Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

19 AUGUST 2008

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Tuesday, 19 August 2008

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

Petitions

The following petitions were lodged for presentation:

Roads—O'Malley

By **Mr Mulcahy**, *from 52 residents:*

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: *the intersections at Tyagarah Street and Hindmarsh Drive and Numeralla Street and Yamba Drive, are dangerous for traffic trying to exit O'Malley.*
>
> Your petitioners therefore request the Assembly to: *address the road safety issues with the two intersections to make it easier and safer for O'Malley residents to exit the suburb.*

Gungahlin Drive extension

By **Mr Mulcahy**, *from 35 residents:*

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: **the recently completed Gungahlin Drive Extension has not solved the problems of Gungahlin residents commuting in peak times.**
>
> Your petitioners therefore request the Assembly to: **to begin work as soon as possible to expand the Gungahlin Drive Extension to meet the needs of ACT residents.**

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

Leave of absence

Motion (by **Mrs Burke**) agreed to:

That leave of absence be granted to Mr Stefaniak for this sitting to attend to family business interstate.

Legal Affairs—Standing Committee
Scrutiny report 58

MS MacDONALD (Brindabella): I present the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 58, dated 18 August 2008, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MS MacDONALD: Scrutiny report 58 contains the committee's comments on five bills, 62 pieces of subordinate legislation and five government responses. The report was circulated to members when the Assembly was not sitting.

An issue on which the committee has found it necessary to comment in this report is the apparent inconsistent basis used for fee increases. In some instruments it is the CPI, while in others it is the wage price estimate, and there are even differing CPI percentages used. The committee draws this to the Assembly's attention and would appreciate the Treasurer's advice as to the reason for this difference in approach to the fee increases. I commend the report to the Assembly.

Health and Disability—Standing Committee
Report 7

MS MacDONALD (Brindabella) (10.33): I present the following report:

Health and Disability—Standing Committee—Report 7—*Health Science in the ACT*, dated 30 July 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

Mr Speaker, I do not anticipate that I will speak for long on this report, although it has been a long time in coming. The committee made 12 recommendations overall to enhance health and medical research and development in the ACT. The recommendations are not based on large capital investments from the ACT government as the committee considers the current level of funding to be commensurate for the ACT.

The report highlights that advances in medical technology made available through health and medical research have the capacity to improve health outcomes for individuals. Despite the ACT being a small jurisdiction, the ACT does have strong capabilities in health and medical research and development, particularly as a centre of national and international significance.

The skills shortage is impacting on the uptake of research careers by university graduates and there is a need to increase the number of graduates. The report also talks about the promotion of science and research careers through the ACT school system to encourage young people to embark on such careers. This has the potential to impact on this sector in the long term. There was a concern from the people who appeared before the committee that the number of people in schools taking up science was dropping off, and I am sure the minister for education would acknowledge that. However, the committee was looking at it not so much from the perspective of secondary education but starting much earlier than that and getting young people in primary schools interested in it. We heard from one of the people who appeared before us about programs that are being run in New South Wales and elsewhere which are looking at trying to get young people in primary schools interested in science and medical science.

The committee also heard about barriers that impeded the uptake of research projects by nurses and allied health professionals, which I draw to the attention of the Minister for Health. The committee recommends the development of strategies to support new career researchers or university graduates, as well as nurses and allied health professionals. The committee found that greater support for new career researchers should be promoted through senior health administrators.

The committee also heard about and has reported on the issue of raising funds for research and development. A recommendation was made supporting the establishment of a research foundation based at the Canberra Hospital. This would bring the Canberra Hospital in line with other major teaching hospitals.

I would like to place on the record my thanks to the various secretaries who have been involved in this inquiry. As I said at the beginning of my remarks, it has taken a long time to get this report to this stage and it was hard to get people to understand the purpose of it. I do believe that the ACT, even though it is a small area, can play a very important role, so I would like to thank Trish Carling, Ellie Eggerking and, of course, Grace Concannon, who brought the whole report together, got it underway and finally got it finished and delivered to us in the last few weeks. In fact, we have worked on this in the last few months. I thank them for doing that.

I would also like to thank all of the people who appeared before the committee. Early on, the committee went on a trip to Victoria and visited organisations such as the Bio21 institute, the Walter and Eliza Hall Institute and other organisations, so I thank them for making us welcome.

I also draw the Assembly's attention to the back of the report, which contains a report on meetings that I held as part of my study trip last year to the United States, which

supplements the study trip report that I presented last year. It goes into more detail about the meetings that I held at the Department of Business and Economic Development for Maryland state and the Howard Hughes Medical Institute. I commend the report to the Assembly.

MRS BURKE (Molonglo) (10.39): I would like to thank the chair for this report that is being presented today. It coincides, as the chair has said in a media release today, with the Australian Science Festival. I think it is quite timely that we are able to table this report today in the hope that it will be picked up by those people. It does not tend to be a subject that is much talked about in our community; nonetheless it is a very important part of where we should be heading as a society in terms of research and development.

At the outset I would like to thank the chair of the committee, Ms MacDonald, and my other colleague and deputy chair, Ms Porter. I would like to thank the secretariat, too. As the chair said, this has not been an easy report to put together in terms of trying to get people to appear and make submissions; hence the difficulty with the timing of all of this. I would like to thank Trish Carling, Ellie Eggerking and, last but not least, Grace Concannon, along with Lydia Chung.

As the chair said, there are 12 recommendations which we hope the government will pick up on, to build upon other recommendations that have been made to the government over the last few years in regard to research and development and innovation. We know that advances in medical technology made available through health and medical research have the capacity to improve health outcomes for all individuals. I think it is important that we do act upon these things as a legislature and also that we look backwards as well as forwards in regard to those things that have been said and recommended, and that perhaps we can still work on with respect to advances in this area.

Despite being a small jurisdiction, the ACT does have strong capabilities in health and medical research and development. The committee drew on two key reviews of health and medical research in the ACT which were commissioned by the ACT government in 2001 and 2005. Michael Frommer conducted a review into health and medical research and development in the Australian Capital Territory, known as the Frommer review, and Professor Lawrie Powell chaired a committee to conduct a review of research at the Canberra Hospital. That was known as the *Strategic and scientific review of research at the Canberra Hospital*—the Powell review.

Frommer found that, despite a commitment, the ACT government had little influence over health and medical research in the ACT, apart from what occurred at the Canberra Hospital. I draw members' attention to page 43 of our report, headed "Conclusion", and to paragraph 5.1, which states:

> The greatest influence the ACT Government has in relation to health and medical research in the ACT is at TCH. The Committee commends the Governments efforts in enhancing the research capacity at TCH but considers that further investment, particularly aimed at new-career researchers, nurses and allied health professionals would provide considerable long-term benefits for the ACT community.

Frommer highlighted that, despite the limitations, there were a number of opportunities, as I have said, for the enhancement of health and medical research in the ACT. The Michael Reid review of ACT Health in 2002 fully endorsed the strategies of enhancement, better coordination and improved recognition; likewise it should be noted that the Powell review made 15 recommendations, some of which have been fully or partially implemented, and others that still require action. The committee notes that the recommendations are still being considered by ACT Health, the Canberra Hospital and the ACT Health and Medical Research Council.

The committee noted the changes at the federal level but also recognised that any impact on research and development in the ACT will not realistically be realised for some time. Research and development is a vital part of innovation. We know that innovation systems are increasingly being recognised as the key drivers in the performance of modern economies. Research and development are considered to be a major part of an innovation system.

As the report notes, it is focused upon health and medical research and development in the ACT. The aim of the inquiry was to determine the level of health and medical research currently being undertaken in the ACT, to look at ways of enhancing the research potential by utilising the national research organisations located in the ACT and by developing strategies to attract health and medical researchers to the ACT and retain them. I think that is vital in terms of the networking potential that we have here. We have many great organisations at a national level; we should be drawing on those as much as we possibly can. The report notes that the Powell review found that the research at the Canberra Hospital was yet to reach its potential, stating:

> … health related research at The Canberra Hospital is under-developed (in quantum and in quality) in comparison to other similar sized teaching hospitals in Australia. The long term consequences of this should not be under estimated.

I think there is a clear warning for us all there that we need to pick up our game in this area wherever and whenever we can.

The Powell review also found that, due to the location of powerful research organisations such as, but not limited to, the CSIRO, the Australian Institute of Health and Welfare, the Population Health Research Centre, the ANU Medical School, the Australian Centre for Economic Research on Health, the Australian Primary Health Care Institute and the John Curtin School of Medical Research, the Canberra Hospital would be provided with opportunities not available elsewhere in Australia.

As I said, the report is worth reading. Those members who are interested in research and development would certainly see a lot of things in the report that we should be trying to further advance in this area within the ACT. I commend the report to the Assembly.

MS MacDONALD (Brindabella) (10.45), in reply: I thank Mrs Burke for her contribution. I should also have mentioned that we visited the Victorian government's Office of Science and Technology when we were in Victoria in 2005.

In closing, I want to make the point that I believe in the ACT we have made quite a few advances in the last few years with the two reports, the Frommer and Reid reports that Mrs Burke mentioned. There have been significant advances with the establishment of the medical school. I think that the medical school, together with the Canberra Hospital, has the capacity to make even more advances. I would recommend that the government support these actions.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 35

MR GENTLEMAN (Brindabella) (10.47): I present the following report:

> Planning and Environment—Standing Committee—Report 35—*Variation to the Territory Plan No 261—Part Blocks 2 and 3 and Block 5, Section 75 Watson*, dated 13 August 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Variation 261 proposes to remove part blocks 2 and 3 and block 5, section 75, Watson, from commercial CZ6 leisure and accommodation zone and replace it with residential RZ1 suburban zone.

The committee notes that this site is capable of residential development and recommends that the draft variation proceed. However, the committee is concerned at what seems to be an increase in the incremental rezoning of CZ6 zones in the ACT, particularly for high-order residential use. There is a risk that substantially fewer sites designated originally as CZ6 will remain for future commercial, leisure and accommodation facilities.

As such the committee recommends that the ACT Planning and Land Authority undertake a strategic assessment of all remaining CZ6 zones in the ACT to determine the current supply and that future variation to CZ6 zones be assessed at a strategic level rather than on a site-by-site basis. The committee also recommends that the ACT Planning and Land Authority ensure that any future loss of CZ6 zoning is compensated for elsewhere in the urban area, including the new greenfields development. Furthermore, the committee recommends that the sewer capacity in north Watson be reassessed, and upgraded if necessary, and that the ACT government review current parking provisions at the Watson local centre and future parking needs.

The committee would like to thank the officials and stakeholders who assisted the committee during the course of this inquiry and to thank Ms Nicola Derigo and James Newton for their assistance. I commend the report to the Assembly.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 36

MR GENTLEMAN (Brindabella) (10.49): I present the following report:

> Planning and Environment—Standing Committee—Report 36—*Variation to the Territory Plan No 281—Molonglo and North Weston*, dated 18 August 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The proposed variation to the territory plan No 281 aims to enable parts of the Molonglo Valley and north Weston to become urban development areas. The majority of submissions to the committee concerning the draft variation highlighted important environmental considerations that need to be adequately assessed and appropriately mitigated prior to the residential development taking place in the Molonglo and north Weston area. Many submissions also considered that the environmental impacts had not yet been adequately assessed in the draft variation.

The committee heard from a variety of scientists, peak bodies and enthusiasts regarding the preservation of woodlands, grasslands and other threatened species' habitats. The committee also noted the strong public objection to urban development in the central Molonglo, despite the 20-year moratorium on development in that region. Central Molonglo includes a significant area of moderately modified woodland and grassland which is relatively intact and connected. In light of the evidence presented to it, the committee recommends that central Molonglo be removed in perpetuity from being considered as a future urban area.

The committee also considers that more can be done to retain and manage remnant pockets of yellow box-red gum grassy woodland in east Molonglo for conservation purposes and that the Kama nature reserve should be expanded to provide a more significant wildlife corridor. Additionally, the committee recommends that further studies be undertaken to assess the impact of development and current populations of threatened and uncommon species, particularly raptors and woodland birds. Whilst the committee notes that a thorough environmental impact assessment will be required to consider the feasibility, environmental impacts and costs of a variety of stormwater management options, the committee recommends that the lake option not proceed unless it receives community support.

The committee recommends that the proposed variation to the territory plan No 281 proceed, subject to the committee's recommendations. The committee would like to thank the officials and stakeholders who assisted the committee during the course of this inquiry, especially the secretary, Ms Nicola Derigo, and James Newton from the committee office. I commend the report to the Assembly.

MRS DUNNE (Ginninderra) (10.52): This is an important variation to the territory plan and it is one that has created considerable interest, and justifiable

interest, in the community. It is interesting to spend some time to reflect upon the process in relation to this draft variation. Almost all the comments that I will make are, in one form or another, about the process and the failure of process.

