all carefully considered.

As has been pointed out by Mrs Dunne, the existing Residential Tenancies Act requires a person who publishes an advertisement for the lease of premises to include a statement of any existing energy efficiency rating of the habitable part of the premises. The bill proposed by Dr Foskey amends this requirement so that the act requires a statement of the energy efficiency rating, regardless of whether there is an existing energy efficiency rating calculated for the property. This means that the owner of a property which does not already have an energy efficiency rating calculated must go out and obtain an EER for the property before they are able to advertise the property for lease.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted and the debate made an order of the day for the next sitting.

Standing orders—suspension

DR FOSKEY (Molonglo) (6.00) I move:

> That so much of standing orders be suspended as would prevent the debate on the Residential Tenancies Amendment Bill continuing.

MR SPEAKER: Do you want to speak to the motion?

DR FOSKEY: I want speak to the motion because this is probably the last chance we will have to finish this item of business; we are nearly finished. I will complete the debate in a short time and it does not seem to me to be too onerous. We have sat here night after night so that the government could get through its business.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.01): The government will not be supporting the motion. We have indicated at government business meetings and others our intention to adjourn at 6.00 this evening. Members have made plans on that basis and that is the position we are sticking to.

Question resolved in the negative, with the concurrence of an absolute majority.

It being past 6.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put.

Adjournment

Housing—energy efficiency ratings

DR FOSKEY (Molonglo) (6.01): I suppose, in a sense, it does not matter that we did not finish that debate, because it would have been lost, on the numbers. I would say I would have been the only person voting for it. The only joy for me would have been that I could have called for a division and shown the government voting against a measure that is in its own climate change strategy, which no doubt it plans to present in a pre-election package. It does not really like the idea that the Greens might have brought it up perhaps not in its time line.

I think that we need to remember what this bill was about. It was really about asking landlords to do what they are already required to do, and that is to publish their energy efficiency rating, if they have one; and where they do not, to seek to have one. That is something that is pretty much already on our books. This city has energy efficiency ratings required for stand-alone dwellings when they are sold, and all this was about was extending it to rental housing.

This argument that it is going to add to the cost of rental housing is a non-argument. I might be the only person here renting in the private market at the moment—I do not know—but I do know that I really appreciate and look for a dwelling where my

energy bills will be lower. And these are matters for the tenant to look for, and the tenant needs as much information as they can get.

I do get sick of the patronising way that the government and some other members do treat my utterances. One of the best is that I am well intentioned but misguided; but, secondly, that I am somehow or other misinformed.

I want to also point out that there are issues on this. House energy ratings do affect sale prices and rental prices in the ACT. We all know that energy efficient places do attract higher rent; so it is not right to use the "poor landlord" approach to this one; nor do I think it is right to use the "poor tenant" approach. I think everybody wins in this one. And everyone wins in the end because we are, after all, trying to mitigate climate change.

It seems to me what is forgotten is that it is bigger than just our pocket, the landlord's pocket and the tenant's pocket. We really are going to need to be facing these issues. You will probably be putting it before us yourself later, Mr Corbell and the rest of your government.

I want to conclude by reading from a media release of 2 May 2008 by Energy Partners, which says that the ACT is no longer a national leader on energy efficiency and then says:

> The ACT Government has allowed developers to reduce the energy efficiency of all new apartment blocks in Canberra.
>
> On May 1st the ACT adopted the 2008 Building Code of Australia requirements for energy efficiency ratings … While sounding like progress, in reality this means Canberra's energy efficiency standards have fallen to equal the worst in Australia.
>
> For the past decade all new apartments had to achieve an Energy Efficiency Rating … of 4 stars or above. However the new code only requires an average EER of 4 stars in an apartment block, meaning that new apartments could have energy efficiency ratings as low as 3 stars. In effect, the ACT has reverted to our energy efficiency standards of 1995, more than a decade ago.

It worries me when I read, in action 19, after a perfectly good action:

> Where practical, the ACT Government will extend its program to include commercial and rental properties.

That was pointedly omitted from Mr Gentleman's list of things that the government is doing. "Where practical" is in itself a concern. Practical for whom? But the second paragraph of that is:

> It is noted that work is being undertaken at the Commonwealth level under the National Framework for Energy Efficiency. The ACT acknowledges and will ensure consistency with this work and will introduce legislation implementing agreed national outcomes.

My concern is that what we get with national standards is the lowest common denominator. The ACT was a leader and prided itself on it. How can you congratulate yourself for reducing your energy efficiency ratings, which is what we have just done? It would have seemed to me that it was a no-brainer. Why don't we be a leader? Why not?

Retirement villages
Aboriginal and Torres Strait Electoral Lobby

MS PORTER (Ginninderra) (6.06): Recently a considerable number of constituents have contacted me and expressed their concern in regard to a number of issues in relation to those living in retirement villages in the ACT. People living in retirement villages in the ACT are not protected by the same legislation that exists in other jurisdictions. Instead, in the ACT, residents and operators are subject to a retirement village code of practice which is subordinate legislation under the Fair Trading Act.

The code is mandatory under the Fair Trading Act. However, it is limited in its scope, compared to what other legislation is available in other jurisdictions, and does not offer the same level of protection to residents and operators alike. A number of people who are currently living in retirement complexes have expressed their concerns in relation to the lack of protection surrounding dispute resolution, communication between residents and operators and the rights and responsibilities afforded by the code of practice.

In response to their concerns and other issues that have been raised with me regarding the fact that the ACT does not have in place separate retirement village legislation, I began to explore what is in place in other jurisdictions. Other states and territories have acted to implement retirement village legislation and my research indicates that their legislation covers the areas of most concern and interest to stakeholders, that is, rights and responsibilities of all parties, contracts, disclosure of information and dispute resolution.

Consequently, I am currently consulting with stakeholders that would be affected by any change, that is, residents, prospective residents, managers and owners of retirement villages and relevant peak bodies, through several forums across Canberra and through written submissions. These forums start on Friday, with the first one to be held in the reception room at the Assembly. Others will follow in Belconnen and Hughes, and other locations by specific request. Following this consultation, I intend to table a discussion paper in preparation for the introduction of legislation by the Stanhope government at a future time.

Also, I will talk about a very important event that happened this afternoon upstairs in the exhibition room. That was the declaration of the polls for the ACT Aboriginal and Torres Strait Islander Electoral Body. Thirteen candidates stood for election and I would like to congratulate the following people who were declared elected this afternoon: Rod Little, Dianne Collins, Paul House, Fred Monaghan, Terry Williams, Lynette Goodwin and Roslyn Brown.

As we know, the elected body is being established to ensure that local Indigenous people are better served by the ACT government's policies, programs and services. It

will provide direct advice to the ACT government, aimed at improving the lives of Indigenous Canberrans. Indigenous people have been without a voice since the Howard government abolished ATSIC. In the ACT they will again have a voice expressed through their democratically elected body.

When we were talking with those people today—Mr Gentleman and Ms MacDonald were there as well and were able to congratulate them as well—we shared with them their joy at being elected, their sense of this great adventure that they are now embarking on and their sense of the privilege of being elected by your peers. I am sure that all of us in this place know how that feels and what an honour it was but also, in some ways, what a challenge it is when you first get elected, looking forward to what the future holds for you. I would like to congratulate, once again, every one that was involved—all the candidates, all those who were elected, all those who worked so hard to achieve this event. It is a momentous event for the ACT.

Economy—standard of living

MR MULCAHY (Molonglo) (6.10): I want to highlight an ongoing issue that I have talked about here on many occasions, and that is the impact on the standard of living of those in the community. I was interested to see a report that was published in the *Australian* today that presented the facts from Newspoll, which showed that the percentage of Australians who believed that their standard of living will get worse has more than doubled from 18 to 43 per cent, representing the biggest jump in the survey's history, and the percentage of Australians who believe that their standard of living will improve has dropped to just 13 per cent, which is the lowest confidence level since the early nineties.

Certainly the economic situation in this country has deteriorated quite dramatically in the past six months and, again, brings home to roost the issue of taxation. In this message sent to me they note that the Prime Minister is declaring that he and his government "have done as much as we physically can to provide additional help to the family budget". That was on 22 May. That reads to me as throwing their arms in the air a bit and saying, "You will just have to cop it as it is."

I am aware of course that the tax system has delivered some savings this week and they will be welcome in households. But the overall impact on people's financial positions with petrol going up, I think in the order of 30 odd per cent, in the last six months means that the average Australian household has, in fact, gone backwards in the past six months.