There was a high level of dissatisfaction from the community with the process of coming to draft variation 281. Although there had been a series of consultations and public meetings, and putting up of displays and things like this, when we actually got to draft variation 281 it was quite apparent to me and to other members of the Assembly that members of the community still felt that they had not been listened to. It was sufficient to prompt a demonstration outside the Legislative Assembly. It is not often—and certainly has not been the case in the life of this Assembly—that a variation to the territory plan has caused people to go so far.

There was also associated with this the process related to the appalling treatment of the occupiers of the forestry caretaker's cottage, which has received some notoriety, and the speed with which the planning authorities and the ministers eventually decided that they were going to have to keep people out, despite the fact that, as a result of that, they had to put up a fence and employ a security guard rather than have occupiers maintain the security of the property.

The community angst was fairly widespread. The Weston Creek Community Council was concerned—as were the principal lessees of the north Weston area, the Arana school, the Baha'i community and the Sikh community—about the treatment of the north Weston area.

Yes, there have been changes which are reflected in the variation of the territory plan, but those changes have been forced by the National Capital Authority, not done through an open and consultative process where the ACT government listened to its electors, had a conversation with them and came to a mutually agreeable solution. This is one of the great failings of process of the Stanhope government. We are now in the situation of saying, "We are a majority government; we can do what we like, we do not really have to listen to the community and we do not have to take account of the impact on the community"—the long-term impact, way after Mr Stanhope and Mr Barr have vacated their offices. There was a high level of anxiety amongst the equestrian community.

For the most part, those issues have been addressed through the draft variation process. But one thing that was peculiar about this draft variation was that, while the committee was inquiring into it, there was a constant updating of what ACTPLA was doing. That is good and bad. It is good that eventually they are listening, but it is unfortunate that the documentation that we were dealing with, and that the public was dealing with, was not fixed. It was difficult to know whether we were talking about the most up-to-date version.

It was interesting to note the unseemly interactions between ACTPLA and the National Capital Authority. I thought that it was entirely inappropriate that officials from ACTPLA, especially, attempted—if I had not been able to prevent this—to use the mechanisms of the public hearings of the planning and environment committee to undertake a running sniper campaign against the National Capital Authority and,

through that, cast aspersions upon some of the consultant reports that both the National Capital Authority and, it seems, ACTPLA had used.

One of the contentious reports that there seems to be some dispute about between the National Capital Authority and ACTPLA has not been made available to the committee. I hope that there were not stalling tactics on behalf of ACTPLA to prevent us from receiving those. We asked the National Capital Authority for a copy of the nghenvironmental consultants' report. They said that this was a jointly funded process so we would have to get ACTPLA's approval for it. ACTPLA has subsequently had an unseemly stoush, saying, "We did not have anything to do with it so we do not care what happens to it." But when you actually ask ACTPLA to agree to release it, that does not happen. Therefore, the committee has not received a copy of the report that it asked for probably some six or eight weeks ago.

There were some other interesting process issues in relation to this variation. The proposed lake is quite contentious. It is on a lot of the maps, but when we drilled down into it we had officials from ACTPLA saying, "That is only an option and that is for decision later down the path." It was interesting to note the public media comment from one of the consultants, Dr Stephen Debus, from the University of New England, who had done a bird study—a raptor study—for this draft variation and who, it turns out, had not been told of the possibility of the damming of the Molonglo River and the creation of a lake along the Molonglo River corridor. He thought he would have had things to say about the possibility of the inundation of peregrine falcon nesting sites if he had known about it. It seems that it is not fair to consultants that they are given a job and they are not given all the information.

Another thing that was interesting was that Dr Debus did say that he thought that he had been selectively quoted in the PA and that his report had much more to say than was brought out in the PA. That is something that we have to be very careful with. When we as a government instrumentality commission consultant reports—specialist reports—we should not be going forum shopping, looking for the good bits and not worrying about the rest. They should be out there and they should be published.

It was difficult that they did not come automatically with the consultants' reports. The consultants' reports were provided to us on request, but it is important that these consultant reports are made available so that the community can make their assessments of them as well.

It was interesting to note the evidence of some of the bird groups, including that of Mr Davey, the President of the Canberra Ornithologists Group, and the statements of Dr Debus—not at the committee hearing, but in the public media—about the inadequacy of the bird studies. Dr Debus said that he was commissioned to walk around the area for a week and take note of nesting sites. The Canberra Ornithologists Group says that the bird surveys that were done in preparation for this are not adequate. As a result of this, the planning and environment committee has made a recommendation that there should be a full year, four-season survey of birds in the area. That needs to be done as a matter of priority.

There are also process issues about the operation of the planning and environment committee. As someone who has been a great supporter of the planning and

environment committee and the work that it should do, and as someone who has, on and off, been a member of the planning and environment committee for about four years, it is a great sorrow to me to have to stand here today and essentially complain about the processes and the behaviour of the chairman of the committee. The chairman's draft for this draft variation arrived in my office at about lunch time on Friday. Because of the absence of some of my staff who were out of the office on business—the other one being ill—I did not receive a copy of the chairman's draft before I turned up to a 1.30 meeting last Friday.

In the course of the meeting that commenced at 1.30, we had a general discussion—actually, a fairly detailed discussion—where the chairman basically talked the members of the committee through his chairman's draft. We dwelt on the recommendations but did not have a page-by-page read through of the committee report. We made some recommendations, we made some changes to some recommendations and we were promised a track-changes copy in the course of the afternoon. I said that I was very happy with that process but that I was not ready to sign off even after the track-changes version arrived because I had not, at that stage, had an opportunity to read the report from beginning to end and I may want to make other changes and perhaps make other recommendations.

There was a discussion about when we should meet to sign this off. There was a bit of a push for having it that we should meet on Monday—that is, yesterday—to sign this off. I said to the committee members and the secretary that I would not be available—that Monday was very difficult for me and that I would not be available—but that I would accommodate members as far as possible on other days.

I was surprised when my office was approached later in the afternoon to meet at 1.30 on Monday, since I had said that I would not be available. My office made it clear to the committee secretary that I was unavailable: that I was unable—not unwilling, unable—to meet with the committee on Monday to sign off on this and that at that stage I had not read it and therefore it would not be possible to sign off on it on Monday. Imagine my surprise when, just before 11 o'clock yesterday, I received a phone call that said, "Mrs Dunne, are you coming to this 11 o'clock meeting of the P and E committee?" I said, "There is no 11 o'clock meeting. It is not in my diary. I have no notification of it and I am unavailable." "Oh, well, you have to come because we are signing off on the report."

First of all I raised this matter with the Clerk. It is not appropriate for a committee secretary to tell me, as a member of the committee, when I am going to sign off on a report. I made the point that I had some substantive comments as well as some editorial comments. "Oh, well, if you have got some substantive comments, you had better raise them with the chairman."—which I thought I would do. I was not able to attend the meeting. I was about to sit down to contact the chairman to make some substantive comments when I discovered that not only had the committee met but the committee had decided to agree to the report. I expressed my dissatisfaction to the committee chairman, who, when I came down at 10.30, had not responded. Soon after that, I discovered that not only had the report been signed off but it had been published.

It is interesting to note that this afternoon after question time the Minister for Planning proposes to table the final variation to the territory plan. What we actually had, without any openness, was good old faithful Mick Gentleman, the lap dog of the Labor Party, saying, "We need to get this variation made." He did not have the courtesy to say, "This is the process. If we finalise it today, the minister can make the variation and the disallowance period will be able to be finalised before the Assembly rises at the end of next week." There was nothing like that. It was just "We're going to push it through. We're going to push it through without the full contingent of members"—when a member had made it very clear that the time that they suggested was unsuitable. There was no particular pleading; it was just "Oh, good, you are not there; we will make this decision." What we have had is the two Labor members of the planning and environment committee signing off on this report.

I do not have any particular concerns or reservations about any of the recommendations that are in this report—I support them—but I had some substantive comments to make to the committee that would have strengthened some of those recommendations and I had some substantive comments for the addition of other recommendations. But the point is that this is a bad process—another bad process fostered by the Stanhope government, whose only desire is to push things through and get their own way. Mr Gentleman decided that this was going to be signed off yesterday, and nothing was going to stand in his way. He should be condemned for that.

DR FOSKEY (Molonglo) (11.07): I want to thank Mr Gentleman for my personally signed copy of the committee report. It is not very often that one gets one of these. But I also just want to make some comments—

Mrs Dunne: They were in such a hurry to print it that they forgot to sign it, obviously.

DR FOSKEY: Yes. Anyway, it is very wonderful to have the report today but it is very disturbing to hear from Mrs Dunne. I thank her for her full commentary on the process, because that is usually what we do not get from chairs. We are going to get the final variation tabled this afternoon and we have not actually had a chance to look at the committee's report.

I want to comment on the report in the sense that I think it is a much better report than we have seen so far on the Molonglo issue. Perhaps the proximity to an election has something to do with that. It is very clear that there was a huge amount of interest in this inquiry because there were a large number of submissions. Of course, there were quite a few public hearings as well. I not only made a submission but also I attended as many of the hearings as I could and caught up with transcripts.

Molonglo, as a town of the future, is absolutely a test case for how the ACT Labor government has taken on issues related to climate change. We are talking about this now in 2008, but people are going to be living here, we hope, in 2050, in the year 3000 and from thereon. We have to be thinking, when we plan this township, of what the constraints are going to be on populations and urban development 50 years hence—even 100 years hence.

I know that the timeline of planning is usually about 30 years. There has been a rule of thumb in construction that we build buildings to last 30 years. Mind you, that is a fairly modern approach. It certainly was not the approach of our forebears who put up the buildings that we now regard as heritage in the late 19th century and early 20th century. Modernism has certainly had its attractions but it has not often led to high quality and durable buildings.

We are going to have to look at this in the context of climate change. We cannot really afford to knock down our buildings every 30 years and rebuild them. Also, we have to make sure when we put in infrastructure, which is the basis of, and usually an unchangeable and intractable feature of, urban design, that it is there for 50 years to 100 years.

And in this light I was very concerned when the ACTPLA planners told me that the road designs—the major links to Molonglo—would be two lanes, with one going one way and one going the other way; a bit like the GDE was. But while there would be room to sort of put in a light rail or a rapid bus transit lane later on, it would not go in at the same cost-effective time as the road.

This is a township for the future, Mr Speaker. This is a township that I was told would be designed in such a way that there would be medium residential development there from the beginning unlike the process we have at the moment where we have a "Kingstonisation" approach where single unit dwellings are replaced by multi-residential developments. The idea is to encourage people to use public transport, to cycle and to walk. Yet we will not make public transport any more attractive. We will force the buses—of course, there will be buses—to compete with cars on those roads. There is not even a recommendation in this report to ask—

Mrs Dunne: There would have been if they had listened to me but I did not get an opportunity.

DR FOSKEY: It is really concerning that the voices of the committee that would have perhaps put that there were silenced. I have to say that I am really appalled by this process. To me it does not seem really any better than what Mr Stefaniak is being hauled over the coals for. I also do not believe the committee has had a chance to meet and actually put that admonition upon the chair. We are talking about a chair here who has acted as, I suppose, a servant of his government. That is his job; he is a Labor backbencher.

Mrs Dunne: No, it is not. No.

DR FOSKEY: I suppose if you regard the party as your employer, it is your job. But if you regard him as the servant of the interests of the community and this Assembly, how disturbing was it that Mr Gentleman did not mention once that a document that the committee had called for had not been delivered?

That is something the public accounts committee is creating a bit of a fuss about. We are talking about the functional review in our motion—a high profile document. I

have not heard Mr Gentleman speak up and support my motion because here we are talking about the integrity of the committee system. After my four years here, I can say that it is one of the best features of this Assembly. It is where people come together and talk and work together for the community no matter what their political affiliation.

I am glad that there is a very short chapter on solar amenity. There is a suggestion that places be sited accordingly. There is actually a recommendation on this. I point out again the glaring lack of a recommendation about increasing the attractiveness of public transport by having in the very first stage of the infrastructure development a rapid transit bus lane that can be upgraded to light rail. How can this government talk about integrated public transport—a sustainable public transport plan—when it cannot even put a recommendation in a report to that effect?

It is deeply disturbing. There is a schism here between the paper policies, the words of Labor members and the delivery. Things can change, however, and the climate change science is making it very clear that they have to change. The response has to be a lot more rapid than we are seeing here. Nonetheless, I do acknowledge and applaud the fact that this report does take into account many of the community concerns.

Turning to biodiversity, has there been a bird study in this capital city in the last five or 10 years? What is happening to our birds? Do we know that? Do we know how many raptors there are? We do not really know from the studies that were commissioned by ACTPLA here. Dr Debus had his points to make. He is a scientist speaking out. Scientists do not do that very often. They are very careful about maintaining their objectivity and their lack of political adherence to one side or the other. But they care and they are passionate about their topic.

He pointed out that there had been inadequate studies. I think that across Canberra we have concerns about introduced birds' dominance. I refer, for example, to the impact of increased numbers of currawongs making this place their home due to drought. There is nothing out there to tell us about it. Biodiversity is one of the big key issues. Not only does it sequester carbon but we have to maintain everything we have and build on it. Therefore the Kama reserve was never enough.

There is still, I see, an option that we could end up with a lake at Molonglo. ACTPLA has realised it is unpopular; so the language has changed. But we have to make sure that it really listens. Lakes are a bit like dams. They are old technology and they really do not answer the needs of the world that we are into today. The Liberals, of course, put up their Tennant dam proposal. We know that that was bad policy. The ACT government has said that over and over again. Labor has knocked it back. Yet here we are talking about a dam on the Molonglo, our last bit of river.

The Molonglo is our responsibility. We are not just looking after it for us. It is part of the Murray-Darling system and we need to consider ourselves in the context of the whole region, in the context of a future where we do not know the challenges. Molonglo is our test case for that. This is a great project. The government can make this the most fantastic place if they want to. *(Time expired.)*

MRS BURKE (Molonglo) (11.17): I will be brief. As a member for Molonglo, I thought it was pertinent that I make some comment on the issues that I have been privy to. Of course, I have not been privy to committee meetings and so forth. I think Mrs Dunne and Dr Foskey have talked about what has happened there quite successfully. What I have seen and what I have witnessed is yet another disgraceful and shambolic process that has gone on here.

This is one of the most significant planning projects proposed for Canberra. Yet we would have had to have seen, from what I am being told and from the bits I have been engaged in, one of the worst processes. When you are looking at it, it almost seems that the government had this idea, they have thought about it, talked behind closed doors, presented it to the community and glazed it over as some sort of community consultation. Already fait accompli, we are then presented with it. Like we see today now, we are going to see some stuff rammed through this Assembly. The government could not care less about the community.

I have been a part of many committee meetings, including Weston Creek Community Council meetings, where this issue was raised by very concerned residents of the Molonglo Valley and north Weston. Dr Foskey, I think, very adequately talked about the bigger picture in the Molonglo Valley. But I think that we have seen here a government being dragged kicking and screaming to the point of finally recognising the community's concerns. This happened only after the Weston Creek Community Council stood up and raised in the community the issue about the arboretums and the gardens.

There was a lack of detail that was out there. This is typical of this government; we have a lack of detail. We have this big project but the community are left behind because you do not give the detail. And the devil always is in the detail. They were not brought along with this process. It was the most frustrating thing I think I have ever watched, sitting in these community meetings where people genuinely were trying to get a grip on what the government was proposing but simply could not.

The poor officials and consultants who came along from the planning body and elsewhere were led like lambs to the slaughter to try and present the case to often very hostile crowds. It is a signature tune of this government that its relationship with this community has become so arrogant and it has become so removed. You are out of touch. You do not know what people are thinking because you do not stop to listen and you do not really care. As long as you can have this plan and it goes that way, it all seems to be some game that you play. Well, you are playing with people's lives again and again and again.

I mentioned the arboretum, the gardens and all of those things. But I think what we saw here too were severe situations around existing infrastructure in the north Weston area with the Baha'i, Sikh and Orana school. Mrs Dunne said that she can now agree to support the recommendations. This is not because of anything that the government did. It is because of an intervention by the community standing up for the community and the intervention of the NCA in terms of hills, ridges and buffers.

We see pressure, pressure, pressure. That is not working with the community. That is not consulting with people. That is riding roughshod. There was a severe breakdown in any proper consultation and dialogue from what I can see. There was huge disappointment with the planning minister in the community to not properly connect and step through the process. His actions and involvements have been found wanting. That does not come from me. Government members should take this on board. You can smirk and laugh all you want but this has come back from the community.

Thankfully, there was some vocal lobbying because if people had not have stood up, this variation would have just gone through as it was. As I have said, I think it is the most significant planning project that we have probably seen. Yet it has been one of the worst processes that we have seen. I think the Canberra community deserve much better.

Mr Speaker, I will leave my comments at that but I think that this government are clearly on notice about the appalling and arrogant way in which they treat this community in relation particularly to planning. Thank you.

MR BARR (Molonglo—Minister for Education and Training, Minister for Tourism, Sport and Recreation and Minister for Industrial Relations) (11.22): I was not going to speak in this debate but Mrs Burke's arrogant, ill-informed and vicious comments about my behaviour relating to this particular variation have prompted a response, Mr Speaker.

Mrs Burke: But the chair of the Weston Creek Community Council—

MR SPEAKER: Order, Mrs Burke!

MR BARR: I would have to say, Mr Speaker, that the allegation from Mrs Burke that I have arrogantly dismissed all of the individuals who have raised issues is offensive. I have spent more time walking around the sites meeting with the individual groups than Mrs Burke has in her entire political career.

Mrs Burke: Late in the piece. Be up front.

MR SPEAKER: Mrs Burke!

MR BARR: I have only been planning minister for part of this process, Mrs Burke; so you should get your facts right before launching into another one of your B-grade efforts. Jacqui B, the B-grade candidate from the Liberal Party, the one who is not even put up in any of their ads. Jacqui with a B—B-grade Jacqui who comes in here and fires off another one of her cliche-laden speeches about playing with people's lives—

Mrs Dunne: Point of order, Mr Speaker.

MR SPEAKER: Do you have a point of order, Mrs Dunne?

MR BARR: making a series of unfounded allegations, Mr Speaker.

MR SPEAKER: Order! Mrs Dunne has a point of order.

Mrs Dunne: There are rules in this place about how members refer to others and "Jacqui B" is not one of them.

MR SPEAKER: Thank you, Mrs Dunne. Mr Barr, come back to the subject matter of the discussion.

MR BARR: Thank you, Mr Speaker. This process has involved detailed consideration and I think Mrs Burke has misunderstood the nature of the territory plan variation—

Mrs Burke: Oh, I see.

MR BARR: whereby on a map of the territory you provide a concept, you provide, if you like, great blobs of rezoning rather than going down to the level of detail that you would in a state development plan.

Mrs Burke: How convenient.

MR SPEAKER: Mrs Burke, I have called you to order twice. Ignore me at your peril. I warn you.

MR BARR: So for Mrs Burke to suggest that a process around a territory plan variation should in the future, presumably under her alternative planning policy, involve a level of detail at an estate and street-by-street level, is to completely alter the way territory plan variations would occur.

I understand, Mr Speaker, that when it came to the detail around north Weston the community required a further level to take it down another layer before they would be supportive of the changes that were proposed. That level of information and extra detail was provided. But to suggest that through the initial phases of this process all territory plan variations will require a level of detail down to an individual street is to fundamentally alter the way that territory plan variations occur, particularly plans of this nature when we are talking about an entire new residential development area.

I say again that I find this accusation from Mrs Burke that there was no consultation, that the government was dragged kicking and screaming, or that the NCA had any particular role outside of its responsibilities around the national capital plan to be ill informed and typical of someone who has not followed the process, who has had no real involvement at all—someone who is providing some grandstanding comments at the end. Fundamentally, it is interesting to note that both Mrs Dunne and Dr Foskey are agreeing with the recommendations of the committee. In the end, all this has been about this morning has been a little bit of point scoring.

We are 59 days from an election and, okay, fair enough, Mr Speaker, you are going to have to expect that sort of behaviour. But for Mrs Burke to come in with her contribution shows what an ignorant contributor she is to public debate in this territory.

MR GENTLEMAN (Brindabella) (11.26), in reply: Firstly, I would like to go back to some of Mrs Burke's comments on consultation. Of course, this is dealt with in the committee's report in paragraph 2.2. Molonglo and north Weston were identified in the Canberra spatial plan in 2004 for the next major potential greenfield area to accommodate Canberra's urban development over the next 30 years and beyond. That is over four years ago, Mr Speaker.

Turning to consultations by the ACT Planning and Land Authority, ACTPLA released the draft variation of the territory plan 281 for public comment for 12 weeks from 31 August 2007 until 26 November 2007. ACTPLA received 158 written submissions and a further 73 online surveys, of which 36 made comments on the proposal. That is quite extraordinary, Mr Speaker, when you look at consultation processes. There were 158 written submissions and a further 73 online surveys with 36 comments on the proposal.

Representatives of ACTPLA and the NCA also made joint presentations to the Belconnen Community Council in September 2007; Weston Creek Community Council on 26 September 2007; and Woden Valley Community Council on 3 October 2007. I was there, Mr Speaker. They were very good presentations. Almost 100 people attended each of those meetings.

Additionally, ACTPLA hosted two drop-in information sessions. One was at the Belconnen library and another at the centre for teaching and learning in Stirling. ACTPLA staff also attended three similar sessions hosted by the NCA at Regatta Point. In accordance with the Australian Capital Territory (Planning and Land Management) Act 1988, the amendment to the national capital plan is required before the draft variation to the territory plan can be implemented. So the NCA started consultations with residents in Weston Creek and that area. This continued right through until the last changes, which I think were on 10 June 2008.

It was a very extensive consultation period by ACTPLA, by the department, by the NCA before the planning and environment committee started its inquiry, Mr Speaker. We commenced our inquiry on 29 April 2008. That was referred to us by the minister. That is four months again of inquiry process into this draft variation. It was a very extensive inquiry. The committee took on board all submissions to its inquiry and looked, of course, at the previous submissions that were sent to ACTPLA and the NCA. It was a very extensive consultation period.

Mr Speaker, I do need to make some comments on Mrs Dunne's presentation earlier on in regard to process by the committee. I think we do need to note the hypocrisy of Mrs Dunne on this occasion in saying that the committee rushed this inquiry and got the report through at the last minute. She is a great sort of supporter, she said, of the planning and environment committee, but it is interesting of course that on each occasion that I have stood here to give a report Mrs Dunne has bagged the committee. Every single occasion that I have delivered a report—

Mrs Dunne: Point of order, Mr Speaker. Mr Gentleman presented a previous report this morning on which I made no comment.

MR SPEAKER: That is a debating point, Mrs Dunne. It is not a point of order.

MR GENTLEMAN: Thank you, Mr Speaker. That is apart from the presentation of that report this morning. You will remember the last time I gave a report here it was the one on the Namadgi draft plan of management. I did comment, of course, when I delivered that report that Mrs Dunne had missed two out of the last four meetings that dealt with that inquiry.

Since then she has missed only yesterday's meeting and, of course, the trip that we did to Sydney to meet up with environment committees from all over Australia. She managed to get there early for World Youth Day, but could not quite come to the last day of the committee symposium there.

Of course, it is always very interesting when we go to start these meetings. For every single meeting since Mrs Dunne has joined this committee she has been late. Mr Speaker, we have had to wait in the committee room. It is quite embarrassing sometimes especially when it is a public hearing and you have got ministers and officials present. We have had to ask our secretary to ring her office for every single meeting since she has been on the committee.

It was hardly surprising to us yesterday when we called a meeting at 11 o'clock that Mrs Dunne did not arrive. I personally took it on myself, Mr Speaker, to ring her office and ask if she was coming down. I spoke to one of her advisers who said no, that she was not going to come down.

Of course, we had agreed to this meeting on a prior occasion. We had agreed last Friday to finalise the report at a meeting on Monday. In the minutes of Friday's meeting it is stated:

> The committee considered the draft report. A final version is to be circulated with amendments for reconsideration at a short meeting Monday, 18 August.

We all agreed to that last Friday. Mrs Dunne had her copy of the chair's draft report. It was dropped into her office Friday morning. The report apparently was misplaced by her office; so the secretary had to get another report. But when she came to the meeting I think it was fairly well run. In fact, contrary to what Mrs Dunne said, we went through the report page by page and agreed on that report, apart from some consideration with grammar.

Of course, this was brought up by Mrs Dunne at the Friday meeting. We noted that in the minutes of the Monday meeting. Mrs Dunne advised the secretary she had grammatical corrections to the report, including changing references to "Molonglo Valley" to "Molonglo and north Weston". They were relevant and the secretary incorporated grammatical changes.

I think it is very hypocritical, Mr Speaker, for Mrs Dunne to stand here and talk about process today when I do not think she is very interested at all in the planning and environment committee process. However, it has been a detailed report; it has been an extensive inquiry. I recommend that the Assembly note the report.

Question resolved in the affirmative.

Work Safety Bill 2008

Mr Barr, by leave, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (11.33): I move:

> That this bill be agreed to in principle.

Mr Speaker, today I introduce the Work Safety Bill 2008. This bill will replace the Occupational Health and Safety Act 1989 with a modern set of work safety laws that reflect the realities of working and doing business in the territory. Almost 20 years ago, the first Assembly enacted the Occupational Health and Safety Act 1989. While this achievement has served the territory well, it has become outdated. There is an urgent need to replace the ACT's safety legislation to address contemporary changes to work and employment arrangements and to address emerging risks such as occupational violence, bullying, stress and fatigue.