The government federally tells us that there is not much they can do about it in relation to fuel. The Liberal and National parties have talked about an arbitrary reduction of 5c and, in some interviews, 10c. Of course the big fear on that is that overnight that discount could be very quickly eaten up by increases in the fuel prices. Obviously, any lasting impact would have to come in terms of the rate of excise or GST or the exclusion of one or the other potentially. Ideally, on a percentage basis, that modification could take place so that the benefit increases if the price of fuel goes up along the way.

I guess the relevance to this place is that those figures that have been published by Newspoll should be of great alarm to all of us in public life in that they are showing that families are becoming very disturbed about their standard of living and this territory continues to deny them any form of taxation relief and is expecting families to live under the substantially increased tax burden that was brought in in the 2006 period; and there is simply no prospect of relief, whether it be the utilities tax, the fire and emergency services levy, the water abstraction charge, the rate increases or the WPI applied to all manner of government charges and so forth.

I think that the message coming from Australians in our community, families in my electorate, is very clear. People are finding the household budget is being stretched further and further, and I think in the territory, which has the strongest balance sheet in Australia, there is an overwhelming case for handing back some of those funds to the people, not simply saying, "We have had a windfall. How do we spend it?"

Surely this opinion poll that has been reported today will send a very clear message, I would hope, to the territory government that it is time that they revisited their resistance so far to tax reform and let ordinary people in this community share in some reduction in the tax pain, to help offset the massive increase they are facing in grocery bills, in fuel prices and in the existing tax burden that has shown no sign of relief in the past couple of years, despite our strength and economic position in this territory.

Cotter Road caretaker's cottage

MRS BURKE (Molonglo) (6.15): I again stand in this place to defend the honour and name of Peter and Jenni Farrell, and I am disappointed that I have to do that. For those that may not know, Peter and Jenni Farrell are the former residents of the caretaker's cottage at the old sewerage works at Weston Creek. And I am really disappointed in some of the ministers and people in this place who have derided these people who have always done and tried to do the right thing by the community, the government and so forth.

Minister Barr last night continued to do a number on this family. It is probably more like a character assassination. And it was disappointing when Mr Barr conveniently stood in this place and read extracts from a letter from the former Minister for Territories and Local Government, Mr Tom Uren. He did not say that Tom Uren received two letters. I then decided to ring the Farrells to find out the true story. And I will read this extract from an email that I have from Mrs Farrell:

> That letter—

the letter that Mr Barr tabled—

> was the first letter that I sent in 1983.

She was younger then because this was 25 years ago. She said:

> I foolishly—

because she thought she was trying to do the right thing—

> tried to keep Bob McInnes' name out of it …

Bob McInnes at that time worked for ACT Forestry. She kept his name out of it. She continued:

> … as I thought he would be in strife for allowing us to move in, so I said we had "taken possession". After speaking with Mr McInnes, who said that we could use his name, a SECOND letter was sent—

to Tom Uren—

> (9 days later) stating "with regard to our previous letter there are a few points which need clarifying. Firstly since that letter was written we have confirmed that a friend of ours in Forestry was given verbal permission by Bob McInnes for us to move into the house—the house being on Forestry land."

Mrs Farrell goes on:

> Unfortunately I did not mention the keys. (The second point I clarified was that we were on Gov. Housing list) These TWO letters were acknowledged by Mr Uren in his letter (3 /11) where he says "I refer to your letters dated 29 Aug and 8 Sept".

Mrs Farrell goes on to say:

> I can give you copies of all of them. It is very convenient (to say the least!) that Barr would only refer to that first letter. It was contained in their court affidavits and our solicitor made their solicitors aware of the second letter and Mr Uren's response to 2 letters. Not that they would have been unaware as the 2 would have been in the file, side by side.

This does go on and on. It is disappointing, because the Farrells have always tried to do the right thing. To have no way of defending themselves in this town, to have had their name besmirched in the *Canberra Times* in the way that they have, is, to me, unconscionable. They have got no way now of being able to turn around that situation.