The Work Safety Bill 2008 addresses the deficiencies in the current act and presents a modern regime intent on securing work safety for all workers while not hampering business. The development of this bill stretches back to September 2005 and the review by the Occupational Health and Safety Council of the existing act. The council made a wide range of recommendations relating to the current act, including that it should be repealed and new legislation developed. I would like to take this opportunity to thank council members, past and present, for their work in the development of the bill.

The tabling of this bill comes at a time when all governments across Australia have committed to work cooperatively to harmonise occupational health and safety laws. Both the Workplace Relations Ministers Council and the Council of Australian Governments have committed to adopting model OHS laws. While the ACT government is strongly committed to this work, the current ACT legislation needs to be replaced now. COAG's accelerated implementation timetable for national uniformity is very optimistic, and it is possible that model legislation could be delayed beyond 2011, despite the best intentions of all involved. Given the current age of the act, it is not an option to defer the passage of this bill in light of national developments.

Members will be aware that on 6 June 2008 I released an exposure draft of the Work Safety Bill for six weeks of community consultation. I would like to thank the organisations that took part in the consultation, and those submissions have informed the final bill presented today.

The key to understanding the bill is the definition of "work safety". Work safety means the health, safety and wellbeing of people in relation to work, and there are six objects underpinning the bill. They collectively aim to secure the safety of people at work. This will be achieved through the management of risk and the provision of an environment for workers that is safe and healthy, that protects them from injury and illness and provides for their physical and psychological needs.

Fostering cooperation and consultation between employers and workers and the organisations representing them is another important object. The bill also provides a framework for continuous improvement and progressively higher standards of work safety to take account of changes in technology and work practices.

The scope and coverage of the legislation has been extended to better capture contemporary work and employment arrangements. The outdated concept of "employee" has been replaced with a broader definition of "worker", and people who have worker-like relationships will also be covered. This includes employees, independent contractors, outworkers, apprentices, trainees and volunteers who work in employment-like settings. The health, safety and wellbeing of all workers are covered by the legislation. I emphasise that the intention of the bill is to cover only those volunteers who work in employment-like settings. So this does not cover, for example, the vast army of parents who help out with weekend sport.

Today's workplaces are not isolated; they each have potential to generate risks to workers in other workplaces. The bill expands the number of duty holders to ensure that those who impact safety are responsible for their actions. The safety duties have been extended and clarified to ensure responsibility attaches to those who control the generation of risk and who are in a position to eliminate or minimise the risk.

This approach is balanced and not absolute. Duty holders are only responsible for matters over which they have control and only owe a duty to the extent of that control. The principal duty holder is a "person conducting a business or undertaking". This includes employers, principals, head contractors and franchisees. Additional upstream duty holders, such as building designers, designers, manufacturers, importers and suppliers of products used in the course of work are also covered, but, again, only to the extent of their control of the generation of risk.

The bill emphasises the importance of risk management by integrating systematic risk management principles into the bill. These principles require duty holders to eliminate or reduce risk as far as reasonably practicable and to afford the highest level of appropriate protection. Priority is given to the elimination of hazards and the control of risk at the source through safe design of workplaces, systems and items used for work.

Based on the recognition that worker input and participation improve work safety performance, the bill will place a general duty on all employers to consult all workers on matters that may affect their health and safety. The duty to consult will now apply to all employers regardless of the number of workers they have—a significant departure from the existing act. Considerable consultation and analysis have been

undertaken on this aspect of the bill. There is agreement among employee and employer organisations that all workers should be consulted about work safety, and that as long as an appropriate method of consultation is negotiated, there can be a net benefit to business.

To balance the needs for all businesses to consult, the bill provides guidance on what meaningful consultation is, when employers should consult and how employers can consult. The bill provides choice and flexibility on the methods of consultation. Within the flexible framework, the bill allows for the use of traditional workplace consultative methods through health and safety committees and health and safety representatives. The operational aspects of these methods, such as issuing provisional improvement notices and emergency procedures, will be moved to the regulations. Assistance will be provided to industry through codes of practice and guidance material on their obligations under the bill and how to implement meaningful consultation.

I will now outline briefly some further important aspects of the bill. An express right of private prosecutions for unions and employer organisations registered along the lines of the common law position has been included in the bill. This will enable a prosecution to be commenced by a registered employee or employer organisation. The right of the Director of Public Prosecutions is reserved to intervene and take over or discontinue a private prosecution at any time. This express right of private prosecutions only applies to safety duty offences in the bill and does not include the industrial manslaughter offences in the Crimes Act 1900.

Organisations undertaking prosecutions will not financially benefit from the proceedings. Any penalties imposed by the court will be paid to the territory and will be dedicated to the promotion of work safety. These funds will be devoted to the promotion of better OHS practices through the office of the ACT Occupational Health and Safety Commissioner.

The general enforcement and compliance provisions have been updated to ensure application to contemporary work practices and arrangements. The bill provides for the production of documents or information held at locations other than those on which an alleged offence occurred. This is necessary in multi-site work arrangements, such as those in the construction industry and franchise arrangements.

As a model employer, the public sector is expected to set high standards of work safety. Therefore, the bill strengthens the public sector enforcement and compliance provisions. With the exception of prosecution, all other enforcement and compliance tools, such as prohibition notices and improvement notices, will be used. The compliance focus will be on rectifying the situation quickly. Agencies which fail to comply will be named and shamed. The bill will toughen reporting requirements and introduce appropriate review mechanisms.

The bill facilitates the reasonable exchange of information obtained by inspectors with other law enforcement agencies for the purpose of ensuring worker or public safety. The requirements for the notification of accidents have been streamlined and provision included to ensure the preservation of sites following serious events or accidents.

The bill replaces the specialist review authority, which has never been convened, with a two-tier review mechanism. The Chief Executive of the Department of Justice and Community Safety or the appropriate minister will be the initial reviewer, and the Civil and Administrative Tribunal is to fulfil the function of the external reviewer.

The bill will give codes of practice formal evidentiary status. This will enable courts to consider compliance with a code in order to establish whether a safety duty has been met. The bill introduces balanced provisions so that directors and senior officers of corporations who breach the legislation will be liable for their actions. Unlike the NSW provisions, for liability to attach to individual officers, the prosecution must prove that the officer was reckless as to whether the breach would occur, was in a position to influence the conduct of the corporation, and failed to take reasonable steps to influence the conduct of the corporation.

The bill includes a 14-day time frame for the production of documents to an authorised representative. The current provisions for authorised representatives have not changed, and much of the detail will be moved to the regulations. The provisions will allow representatives of employee and employer organisations with members or potential members in a workplace to enter work premises where there are reasonable grounds to suspect that a contravention of the legislation has happened, is happening or is likely to happen.

Lastly, the current Occupational Health and Safety Council and the Occupational Health and Safety Commissioner will be renamed in line with the bill. These provisions are largely reproduced in the bill with modifications necessary to address the revised scope and structure of the bill.

The bill has taken several years to develop and provides important and comprehensive protection for workers in the territory. The bill balances the interests of workers and business and will provide a measured, future-focused approach to work safety. Because this is such a significant bill, the government will seek its passage before the Assembly rises. I assure members that my office and department officials are available for briefing as often as members desire, and I commend the bill to the Assembly.

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

Housing Assistance Amendment Bill 2008
Detail stage

Clause 8.

Debate resumed from 7 August 2008.

DR FOSKEY (Molonglo) (11.47): I seek leave to move amendments Nos 3 and 4 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 3 and 4 circulated in my name together *[see schedule 1 at page 3291]*.

These amendments would ensure that the commissioner for housing would be able to intervene only in regard to affordable housing providers and not when it comes to community housing providers. I would like to read some of the comments that were sent to the government about this matter by community housing providers:

> Community housing providers should not be subject to constitutional change and intervention provisions. Housing providers are alarmed at the extension to community housing providers of regulatory controls clearly designed for affordable housing providers.
>
> As previously mentioned, community housing providers do not require the same level of regulatory oversight as affordable housing providers because they do not receive transfers of government assets, or access new capital injections, or public loan facilities. While they manage ACT housing properties, these remain in public ownership and are only head-leased to community housing providers and cannot be borrowed against or otherwise disposed of.
>
> The appropriate regulatory responses to gross mismanagement by community housing providers are: cessation of funding, return of any head-lease properties and deregistration as a community housing provider. We submit that these avenues are sufficient regulatory controls on community housing providers and further regulatory capacities, such as requiring approval for constitutional changes, direct board appointments, appointment of an administrator or winding-up the provider, are unnecessary and disproportionate.
>
> Community housing providers may also have other areas of interest and activity and it is feasible that even if they cease to be a registered housing provider they may have other operations and assets funded independently, or by other agencies, that should not be controlled or appropriated by the Housing Commissioner. ACT housing providers strongly urge the government to amend the bill to remove any application of sections 25O, 25P and 25S to community housing providers as they are only appropriate for affordable housing providers, to protect the substantial investment of public and private funds envisaged for those providers.
>
> Community housing providers support a requirement that changes to the constitution or rules must be reported to the Commissioner within 14 days after the changes occur or are approved by the relevant registrar, whichever is the later. This requirement could be included in the monitoring guidelines for community housing providers.

Most particularly, I do not believe the government has yet demonstrated why it needs the power of veto on any constitutional changes. I understand the rationale here is that the housing commissioner would not refuse to approve a change to the constitution or the rules of a community housing provider unless he or she was satisfied that such a change would make the provider ineligible for registration. Also, under this bill, providers would not need to apply to the commissioner for approval of minor changes, but the determination of what is and what is not a minor change is in the commissioner's hands.

The ACT is a small place and, however you choose to look at it, things do quite often get personal. It is possible for someone running a small organisation to cast the relevant minister or section of his or her department in a poor light and for there to be hostile reactions that look and smell like vengeance. Small community organisations will feel vulnerable if these conditions remain, requiring subservience to the housing commissioner in regard to all of their operations. It is as simple as that.

Mr Hargreaves: That is a pretty ordinary accusation. I'll show you vengeance. You'll find out about vengeance.

MR DEPUTY SPEAKER: Order!

DR FOSKEY: Mr Deputy Speaker, this is about perception; it is not about actuality. We are all aware that perception counts for quite a lot in politics and elsewhere. The reason why these amendments are included here is not to arouse the minister's ire—

Mr Hargreaves: Well, it worked.

DR FOSKEY: but to ensure that the comments made by the community housing providers are reflected in the legislation because it does seem to me—

Mr Hargreaves: Not happy, Jan.

DR FOSKEY: to be very clear that the community housing providers do have an argument here.

MR DEPUTY SPEAKER: Order! Minister, if you want to play noisily to the gallery, please go and join the gallery.

Mr Hargreaves: A point of order on your ruling, Mr Deputy Speaker: I think that was an offensive remark. I do not play to galleries; I do not have to.

MR DEPUTY SPEAKER: The statement that I made, minister, stands.

DR FOSKEY: I would be very disturbed if the minister's reactions, which I believe are disproportionate and really are out of order, colour his response to my amendments. He would be well aware that these amendments have been made with a great deal of thought. I appreciate the fact that his department has taken on a lot of our concerns and other concerns expressed by community housing providers, and I commend that. I certainly commend these amendments to the Assembly.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (11.53): The government will not be supporting these amendments. With respect to the effect of proposed amendments 3 to 6, I will not make a speech on amendments 5 and 6; I will just indicate our lack of support at the time. I will not bother to speak to them then; I will do it now. These would remove the ability of the commissioner to exercise intervention powers in relation to community housing providers. It is not agreed that

there would never be a circumstance in which the commissioner may need to intervene with a community housing provider as a last resort.

The notion that vengeance might be extracted is offensive in the extreme. In fact, let us go back a little bit in history and think about what happened with the community housing sector. They were an appallingly administered bunch of well-meaning amateurs. What happened was that that part of the sector was reformed. And it was reformed because, if they had not reformed themselves, they were not going to get the monetary support from the government that we put into the sector.

What happened? They did reform. They are now viable; they are the best in the country at the moment, because they were required to reform. We boast about them at the Housing Ministers Council. There is no vengeance. They were assisted by officers of the Department of Disability, Housing and Community Services. Those officers went out of their way; they were subject to invective and to vicious comments that I found objectionable at the time, and I will not put up with it in the public arena.

There is confidence in that sector. Why would you put a $50 million revolving line of credit out to a sector that you did not have any confidence in? Why would you put 142 places out there? Why would I go and officially launch ECHO if I did not have confidence in them? It does not make any sense. That sounds like the paranoid bleatings of people who have been left behind—and so they should be. If people are so worried about it that they are going to say, "Well, somebody might wreak vengeance on me," I have got a very simple message for them: get out of the game; we don't need you. There are plenty of people out there who will come on board. The regime that we are introducing here is already in place in Victoria. We have already had expressions of support from Victoria. In particular, the Victorian Minister for Housing has congratulated us on this move forward.

I am not going to agree to an amendment proposed by people who think they are lilywhite and pure, because they are not. This piece of legislation allows us to have a last-resort power. There is $1½ billion worth of stock, and we are trying to protect the territory's interests while at the same time, and just as importantly, protect the people who live in these houses from possibly going belly-up. If the commissioner has all of these powers, so be it. The commissioner can use those powers to bring people to the table to talk about their viability and make sure that their viability actually produces a good result for the tenants who are living in those homes.

We see the community housing sector as the transitional housing sector. We want it to thrive, and I am getting fed up with people talking down the good work of the officers of my department who have tried, against almost insuperable odds, to make this sector work. And I am sick and tired of petty little kingdoms and fiefdoms sitting out there and thinking: "We don't need regulation, we don't need to have our wings clipped, we don't need any accountability to the government. We don't need any accountability to the public purse. Just give us the houses and we'll look after them. You can trust us; we're not politicians." Quite frankly, I do trust them; that is why we have given them all of this stock. But I am going to have something sitting in the background which protects that trust, so that if anybody betrays that trust we can get them to the table and say, "Let's have a chat about this."

Mr Speaker, I will not be supporting amendments 3 and 4; nor will I be supporting amendments 5 and 6.

MR SESELJA (Molonglo) (11.59): We will be supporting those amendments. To save time, I will speak now to Greens' amendments 3, 4 5, 6 and 8. It seems the minister trusts them so much that we need a whole lot of extraordinary powers. We believe that some of these do go further than they need to, and that is why we support the amendments.

The intervention powers are very intrusive. The government itself says that the community housing sector is not so high risk as the affordable housing sector. The bill is mainly aimed at CHC, the sole affordable housing provider, the government tells us. The government has chosen to ignore requests by community housing providers who have asked that these intervention powers not apply to them.

These intervention powers allow the commissioner to micromanage providers by (a) stacking their boards, (b) appointing administrators to control their affairs, and (c) appointing administrators for the purposes of wind-ups. These powers are very intrusive and confuse the role of government between regulator and participant in the market. These powers are separate to powers elsewhere in the bill to deregister providers—25T—or to withdraw funding or to recall properties provided under head leases. These are more suitable remedies where a community provider is in breach of regulatory requirements.

Deregistration is a very powerful sanction for a breach. If a provider owes the government money or has breached a contract, the government can also use normal legal options and contractual remedies without needing to take over an organisation entirely. There are other controls already available to government which mean that community providers cannot engage in rogue activity. Most community providers are managing ACT government properties under a head lease, and the properties cannot be borrowed against or otherwise disposed of.

Community housing providers can have other areas of activity beyond housing issues—for example, the provision of food, clothing or counselling. The takeover of operations by the housing commissioner may interfere with services and assets that were independently funded for other purposes. I am sure that many in the charitable sector would be concerned by the reach of these powers, and that is why we support the amendments put forward by the Greens.

Amendments negatived.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.01): I move amendment No 7 circulated in my name *[see schedule 2 at page 3292]*.

I thank Mr Seselja for speaking to the other amendments to save time. I will do the same with respect to government amendments 8 and 9. I will not speak on those amendments as they come up; I will just mention our intentions. The government will

amend section 25S to incorporate a mandatory process whereby the housing commissioner will give a registered provider notice and reasons of an intention to exercise intervention powers and the opportunity to respond.

It was never intended that the commissioner's power to intervene would be exercised arbitrarily, which seems to have been suggested by some people who wished to deliberately misunderstand it. The commissioner and her staff are, I think, exemplary in the way they consult people affected by their decisions. However, this amendment will require the commissioner to engage a provider in discussion and negotiation and possible resolution of the issue with the commissioner prior to any formal intervention. Perhaps this requirement that they have to do it will satisfy those people who do not trust the Commissioner for Social Housing. They require this sort of stuff to be embodied in the legislation; perhaps it is an expression of their lack of trust. I do not share their lack of trust. This specific suggestion was made by CHC Affordable Housing, and I welcome their positive engagement with the bill.

It has been suggested that we should rely on the normal processes of the law and, if necessary, appoint an administrator to an organisation that we have concerns about. That process would not produce an outcome that the government would prefer—that is, we want the organisation to continue in its purpose of providing community housing to the target group but within the guidelines established by the commissioner. An administrator would have a different aim, and may simply wind the organisation up. That would, to some extent, protect the government's assets, but it could also result in the termination of the provision of community housing. And that means termination of the lease that somebody has over a property. That means the thing is then vacated and they would have to be chucked out onto the street. There is no way on God's earth that I will allow people to be thrown onto the street.

The section will be further amended to require the development of intervention guidelines, to include an overall reasonableness test for any proposed intervention. These intervention guidelines will be a disallowable instrument. There were a number of people in our consultation processes who sought a disallowable instrument. I think that was a most reasonable request, and I am very happy to oblige that request.

After the commissioner has made a decision to deregister a provider, she must make a statement of reasons at the same time that she provides written notice of the decision. This is in keeping with best practice and administrative procedures, and allows a provider to see why the commissioner has made her decision. It saves the providers some time in deciding whether to appeal to the AAT against the commissioner's decision. I will finish off by saying thank you very much to those people who have brought this issue to our attention, and we are very happy to move these amendments.

MR SESELJA (Molonglo—Leader of the Opposition) (12.05): We will be supporting this government amendment. This amendment adds procedural controls on government interventions. Reasons must be given, warning must be given of the method of intervention and an opportunity provided for providers to argue against it; intervention must be appropriate in the circumstances.

This amendment adds some limits to prevent trigger-happy interventions. This ensures that the commissioner must weigh up all factors and not just use a technical infraction

as a basis for intervention. It allows providers warning and a chance to put their case. This is in effect a show-cause provision and we strongly support these changes. The government has listened to the concerns raised by me in debate and subsequently by providers about the potential abuse of intervention powers, and we therefore support the amendment.

DR FOSKEY (Molonglo) (12.06): The Greens will be supporting this amendment. As have the other speakers, I will speak to the government's three associated amendments in this one go.

The government's amendment to clause 8 ensures that the legislation cannot really take effect until the government has put some intervention guidelines in place.

The government's ninth amendment ensures that the intervention guidelines referred to here are disallowable rather than merely notifiable. I understand informally that, with all the relevant instruments, including the community and the affordable housing standards and the intervention guidelines, I would imagine that this consultation will include not only the actual providers and the peak groups who work with them but tenants' representatives as well. Here I am simply seeking some reassurance from the minister as to the integrity and respectfulness of the consultation process that the government is committing to in this area.

In regard to the government's amendment No 9, in relation to clause 8, I am really pleased that these important guidelines will now be disallowable rather than being a notifiable instrument. Again, a brief conversation with the providers would have made it clear that the added transparency of a disallowable instrument is really important to organisations that are governed by this scheme.

Amendment agreed to.

DR FOSKEY (Molonglo) (12.08): I move amendment No 5 circulated in my name *[see schedule 1 at page 3291]*.

I have already spoken to this but I would like to just add here my response to the government's amendments. Government amendment No 7 would amend clause 8 with a proposed new section. This is again a positive amendment that the Greens support. It provides protection for and integrity of the proper process to govern interventions being made by the commissioner.

I would be interested to know why these provisions have come as a relatively last-minute amendment rather than being part of the original thinking and drafting of the bill. Is it that the ACT government are showing a great deal of sympathetic flexibility to community providers who really, as I think Mr Hargreaves has expressed quite strongly, got their knickers in a knot about nothing? Is it that the department would have much preferred to have ridden roughshod over its community partners and have, in effect, been dragged very late to this issue? Or was it simply an oversight that the last-minute agreement to spend a bit of time listening to community concerns has highlighted, concerns which the government have very properly, and I commend them, taken on board?

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.10): The government will not be supporting the amendment.

Amendment negatived.

MR SESELJA (Molonglo—Leader of the Opposition) (12.10): I move amendment No 3 circulated in my name *[see schedule 3 at page 3294]*.

This amendment removes the power of the housing commissioner to appoint an administrator solely for the purpose of winding up the provider and distributing its assets. The government's proposed section 25S (2) (b) is sufficient. Under that provision there would be scope for an administrator to fix any poor management decisions and trade an organisation out of trouble. By contrast, 25S (2) (c) would allow the commissioner to prejudge an audit by an administrator and would preclude any option of trading a body back into settled waters.

The Corporations Law includes very detailed and well worked out arrangements to cover all aspects of insolvency and wind-up, including appointment of administrators for wind-up. By contrast, this provision is just 13 words. In short, it is a very loose arrangement. The priority of creditors should be dealt with by an independent process, but under this bill the government can be just one of several creditors and yet may take total control over appointment of an administrator.

The independence of the process is thrown into question if the government appoints an administrator to wind up an organisation, especially if the government is also a major creditor and a rival to other creditors. There is a risk that the commissioner may have a favoured firm for provision of administration services. We have seen many times that this government likes sole-source tenders, and small agencies in a town can tend to choose the same organisations.

If one administrator is simultaneously controlling the operations of more than one housing provider, they may have a conflict of interest. The government itself has a conflict of interest. Community providers tell me that they run cheaper operations than Housing ACT does. The government disputes this, but there can be no doubt that there are potential issues of competition between government and the non-government sector. Therefore there is potential conflict between the government's role as regulator and its role as a service provider in the market.

Given the potential conflict, I would prefer that the decision to wind up a provider was made at arm's length from government. It would be logical for the decision to initiate a wind-up to be made by the administrator or by creditors who will be pre-empting the facts for the commissioner to decide upon a wind-up prior to the appointment of an administrator, prior to an independent assessment of the trading position of the organisation and prior to any consultation with creditors.

The bill does not have a focus on options for stay of liquidation, removal from liquidation to voluntary administration or moving back to solvency. The bill provides

for a spectrum of interventions that may ramp up; it says nothing about how the government should wind back this interference. We therefore move this amendment.

DR FOSKEY (Molonglo) (12.13): This amendment removes the specific power of the housing commissioner to appoint an administrator to wind up an organisation registered as a housing provider. I am interested to know why that power is necessary, given that the bill also gives the commissioner the power to appoint people to the board and to appoint an administrator more generally.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.13): The government will not be supporting the amendment.

Amendment negatived.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.14): I move amendment No 8 circulated in my name *[see schedule 2 at page 3292]*.

I have already spoken on the amendment.

MR SESELJA (Molonglo—Leader of the Opposition) (12.14): We will be supporting this amendment. The written guidelines will give certainty to providers to help them avoid falling foul of the commissioner and written guidelines will help the commissioner become more consistent in decisions and will help prevent the risk of erratic or ad hoc decisions. We therefore support the amendment.

Amendment agreed to.

DR FOSKEY (Molonglo) (12.14): I move amendment No 6 circulated in my name *[see schedule 1 at page 3291]*.

I covered this in an earlier speech; I just commend the amendment to the Assembly.

Amendment negatived.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.15): I seek leave to move amendments Nos 9 to 11 circulated in my name together.

Leave granted.

MR HARGREAVES: I move amendments Nos 9 to 11 circulated in my name together *[see schedule 2 at page 3293]*.

I have already spoken on amendment No 9. In relation to amendments 10 and 11, the government will amend section 25T (2) to allow appropriate discretion not to deregister a provider in the event of a minor or temporary breach of a condition of registration. This was recommended by ACTCOSS. It was a very good suggestion. If

we are to say that we wish to make sure that people are viable and help them to do that, it needs to be overt that the option, the discretion, not to go down that kind of path is in the guidelines, in the rules and in the legislation. I thank ACTCOSS for this suggestion; it is a good one. We will make sure that it is not only in there but also out there in the conversations that we have with people.

In relation to amendment No 11, the government will amend section 31A and 31B to permit a review by the AAT of decisions to register an organisation under new section 25A or to deregister an organisation under new section 25T (1). This will provide further safeguards for the providers and ensure that the commissioner is sure of her ground before taking action under these sections. It is another check or balance, depending on which way you want to put it. I commend those amendments to the Assembly.

DR FOSKEY (Molonglo) (12.17): I have already spoken to government amendment No 9. In relation to amendment No 10, it looks to me as if this amendment is there to correct a drafting error. The sections as previously written, before amendment, could have been read to mean that any breach of conditions, no matter how minor or accidental, would require the commissioner to deregister the provider. Of course, it is very good and important that that gets amended.

In relation to government amendment No 11, it is really good to see that the government is agreeing to provide reasons for its actions. It would be very good to see this provision written more regularly into legislation that governs government actions.

MR SESELJA (Molonglo—Leader of the Opposition) (12.18): We will be supporting government amendments 9, 10 and 11. Amendment 9 makes intervention guidelines a disallowable instrument. This obviously will give the Assembly greater scrutiny. I understand that providers sought this change. The intervention guidelines can have significant implications as to who will manage providers and whether or how there may be takeover of providers and dissolution of their assets. These important rules should be subject to scrutiny. It is disappointing that the government did not take this approach initially. Unfortunately, it took a community backlash to prevent them from pushing through what would have been quite an unaccountable regime. We welcome the change.