I have also been given an email that was sent to Mr Barr on 30 May 2008 by Robyn Gowing, nee Vest, who is from one of the former families that lived there. I may not have time to read it all but she said:

> Thank you—

Mr Barr—

> for your email. You have told me nothing that I had not already known. No you will not sway my opinion because there has been no commonsense used in this matter what so ever. I have know the Farrells for quite some time and I believe them when they say they were aware that the time had come for them to move out and the area be developed, but there main concern was the preservation of the old house which I fully concur with. You—

Mr Barr—

> stated this was determined by the courts, Mr Barr people break the law every day of the week and unless someone becomes aware of it nothing is done about it, all you have done is shown your authority and arrogance and removed these people when they could have stayed there as caretakers for the little house. When you say it give you no pleasure to see people moved away from their dwelling, I don't believe you, you have chosen to pay a security firm between $5000 & $6000 … of tax payers money to secure the premises when you could have left the Farrells there and charged them rent which they were willing to do so for quite a number of years, where it the commonsense in that.
>
> I still find the whole saga unbelievable
>
> Kind regards
> Robyn Gowing(Vest)

I will continue to stand and defend their honour and their good name. I hope some time, before the end of this Assembly, the penny drops and people really see the Farrells in the light that they should be seen in.

Question resolved in the affirmative.

Assembly adjourned at 6.21 pm.

Schedules of amendments

Schedule 1

Electricity Feed-In (Renewable Energy Premium) Bill 2008

Amendments moved by Mr Gentleman

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

(1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

(2) If this Act has not commenced before 1 July 2009, it automatically commences on that day.

(3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

2
Part 2 heading
Page 4, line 1—

omit the heading, substitute

Part 2 Renewable energy—supply to electricity network

3
Clause 6
Page 4, line 3—

omit clause 6, substitute

6 Feed-in from renewable energy generators to electricity network

(1) This section applies to—

(a) an electricity distributor licensed to distribute electricity through an electricity network; and

(b) an electricity supplier licensed to supply electricity from the network.

(2) It is a condition of the distributor's licence that the distributor must, on application by the occupier of premises at which there is an NEL compliant renewable energy generator—

(a) connect the generator to the distributor's network to enable electricity generated by the generator to be supplied to the network; and

(b) reimburse the utility that is the electricity supplier to the premises the difference between—

(i) the amount payable under subsection (5) for electricity generated by the generator; and

(ii) the normal cost of that electricity; and

(c) pass on to the occupier any additional metering costs in relation to electricity generated by the generator.

(3) For subsection (2), a renewable energy generator is NEL compliant if, when connected to the distributor's network, it would comply with the rules under the National Electricity (ACT) Law that apply to an embedded generation unit.

(4) For subsection (2) (b) (ii), the normal cost of that electricity is taken to be the transition franchise tariff retail price.

(5) For the electricity supplier mentioned in subsection (2), it is a condition of the supplier's licence that the supplier must, on application by the occupier of premises at which there is an NEL compliant renewable energy generator connected to the electricity network, pay the occupier at the applicable rate under section 8 (Payment for electricity from renewable energy generators) for the total amount of electricity generated by the generator.

4
Clause 7
Page 4, line 24—

omit clause 7, substitute

7 Utility service

Each of the following is a utility service for the *Utilities Act 2000*:

(a) the action required by a distributor under section 6 (2);

(b) the action required by a supplier under section 6 (5).

5
Clause 8
Page 5, line 1—

omit clause 8, substitute

8 Payment for electricity from renewable energy generators

Payment for electricity generated by generators to which section 6 (5) applies must be at the following rate:

(a) if the total capacity of the generators is not more than 10kWh—

(i) 100% of the premium rate; or

(ii) if another percentage is determined under section 8A for this paragraph—that percentage of the premium rate;

(b) if the total capacity of the generators is more than 10kWh, and not more than 30kWh—

(i) 80% of the premium rate; or

(ii) if another percentage is determined under section 8A for this paragraph—that percentage of the premium rate;

(c) if the total capacity of the generators is more than 30kWh—

(i) 75% of the premium rate; or

(ii) if another percentage is determined under section 8A for this paragraph—that percentage of the premium rate.

8A Determination of percentages

(1) The Minister may determine percentages for section 8 (Payment for electricity from renewable energy generators).

(2) A determination is a disallowable instrument.

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

6
Clause 9 (1)
Page 6, line 5—

omit

payable by an electricity distributor for electricity supplied to the distributor's network from renewable energy generators connected to the network

substitute

for amounts payable by an electricity supplier under section 6 (Feed-in from renewable energy generators to electricity network)

7
Clause 9 (3) (a) (i)
Page 6, line 13—

omit clause 9 (3) (a) (i), substitute

(i) the desirability of costs under this Act impacting equitably on all electricity users;

(ia) the need to encourage the generation of electricity from renewable sources;

8
Clause 9 (3) (a) (iii)
Page 6, line 16—

omit

customers

substitute

occupiers

9
Clause 9 (3) (b) (i)
Page 6, line 20—

omit clause 9 (3) (b) (i), substitute

(i) the amounts payable under this Act by an electricity distributor;

(ia) the amounts payable under this Act by an electricity supplier;

(ib) any additional metering costs passed on to an occupier because of section 6 (2) (c);

10
Clause 9 (4)
Page 6, line 23—

omit

highest retail price of electricity for a domestic customer

substitute

transition franchise tariff retail price

11
Clause 10 (1)
Page 7, line 5—

omit

supplied to the network from

substitute

generated by

12
Proposed new clause 12 (1A)
Page 8, line 12—

insert

(1A) The review must include a consideration of the impact of costs under this Act on electricity users and, in particular, whether the impacts are equitable.

15
Dictionary, proposed new definition of *additional metering costs*
Page 10, line 10—

insert

additional metering costs, in relation to electricity generated by a renewable energy generator connected to an electricity network, means metering costs associated with the electricity that are in

addition to metering costs for which the distributor is responsible under the rules under the National Electricity (ACT) Law.

16
Dictionary, proposed new definition of *electricity supplier*
Page 10, line 13—

insert

electricity supplier*—see the Utilities Act 2000*, dictionary.

17
Dictionary, definition of *renewable energy generator*
Page 10, line 20—

omit

18
Dictionary, proposed new definitions
Page 11, line 11—

insert

transition franchise tariff retail price, in relation to electricity generated by a renewable energy generator connected to an electricity network at any time, means the transition franchise tariff retail price payable for electricity at that time under a price direction under the *Independent Competition and Regulatory Commission Act 1997*.

utility—see the *Utilities Act 2000*, dictionary.

Schedule 2

Electricity Feed-In (Renewable Energy Premium) Bill 2008

Amendments moved by Dr Foskey

1
Clause 3
Page 2, line 9—

omit clause 3, substitute

3 Objects of Act

The objects of this Act are to—

(a) promote the generation of electricity from renewable energy sources; and

(b) reduce the ACT contribution to human-induced climate change; and

(c) diversify the ACT energy supply; and

(d) reduce the ACT's vulnerability to long-term price volatility in relation to fossil fuels.

2
Proposed new clause 3A
Page 2, line 11

insert

3A Minister to actively promote objects of Act

The Minister must actively promote the objects of this Act with a view to achieving the renewable energy electricity supply targets.

3
Proposed new clause 3B
Page 2, line 11

insert

3B Renewable energy electricity supply targets

For this Act, the ***renewable energy electricity supply targets*** are as follows:

(a) by 2010—at least 5% of electricity supplied by electricity suppliers is from renewable energy sources;

(b) by 2015—at least 15% of electricity supplied by electricity suppliers is from renewable energy sources;

(c) by 2020—at least 20% of electricity supplied by electricity suppliers is from renewable energy sources.

4
Clause 6 (2)
Page 4, line 8

omit

on application by

substitute

as soon as possible after receiving an application from

5
Proposed new clause 6 (2A) and (2B)
Page 4, line 14

insert

(2A) If the distributor receives an application under subsection (2), the distributor must—

(a) give the applicant a written statement setting out a detailed estimate of the costs of connecting the occupier's generator to the distributor's network; and

(b) as far as practicable, give the connection priority over any standard customer contract electricity connection under the *Utilities Act 2000*, section 79 (Electricity connection service).

(2B) To remove any doubt, the distributor must not refuse the application on the ground that there is insufficient network capacity.

6
Proposed new clause 6 (4) and (5)
Page 4, line 23

insert

(4) The distributor must, for each period for which the occupier is billed for electricity supplied from the electricity network—

(a) work out the amount owing to the occupier under subsection (3) for the period; and

(b) pay the occupier that amount before the end of the following such period.