Government amendment 10, a change to 25T (2), gives the commissioner discretion on registration. Now he "may" deregister for a breach—not "must". This allows appropriate discretion to not deregister an entity where there has been only a minor or temporary breach of registration criteria or failure to continue to satisfy eligibility criteria. Once again, this was a change suggested by ACTCOSS and we believe it is a reasonable one.

Government amendment 11 requires a statement of reasons for removal from the register. This is a reasonable control; it ensures that an argument must be put and published. This will ensure that the commissioner is more careful and will make robust decisions on the sensitive question of deregistering providers. We will therefore support all three government amendments.

Amendments agreed to.

DR FOSKEY (Molonglo) (12.20): I move amendment No 7 circulated in my name *[see schedule 1 at page 3291]*.

In speaking to this amendment, I will also be speaking to my amendment No 9. Amendments 7 and 9 give providers a right to deregister themselves. It strikes me, and it struck the providers, that there should be a capacity for providers to voluntarily withdraw from the scheme or set in place a process which would result in that withdrawal. I understand that there are complexities here. I have no doubt that it would have been possible to draft amendments that dealt with this issue in a way that would more cautiously allow the commissioner to manage the withdrawal process. Nonetheless, it seems to me that this amendment and amendment No 9 are really important. I seek the support of the Assembly.

MR SESELJA (Molonglo—Leader of the Opposition) (12.21): We support this change. As I identified in my speech on the initial, in-principle stage, a key risk is that legislation could potentially become a very heavy-handed regime. It stifles activity by non-government providers. Bearing in mind the powers given to the ACT government under this act to promulgate multiple rules and to engage in extensive intervention in the affairs of providers, it is only fair that there be an opt-out option. The opt-out provision is the logical corollary of the opt-in provision which the government agreed to in its amendment to clause 25A (1); we therefore support the amendment.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.22): The government will not be supporting the amendment.

Amendment negatived.

Clause 8, as amended, agreed to.

Clause 9.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.22): I move amendment No 12 circulated in my name *[see schedule 2 at page 3293]*.

Amendment 12 clarifies the appeal mechanisms under the bill and reflects the avenues that applicants have to appeal decisions made by the commissioner to refuse an application for registration, to suspend or cancel housing assistance, to refuse changes to the constitution or rules and to intervene in the business of a provider or to deregister a provider.

DR FOSKEY (Molonglo) (12.23): This amendment is the result of dialogue with housing providers. Keen observers will note that the new table 31A incorporates a couple of other decisions of the commissioner that will now be reviewable—namely, any decision to remove a housing provider from the register and registering a provider on conditions. These might seem like small changes, but their implications in terms of fairness are extremely significant.

In closing, I would like to add that it is extremely disappointing that the government did not support, for instance, my last amendment and some other amendments. There does not seem to be a lot of logicality to the way the government is proceeding on this bill. It is disappointing. I would hope that logic, best practice and sound evidence guide all the government's actions. In that case, I would hope that this legislation is reviewable, updateable and always open to comment from housing providers. Legislation is only as good as its practice. If this is now set in cement, it would be extremely disappointing to all the organisations that provided comment and feedback to the government.

MR SESELJA (Molonglo—Leader of the Opposition) (12.24): We support this amendment. It reflects other amendments and permits more matters to be reviewable in the AAT. Given the extensive powers given to the ACT government under this act to intervene in the affairs of third parties, it is only reasonable that there be an opportunity for administrative appeals. New appeal rights will be extended to cover decisions on removal from the register and decisions to place conditions on a registration.

While the opposition will support the bill as amended, we have not been comfortable with some key aspects of the bill. I have identified these concerns over the three separate sitting days when this bill was debated. I have moved Liberal amendments and have supported amendments by the Greens and by the government to ameliorate some of the problems with the bill. The government will consult with providers to ensure that it is not a regime that stifles innovation and provision of services by the non-government sector. This means that we have to come back another day to amend the act, and we will do so when numbers in this place have changed.

Finally, I would like to thank Dr Foskey and the minister for their support of various amendments during this debate. I particularly commend the providers in ACTCOSS and SoftLaw who have worked with MLAs to identify the problems and work constructively upon amendments.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (12.26): I want to briefly make one or two small comments on the amendment. I appreciate Mr Seselja's generosity, because we do not like to have people repeating.

I want to express my appreciation to a number of people for the work that they have done in bringing this bill forward. Firstly, I want to thank those people who conducted the consultation process back in November. That was a very good process. I would like to thank the community organisations that assisted in the process back in November. I would also like to thank the organisations who contributed in the recent round of consultation processes. I would like to extend my appreciation to the staff within our own offices—to Dr Foskey's office and your own office, Mr Seselja, for the way in which they have dealt with my office through Jennie Mardel and others. Most importantly, I would like to express my appreciation to David Matthews and Sally Gibson from the department, who have worked very hard and very long and have had a really great outcome. Let us hope that we can all love each other just that little bit more.

Amendment agreed to.

MR SPEAKER: I should explain that that rules Dr Foskey's amendments redundant.

Clause 9, as amended, agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

Sitting suspended from 12.28 to 2.30 pm.

Questions without notice

Schools—closures

MR SESELJA: My question is to the minister for education. I refer to the 2004 ACT Labor Party election policy on education, which states, "The Stanhope Labor Government has kept preschools with low enrolments open for families to access, when the Liberals would have closed them down." After the election, you closed eight preschools. How do you reconcile your decision to close eight preschools with the commitment to keep preschools with low enrolments open, made during the 2004 election?

MR BARR: If Mr Seselja bothered to have any understanding of the education system, he would note that there are preschools with low enrolments that continue to operate in the ACT. The government undertook a comprehensive review of our education system and sought to make some significant changes in order to enhance the quality of education in the ACT. Most particularly in the early childhood area, that meant a significant investment—and not only in increased hours for early childhood education: this government increased the number of government-funded hours for preschool education from 10 to 12. We are also in the process, with our colleagues in the federal government, of further investing in early childhood education. We have established four new early childhood schools in the ACT and we are working with the commonwealth government to see the implementation of 15 hours of early childhood education through our preschool program.

It is very pleasing to see that take-up of the ACT government's preschool program through these enhanced services has seen the number of students enrolled in government preschools increase in recent times—something in the order of 10 per cent over the last two years—as a direct response to the sorts of reforms that the government has introduced in preschool education.

Across every preschool in the ACT, the government has invested money to improve facilities and to improve the quality of education, be that through dedicated programs for professional development for early childhood teachers or bringing into the territory a range of experts to assist the education department and our teaching workforce to achieve world's best practice in early childhood development. Education ministers have gathered—I had the opportunity to meet my colleagues as recently as

two Fridays ago—to discuss the detailed implementation of the federal government's early childhood agenda and the role that state and territory governments can play in that process.

It is an exciting time for early childhood education. The ACT continues, along with South Australia, to be a leading jurisdiction not only in Australia but in the world with. the latest thinking and research around early childhood education—working in conjunction with the federal government, which, for the first time in at least 11 or 12 years, has shown an interest in education. Everyone in Australia except the Liberal Party—

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

MR BARR: believes in the importance of investment in early childhood education. Everyone in Australia—

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

MR BARR: The subject matter of the question relates to early childhood education. Everyone in Australia except the Liberal Party—

MR SPEAKER: It is not about the Liberal Party. Come back to the question that was put to you.

MR BARR: believes that there has been underinvestment in early childhood education. A federal government, under the Liberals, over 12 years, failed to invest in early childhood education. What we now have is a commonwealth government and an ACT government working together to improve early childhood education, to expand the quality of facilities and to expand the number of hours that are accessible for parents, working to develop four new early childhood schools that will involve the co-location of a range of services across education, health, community services and disability services, creating a one-stop shop from birth to eight years, an innovative program to ensure that the ACT maintains its position, leading Australia and leading the world in the development of progressive early childhood policies.

This government is investing record amounts. The most recent budget—2008-09—involved a $13.8 million investment in early childhood education, expanding facilities, expanding the number of government-funded hours for preschool education and working with the commonwealth government to achieve even better outcomes for young children in the territory.

MR SPEAKER: A supplementary question, Mr Seselja?

MR SESELJA: Thank you, Mr Speaker. How can the community trust any of your 2008 election promises when you have failed to honour your 2004 election commitments?

MR BARR: The community need only look at this government's record of investment in education and our capacity to deliver on our commitments in education.

It stands in marked contrast to the sort of policy spendathon—the "We have no capacity to pay for anything so we'll promise the world" position—that is put by the Leader of the Opposition, an individual who has as his shadow Treasurer the most incompetent person in financial management ever to hold that position in this Assembly, a position that is endorsed by the former shadow Treasurer.

MR SPEAKER: Order! Just come back to the subject matter of the supplementary question. Order!

MR BARR: There would be no doubt, Mr Speaker, that in the history of shadow treasurers in this place the person who has shown persistently no ability—

MR SPEAKER: Order! The question was not about who was the best Treasurer in the place. Come back to the supplementary question or sit down.

MR BARR: He showed no ability to fund any commitments. Their position, in terms of any promises that are put in the 2008 election, cannot be trusted because they have no capacity to pay for them. The Leader of the Opposition has suggested in a question to me that the government cannot be trusted to deliver. Over its time in office this government has delivered consistently. It has delivered record amounts of investment—record amounts of investment in education—and has put a priority on quality in our system and on assisting those students in need. Be it through dedicated Koori preschools, early intervention and the range of programs that we have in the education portfolio aimed at assisting preschool aged children who need that additional assistance, this government has delivered the resources. It has the passion and the commitment to deliver in these important areas.

We have a once in a generation opportunity now with an ACT Labor government and a federal Labor government focused on early childhood education. In Maxine McKew we have a parliamentary secretary at the federal level who is devoting her entire time as a federal member of parliament to improving early childhood education. She is doing an outstanding job. We look forward, in partnership with the ACT government, to the implementation of a forward-thinking and progressive agenda for early childhood education. Our record stands in marked contrast to that of the rabble opposite. It is the same circus, just a different clown in charge.

Health—general practitioners

MS MacDONALD: My question is to Ms Gallagher, in her capacity as Minister for Health. Minister, could you update the Assembly on measures that the ACT government has taken—

Mr Pratt: The deputy minister for propaganda.

MR SPEAKER: Mr Pratt, order!

MS MacDONALD: Minister, could you update the Assembly on measures that the ACT government has taken over the last five years to support general practice health services in the ACT.

MS GALLAGHER: I thank Ms MacDonald for the question. Over the past five years, this government has been fighting for better access to general practice for our community. We have recognised that rates of bulk-billing and GPs per capita in the territory are the lowest in the country and we have been working to fix it. I acknowledge the pressures that the current shortage of GPs in the ACT has placed on our community. I say to those hard working general practitioners who work every day to support our community that we acknowledge their efforts.

The previous health minister successfully lobbied for key parts of the ACT to be declared areas of workforce shortage. This has provided key incentives to areas of the ACT to attract and retain GPs. As a government, we have been lobbying consistently since then for the federal government to recognise the whole of the ACT as an area which should be able to access this incentive program. To date, we have not been successful in achieving that, but the lobbying continues.

We have also included funding for a pilot program to rotate junior doctors into GP practices to promote this as a career option. The ACT government is also conducting research into the needs of sessional doctors and has recently funded a marketing and support officer with the aim of attracting GPs to the ACT, working in partnership with the Division of General Practice.

I have written many times to seek additional GP training places to be allocated to the ACT. At the moment I think we get eight training places a year, and that is not enough, in terms of the numbers of GPs that are wanting to retire. So we can't replace the workforce we already have. The ANU Medical School is continuing to provide results. This year, for the first time, more interns are wanting to come and work in the ACT than places were available through the IMET scheme. That is not to say there were not places available for them in the hospital, but in the past we have needed IMET in order to guarantee that the numbers of our intern positions were filled every year.

This year, I was able to contact the New South Wales minister for health directly and reach an agreement with her which will allow for the appointment of 14 graduates who were unsuccessful in securing an internship through the IMET process. We now need to look in the longer term at our relationship with New South Wales, but I would like to put on the record that we could not have operated the Canberra Hospital if we did not have IMET in place. They have guaranteed us doctors to come to the ACT when we have not had our own locally trained graduates coming through.

ACT Health is also developing new initiatives to support GPs in their care of the community. Within the context of the ACT primary healthcare strategy, we are developing a community acute and post-acute care program, which aims to reduce the barriers to the provision of care in the community for patients with acute conditions. Further, we are working closely with the GP working group to improve GP services. It is a very significant group, as it sets the direction and strategies needed to address GP shortages in the ACT.

We also have the excellent CALMS after-hours GP clinics, supported by virtually all GP practices in the ACT, which provides after-hours GP services in Belconnen,

Woden and Tuggeranong. And we work very closely with the AMA and the ACT Division of General Practice. The key to delivering the change that we need in the workforce is to work with those key stakeholders.