(5) The distributor must not sell the electricity supplied to the distributor's network from renewable energy generators at the occupier's premises as part of the program (***GreenPower***) conducted by Australian governments for the accreditation of renewable energy products.

7
Proposed new clause 6A
Page 4, line 23

insert

6A Shallow connection fee

(1) The fee charged by an electricity distributor for connecting an occupier's generator to the distributor's network under section 6 must be a shallow connection fee.

(2) A shallow connection fee must not include the cost to the distributor for any network development necessary to enable the occupier to supply electricity to the distributor's network.

8
Clause 8 (1)
Page 5, line 2—

omit clause 8 (1), substitute

(1) An electricity distributor must determine the standards that apply in relation to—

(a) renewable energy generators that may be connected to the distributor's electricity network; and

(b) connecting a renewable energy generator to the distributor's network, including the amount of an associated shallow connection fee; and

(c) the cost of distributing electricity supplied to the distributor's network from renewable energy generators.

9
Proposed new clause 8 (2A)
Page 5, line 6—

insert

(2A) However, the distributor must not determine standards for subsection (1) (b) or (c) that are less advantageous than the terms of the distributor's standard customer contract under the *Utilities Act 2000*, division 6.2 (Standard customer contracts).

10
Proposed new clause 9 (3) (a) (iia)
Page 6, line 15—

insert

(iia) the need to reduce the likely effects of climate change;

11
Proposed new clause 10A
Page 8, line 1—

insert

10A Annual report

(1) A report prepared by the chief executive under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include an account of the following during the year:

(a) the total amount of electricity supplied from renewable energy generators to electricity networks during the year;

(b) the rate of progress towards increasing the percentage of renewable energy sources for electricity supply;

(c) the average cost of production of renewable energy sources;

(d) the economic, social and environmental benefits of this Act;

Examples

1 the level of investment in the photovoltaic industry

2 whether a photovoltaic industry has been established in the ACT and whether the industry involves exporting products outside the ACT

3 the number of jobs created because of the increase in activity in the renewable energy source industry

4 the level of carbon dioxide emissions avoided because of people connecting renewable energy generators to electricity networks

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).

(e) any additional costs to electricity consumers because of people connecting renewable energy generators to electricity networks;

(f) the ecological effects of the use of renewable energy sources on the local environment;

(g) whether, in all the circumstances, an adjustment to the premium rate is necessary.

(2) For subsection (1) (b), the account must include a statement about the achievement of the renewable energy electricity supply targets.

12
Clause 14
Proposed new section 20AA (2), example and note
Page 9, line 15—

omit

13
Clause 14
Proposed new section 20AA (3) and (4)
Page 9, line 20—

insert

(3) However, the decision must be made on the basis that the cost of the increase is not to be applied to an exempt person.

(4) In this section:

energy concession means a rebate in relation to the price of an electricity service offered by a utility.

exempt person means any of the following:

(a) a person eligible for an energy concession;

(b) a person receiving an ABSTUDY allowance under the Social Security Act 1991 (Cwlth);

(c) the holder of a temporary protection visa under the Migration Act 1958 (Cwlth);

(d) a refugee under the Migration Act 1958 (Cwlth).

Examples—people eligible for energy concession

the holder of a pensioner concession card issued by Centrelink

the holder of a gold card issued by the Department of Veterans Affairs (Cwlth)

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).

15
Dictionary
Proposed new definition of *large hydropower*
Page 10, line 13

insert

large hydropower means hydropower other than small hydropower.

16
Dictionary
Proposed new definition of *renewable energy electricity supply targets*
Page 10, line 19—

insert

renewable energy electricity supply targets—see section 3B (Renewable energy electricity supply targets).

17
Dictionary, definition of *renewable energy source*
Page 11, line 8—

omit the definition, substitute

renewable energy source means a non-fossil, non-nuclear energy source that cannot be depleted or can be replaced, and includes each of the following:

(a) biogas;

(b) biomass;

(c) geothermal;

(d) small hydropower;

(e) solar;

(f) wind;

(g) any other source prescribed by regulation;

but does not include large hydropower.

18
Dictionary
Proposed new definition of *small hydropower*
Page 11, line 11—

insert

small hydropower means hydroelectric power, produced from plants, with a maximum capacity of 20MW.