I will ensure that the views of all GPs are heard in relation to our addressing workforce shortage, redevelopment options for community health and aged-care services. As we move forward on our complete reconfiguration of public health services in the ACT, we will need to work closely with GPs, general practice staff and ACT health professionals.

This is the approach that we have taken. It is a very difficult issue to solve, but I think the measures I have outlined today are sensible, realistic and achievable—all things that are in direct contrast to the opposition's latest election stunt. They have released a policy that they cannot deliver; they cannot legally deliver it. They cannot keep the promise that they have made. It is a desperate policy. After four years of coming up with nothing, they have come up with something that rips in excess of $30 million out of public health services and puts it directly into the private health system. It is a policy that is flawed on a number of fronts. As people get an understanding of the policy and the fact that it can't be delivered, the ACT community will vote with their feet, as they did in the last election, on health. It is a dangerous policy and it is one that will upset the balance of private and public health here in the ACT. *(Time expired.)*

MR SPEAKER: Supplementary question, Ms MacDonald?

MS MacDONALD: Thank you, minister. Are there any other measures the ACT government has taken in this area?

MS GALLAGHER: As part of the billion-dollar overhaul of the ACT health system, the Labor government has announced the innovative development of walk-in clinics. These clinics are nurse-led outposts of the emergency department and will provide after-hours support. In the wake of the Wanniassa practice closure, I have already announced that we are fast tracking this work to establish a walk-in clinic in Tuggeranong.

These clinics are based on internationally tried and tested solutions, most notably in the UK. Officials from ACT Health recently visited the UK to see these clinics and were impressed by their operation. It is just another example of the government working with stakeholders to develop evidence-based and well thought out policy for the benefit of the community.

Look at the policy that the Liberals have announced today. They have promised to open three bulkbilling practices, government-run, in south Tuggeranong, Gungahlin and west Belconnen. Let us begin with the fact that the ACT government cannot provide bulkbilling clinics. We cannot employ GPs and draw down on the MBS. It is not legal—it is not allowed under the Health Insurance Act—without express permission and agreement of the commonwealth government. So, unless you have that, your policy, as it is announced, is something that you cannot deliver on, unless you are paying the full cost of every consultation.

They have also announced that they will be spending $5.9 million on capital funding to establish these three clinics. The Gungahlin clinic alone will cost $18 million.

Mr Seselja: It's a fit-out. You're wrong again. Wrong again.

MS GALLAGHER: There will be three clinics—capital cost, into private business—again the detail of the policy is being thought out as they respond to my comments here. If they are fitting out private businesses, then there are rules around procurement Mr Seselja. You have to operate on a level playing field. You cannot go and pick a GP surgery in south Tuggeranong and say, "Oh well, the government will give you some extra money" but not allow a proper, open tender process, which cannot be prescriptive around location.

This is an amazing policy from the Liberals, in the sense that it is unachievable. It cannot be delivered upon and it really misleads the ACT community. It treats GPs unfairly. It sets them up against each other. GPs that have been working hard and delivering to the ACT community are not eligible for the incentive programs that Mr Seselja will offer to those who come from outside.

Where will these 60 GPs come from? It is not an issue if they cannot afford to operate in the ACT; the issue is that there are not enough GPs across the whole of Australia. The private market at the moment is offering GPs $500,000 to relocate business. I repeat: $500,000. But GPs are not motivated by money. The GPs that work tirelessly for this community will be put in direct competition to the scheme that Mr Seselja wants to set up.

Not only can you not offer ACT government-funded bulkbilling services—you could not do it unless you had the agreement of the commonwealth, and I would be very surprised if you did—but also you will offer incentives that work against those GPs currently in our community working hard that will not be eligible for them. There is a whole range of competition issues and there is a whole range of procurement issues that you, if you ever get in government, will need to abide by.

This is the policy of failure. It is a policy that cannot be delivered upon. It is a promise that you cannot keep. You need to come and front up to the community and let them know that. You cannot deliver this, not in any measure. Not at any level can this policy be delivered upon. One day when you are in government—if you ever are—you will need to understand that you cannot respond with kneejerk, populist reactions to issues that are complex and deserve the full attention of government and working with the stakeholders. As the Division of General Practice said to you today, "Talk with the stakeholders. Talk with the general practitioners." One GP asked me today whether they would offer her $75,000 to stay here and work.

Mr Pratt: Excuse after excuse.

MR SPEAKER: Order, Mr Pratt! Members of the opposition should cease interjecting, please.

Schools—early childhood

DR FOSKEY: My question is to the minister for education and concerns the refurbishment of all those schools that are being redeveloped as early childhood schools. They include Isabella Plains, Lyons, Narrabundah and Southern Cross. Can the minister please assure the Assembly that in this process there has not been any waste or destruction of usable equipment such as computers, furniture, gas heaters, musical instruments and so on and that every effort has been made and is being made to reuse and/or recycle such resources?

MR BARR: I thank Dr Foskey for her question and her interest in the government's program of renewing early childhood education in the territory.

Dr Foskey, you are correct to identify a significant program of capital investment in those new early childhood schools. In relation to the specifics of your question, I suppose we can get down to semantics about—I think you used the word "usable" or "reusable". It certainly is the policy of the Department of Education and Training with all equipment, be it electronic or otherwise, that, where it is able to be reused or recycled, that occurs. That was the process that was undertaken in relation to equipment from schools that were closed in 2006-07.

My understanding is that the department has a very firm policy in relation to the reuse of equipment. Where it is of any value to either the new early childhood schools or any other school in the school system, it will certainly be put to use. If it is not of any value to any of the schools but can be recycled, it certainly should be recycled. It would remain to be seen what would not fit into those categories. I would need to take some advice from the department in relation to any specific items that could not be reused or recycled; that is obviously not a level of detail that I have with me at the moment. I am happy to check with the department. If there is anything that cannot be reused or recycled, I will advise Dr Foskey.

MR SPEAKER: Supplementary question, Dr Foskey?

DR FOSKEY: When it does embark on refurbishments such as this, does the department ensure that other users or tenants on sites are aware of refurbishing plans and well enough informed that they can evacuate all their records, equipment and materials where they are affected?

MR BARR: In relation to the early childhood schools at Isabella, Lyons, Narrabundah and Southern Cross, there certainly was a degree of consultation. Members would be aware that, in relation to the Lyons school, no work is occurring until the end of this school year. At Southern Cross, Isabella and Narrabundah, particularly at Narrabundah, there would be some other tenants who would be in the entirety of the school buildings. As members would be aware, the utilisation rate of those particular schools was particularly low, so the ability to undertake work in a different part of the school is possible as part of the refurbishment. Of course, it has been slated since 2006 that this work would take place throughout 2008 and into 2009.

The department would seek to engage with all of the stakeholders, everyone who has been involved through each of those school communities, in relation to the redevelopment proposals. If Dr Foskey has a specific issue that she would like to bring to my attention, I would welcome that, but I am not aware of any group that has not been consulted in relation to the redevelopments on the sites. It has been a very public process, the subject of many questions in this place and elsewhere.

Health—general practitioners

MRS BURKE: My question is to the Minister for Health regarding GP clinics. Minister, on 13 May 2007 you said that more effort was needed to improve the ACT's bulk-billing rates and I quote:

> … we're way below and we should be treated with a separate solution to our individual or unique needs.

Since this statement the community has lost another GP clinic whilst you have said there is nothing you can do. Minister, isn't it true that your record is one of fewer GPs and fewer suburban services over the last seven years?

MS GALLAGHER: I thank Mrs Burke for the question and the opportunity to talk again about the issues of GPs and bulk-billing rates. You need to understand how the primary health care system works and that most GPs in the ACT make their own individual decisions around bulk-billing. Most of them in the ACT do not bulk-bill and usually that is for the reason of the profitability of their business—the need to employ additional staff, such as practice nurses who are doing a lot of work in the practices now. If you ask any GP and the Division of General Practitioners—which obviously I know none of you have, in coming up with your incredibly flawed policies—you will find that GPs bulk-bill where they can but, in order to keep their business going and run their overheads, they need to operate their business at a profit.

We would like to see bulk-billing rates increase. We have seen them increase in recent years. In fact, between 2005 and 2008—so your question is wrong, Mrs Burke, but you are used to that—bulk-billing rates have increased by 10 per cent. Do you know why that is? It is because Primary Health Care came to the ACT and opened their two clinics that you have been bagging publicly in the media for some time. The single biggest change that has occurred is that Dr Bateman has opened Ginninderra Medical Centre and Phillip Medical Centre. He has filled a gap in the primary health care sector in the ACT by doing that. He has extended hours. The difference is that he is operating an extended hours service, a bulk-billing service and several add-ons to the general practice regime. That is how he runs a profitable business, and 20 per cent of the ACT community have walked through his doors and benefited from bulk-billing rates. That is why he is an important player, or Primary Health Care is an important player, in the primary health care industry.

I spoke in my previous answer about all the initiatives that we have taken to support general practice, but there has to be an understanding from the opposition that general practice, the Medicare benefits schedule and bulk-billing are the responsibility of the

commonwealth. They are not the responsibility of the ACT government. The ACT opposition, having taken the policy decision and now decided that it is the ACT government's responsibility to fund private GP practices through capital improvements, through incentives and then supposedly run a bulk-billing service of their own—which, as I have already gone through, they cannot do legally do—I do not think the commonwealth is going to say, "Okay, ACT, we're going to allow you to cost shift directly to us and this will not be replicated across the country."

The policy decision that the ACT opposition are taking is that they will stop looking after the public health system in the ACT, the public hospital infrastructure and the public delivery of services, and their key focus will now be on the private health system. We notice in today's *Canberra Times* that Mr Seselja has endorsed my vision for the health infrastructure plan of the future. I think that just shows that there is nowhere for the Liberals to separate themselves on public health. They have accepted our plan. The only place for them to go now is to fund private general practice, to take the decision that a Liberal government, which is usually about a free market and allowing small business to operate on a level playing field, is going to directly intervene in the market, support one group of GPs over another and mislead the ACT community by saying that you can open three bulk-billing general practices across the ACT when you cannot do it. You know you cannot do it; you know you cannot deliver it. It is a promise that you cannot keep and you know it.

Mr Pratt: You bet we can.

MS GALLAGHER: It is a promise that you cannot keep and you know it.

Mr Pratt interjecting—

MR SPEAKER: Order!

MS GALLAGHER: All's fair in love and war, isn't it? You guys are going to campaign on a promise that you cannot keep and that is misleading the ACT community. You cannot deliver it. You are going to take $30 million out of the public health system to provide incentives in the private health system. What are you not going to build? Is there to be no mental health facility, no intensive care unit, no new women's and children's hospitals, no cancer centre of excellence—

Mr Pratt interjecting—

MR SPEAKER: I warn you, Mr Pratt.

MS GALLAGHER: Because you will be too busy focusing on your intervention in the private general practice market. That is where you are going to be. You are going to take your eye off the game. The ACT government's job—it is the job of any government, regardless of political flavour—is to concentrate on public health services.

MR SPEAKER: Mr Pratt, just so you cannot claim you did not hear me, I warned you about interjecting.

Mr Pratt: I didn't hear that, Mr Speaker.

MR SPEAKER: Just to clarify.

Mr Pratt: Thank you for the clarification, Mr Speaker.

MR SPEAKER: Is there a supplementary question?

MRS BURKE: Thank you, Mr Speaker. Minister, do you stand by your statement regarding GP clinic services in the suburbs that there is "nothing you can do"?

MS GALLAGHER: I think I have answered that, in the sense that the ACT government does not have a role to play in where general practice sets up and how it operates. It is a private business running a service to the community. The ACT government does not have a role—and it has not had one in the past—in regulating that. I understand, in relation to issues around Wanniassa and the loss of that local medical service, that is a loss to that community and we would like to see it open. I have been working to try and do that. I do not think we are going to be successful in that location, but we will look at making some land available quite close to that medical centre to make sure that for those GPs who are interested, if they do want to establish a practice there, there is land available in order for them to set up that business.

That is the ACT government's role. That is a realistic response to the current problem. It is not a knee-jerk reaction like the one we have seen today from the Liberals when they announced a policy that they cannot deliver on, a promise to the community that they cannot meet, for a whole range of reasons: one, the law; two, things like procurement processes; three, issues such as competition and having preferential treatment for one group in an industry over another. As we get the detail—and we have not got the detail, of course; even though they have said how open and transparent it is and everything will be on the website fully costed, fully funded, whatever, it is not there—

Mr Seselja: Where are your costs?

MS GALLAGHER: I am talking about you, Mr Seselja. You were on the radio today—"It's on the website, it's all there, it's all fully funded." It is not on the website. It might be quickly being posted now, dare I say, if someone is listening, but there is no detail. There is no detail about this and so what we are going on largely are the details that the *Canberra Times* had and some of what Mr Seselja has announced today on the radio. From that there is already a crack at every stage. There is a crack on the bulk-billing clinics, there are cracks emerging on the incentives, there are cracks in the capital component. It is embarrassing for them, but it is true. I imagine that is why the detail is not going up, while they quickly work out how to fix these little cracks and make sure they make the policy as palatable as it can be in light of the fact that they know they cannot deliver. It is a desperate policy from an opposition that have been fighting each other four years. Finally it has dawned on them: "There's an election coming; we'd better come up with something." Yes, the issue of GPs is

right at the top of issues in the community, but it is not something that you can respond to in a knee-jerk way like this. It is clear that you know you are not going to win the election because this is a policy that you know you do not have to deliver on.

Planning—omission of retail restrictions

MR MULCAHY: My question is to the Chair of the Standing Committee on Planning and Environment. Chair, in the wake of several well-publicised errors made within the ACT Planning and Land Authority, including the failure to include in the deed of agreement for the sale of a site in Civic an addendum limiting individual retail outlets on the site to 300 square metres, I wrote to your committee on planning and environment on 23 July requesting that the committee conduct an inquiry into the management of ACTPLA. My letter is yet to be acknowledged. Has this correspondence been considered and, if so, when does the committee intend to respond?

MR GENTLEMAN: Thanks, Mr Mulcahy, for the question. I can say that the committee has received your correspondence. I have noted it myself. I understand that it is under consideration for reply. I will get that reply to you as soon as we can.

MR SPEAKER: Is there a supplementary question?

MR MULCAHY: Thanks, Mr Speaker. Mr Gentleman, why was the committee not able to consider a simple piece of correspondence in almost a month?

MR GENTLEMAN: The committee has considered it. We have noted the correspondence and it is ready for a reply.

Sport and recreation—swimming pools

MR SMYTH: My question is to the Minister for Tourism, Sport and Recreation. Minister, late last week, people in Tuggeranong who use the Tuggeranong swimming pool, such as mothers who have already paid for learn-to-swim classes that are meant to start on 1 September, and clubs training young athletes, learnt that the pool would not be back in service on 2 September as promised; rather, that it would not be back in service until December. Minister, why should the community trust you to build a pool in Gungahlin on time and on budget or replace the Civic pool dome when you can't perform basic maintenance on the Tuggeranong swimming pool?

MR BARR: In marked contrast to the opposition, the government believes in ensuring that projects of this nature, a $4 million refurbishment of what is a major sport and recreation centre in the Tuggeranong Valley, are done correctly.

Mr Smyth: But not on time and on budget.

MR SPEAKER: Order!

MR BARR: When it comes to a choice regarding public safety, in the initial work on the centre, when the centre was first constructed, obviously, some of the issues around

the tiling of the pool were not adequately addressed, such that a problem presented itself over the life of the pool in that tiles would come loose. That created a number of issues for public safety. Upon draining the pool and undertaking a full geotechnical analysis as to whether it was ground movement that was responsible for the tile popping, that work has concluded that tiling is an appropriate response but that a specific sort of tile that needed to be sourced from overseas would be appropriate.

The project manager has, amongst his work, a pool for the Commonwealth Games in Melbourne, the Canberra international aquatic centre and the Melbourne convention centre facility, so he is a project manager with considerable experience.

Mr Smyth: Don't hide behind the project manager.

MR SPEAKER: I warn you, Mr Smyth.

MR BARR: With respect to his advice and views on how this project can be completed safely to ensure public safety in the long term, that it is done right and that the tiles that are replaced will not suffer the same fate as the ones that were put there when the facility was originally built, he has advised the government that it will take more time, firstly, to source the tiles from overseas and, secondly, to ensure that they are laid correctly and that a two-week curing period is provided.

We do not want to cut any corners or compromise public safety, as Mr Smyth seemingly would like us to do. This is the new Liberal Party position: to hell with community safety, to hell with ensuring that the project is done right, let us just ensure that things open on a particular day. The government's position is that this work needs to be done right. We need to ensure that the right tiles are put in, that we will not have the problems that this centre has experienced previously, and that, if you are going to invest $4 million in refurbishing a facility—a much-needed refurbishment—you do it right. That is what this government is doing.

In relation to the delivery of other projects, I noted in Mr Smyth's press release that he raised the question of what would happen for swimming as part of the Pacific School Games if the refurbishment at the Civic pool is delayed. Just a cursory bit of research, by checking the website of the Pacific School Games, would indicate that the swimming competition is being held at the Australian Institute of Sport, and that the diving area is not the subject of the refurbishment at Civic pool. It is the dome that is being removed and replaced.

So here we are: Mr Smyth is caught again, failing on even the most basic understanding of the biggest event that this territory is hosting this year, with more than 5,000 competitors coming from a number of countries and all around Australia. It is the biggest event in tourism, sport and recreation, perhaps, outside Floriade—so it is the second-biggest event, but the biggest event in sport and recreation and an area that Mr Smyth professes to have some interest in, and he does not even understand where the swimming is occurring.

He puts out this sort of press release, a typical Brendan Smyth press release, asking 20 million questions, poorly researched, all aimed at scoring maybe a minor political

point, but in the end the question on the fundamental issue around the refurbishment of the Lakeside Leisure Centre in Tuggeranong is: do we want the job done right and do we want to ensure that public safety is not compromised? The answer, clearly, is: yes, we want the job done right, and we are prepared to take a little longer to ensure that the sorts of problems that were occurring in that pool, with tiles popping out of place and having the potential to cause significant issues for public safety, do not occur and that we get the right tiles in place. If that means importing them and taking the advice of an experienced project manager who has delivered pools that include ones used for the Commonwealth Games then I think we will take his advice over that of Mr Smyth on this issue.

MR SPEAKER: Is there a supplementary question?

MR SMYTH: Thank you, Mr Speaker. Minister, what compensation will be provided to swimming clubs to make up for the unexpected cost of the additional three months of closure? How much will be provided and what will be the source of these funds?

MR BARR: The government, through Sport and Recreation Services, has been meeting with and advising each of the stakeholder groups, including, of course, the operators of the facility, around the delay. There are further meetings to take place throughout this week. I have indicated that, given the extra delay, it is appropriate that compensation be given to those organisations which are disadvantaged, and I will take further advice on the size of that compensation once these particular meetings have occurred.

Emergency services—response times

MR GENTLEMAN: My question is to the Minister for Police and Emergency Services. Minister, what impact has the additional resources provided to ACT Policing by the ACT Labor government had on response times?

MR CORBELL: I thank Mr Gentleman for the question. I am very pleased to report to the Assembly that for the first time since the implementation of a policing contract with the Australian Federal Police, the Australian Federal Police have effectively met all of their response times when it comes to calls for assistance from the Canberra community. This is a very important step forward. For the first time, we are seeing police meet their response times for all four categories of calls—priorities 1, 2 3 and 4.

What is particularly pleasing is that this has come about because the ACT Labor government has put more police on the beat than ever before. We have funded 122 extra police. That means that the police have been able to put a third shift on at critical times throughout the week and we are now seeing excellent response times.

In relation to priority 1, tier 1, which is the highest priority of calls, we expect 60 per cent of those calls to be responded to in terms of police attendance within eight minutes. I am pleased to say that in 2006-07 the response times were 80 per cent of those calls within eight minutes. In the most recent period, 2007-08, for the quarter concerned, it is over 80 per cent.

For priority 1, tier 2, we expect 90 per cent of all those calls to be responded to within 12 minutes. Police are now achieving close to 100 per cent within that 12-minute period. The priority 2 and priority 3 areas are also particularly pleasing. Priority 2 has always been the challenging area. I am pleased to say that in 2006-07, they achieved 80 per cent within 20 minutes; the target was 60. They are now achieving closer to 90 per cent within 20.

This highlights the very timely levels of services we are now getting from our police service. And it is only because this government has been prepared to put more police on the beat to make that very significant investment, approximately $30 million per annum, to increase police attendance.

It disappoints me that those opposite do not seem to particularly care about these improvements. For year after year we have heard the commentary from Mr Pratt and others about their concern about lack of responsiveness by the police. Where are they when the police deliver? They should be congratulating ACT Policing for the very significant efforts they have made to improve their response times.

We will be working even harder into the future to continue to improve police response times. Members will be aware that the government has announced its intention to provide funding for the Gungahlin police station to operate on a 24-hour-a-day, seven-day-a-week basis. That means an extra 24 police; it means an extra two patrol cars to look after the Gungahlin area on a 24/7 basis. That does not just mean better response times for Gungahlin; it also means better response times for the Belconnen region because it means that Belconnen station will not have to respond to calls in Gungahlin outside normal operating hours.

Those are the achievements that we have seen in response to the government's investment in police resources—better response times, timely response times and a stronger police presence for our community.

Gas-fired power station

MR PRATT: My question is to the Minister for Health, Ms Gallagher. Minister, following your announcement that the health impact assessment steering group would be disbanded, two of the highly regarded experts on the group have made public statements condemning your decision. In the *Canberra Times* yesterday, Professor Capon and Dr Kelleher, in a joint letter, wrote, among other things, that by disbanding the HIASG "it is clear that the ACT government have lost the trust of the community in the planning process for this development". Minister, hasn't your government lost the trust not only of the community but also of the independent experts that you, yourself, had appointed? It is very sad.

MS GALLAGHER: I thank Mr Pratt for the question. It is a good one to get. When we look at the campaign material that you were doorknocking around Tuggeranong we see that it said, "Why won't the government commit to an environmental impact statement?" There was criticism in your media release when we announced the health impact assessment saying that it did not go far enough. Mr Seselja: "narrow terms of

reference. Doesn't go far enough. The community want an EIS". Mr Smyth said the same thing. Canberrans talking about the relocation of the power station said the same thing. Dr Foskey said the same thing.

Everybody—even those who attended those health impact assessment public meetings—the first public meeting and the second technical meeting—called for an EIS. They said a health impact assessment does not go far enough. The health impact assessment was a process I commissioned to respond to specific health concerns being raised with me as the Minister for Health. It was a very set criteria—the terms of reference were set.

Mr Pratt, are you interested in the answer? It is polite to listen to the answer that you have asked for. There were community concerns and the health impact assessment was set up to look at the health impacts. Subsequently to that, the independent planning process advised their minister that they thought a full environmental impact study should be done. That decision was taken. I guess events were overtaken by that decision. There was no need to have a non-statutory process continue looking specifically at health. I established the steering group to provide advice to me. I was no longer in charge of that process. The statutory process needed to continue.

I got an email from one of the members of the steering group congratulating us for having a full environmental impact statement done. She indicated to me—it was one of the co-authors of that article that you refer to—that she felt that that was a good way to respond to the community's concern. Other members of that committee have also confirmed to me that they feel a full EIS is the way forward.

I accept that Professor Capon is not comfortable with that decision. That is regrettable. I will be meeting with Professor Capon to talk through some of his concerns. The position of the government has been clear from the word go. There is an independent planning process underway. That process established that an EIS needed to be done. They referred that advice to their minister. The minister accepted it. That is now what is happening.

All the issues that the community were concerned about, including the health concerns, are now part of that work. They will all be looked at. I have given my assurance to Professor Capon about that. I have even given him an assurance that there will be a meeting between him and the people doing the EIS to hand over some of those particular areas of concern. As you learn, you find that there are decisions that you take that people do not agree with. Professor Capon has not agreed with my decision in this instance. I no longer needed a steering group to report to me because I am no longer in charge of that process. The EIS process is underway.

MR SPEAKER: Mr Pratt?

MR PRATT: Thank you, Mr Speaker. Minister, how is the full HIA-EIS process improved by not having these independent experts involved?

MS GALLAGHER: This is something that obviously the opposition cannot understand. It is very clear, if you have taken the time to read the Health Impact

Assessment Steering Group's terms of reference, that the work that was to be done on the HIA was to be done by expert external consultants. That work continues. There has been absolutely no change to that at all. The people who are actually doing the work are still doing the work, and they will feed in to the EIS.

The steering group was set up to provide advice to me on the technical aspects of that work. I am no longer in charge of that work. It is part of a broader process. So the steering group no longer need to report to me. That is the change. The steering group were a group that I set up to provide advice to me, Mr Pratt, on the work that an expert external consultant does. The expert external consultant is still doing all of that work. There has been absolutely no change at all. In terms of your question, there has been no change. The HIA will be as good as it was going to be, regardless of whether the steering group were involved, because they were there to feed to me information from the group. Mr Pratt has said, "I call on Mr Stanhope, Mr Barr and Mr Hargreaves to publicly commit to an independent and open EIS for the data centre." Further, he said:

> … the Chief Minister still refuses to request an EIS and has only now allowed his health minister to request that an independent health survey … But nothing short of a fully independent and audited EIS would be acceptable regarding the projects …

Mr Stanhope: That's why you're in the B team, too, Steve.

MR SPEAKER: Chief Minister, order!

Mr Stanhope: When are your ads starting, mate?

Mr Pratt: The full EIS.

Ms Gallagher: The full EIS is happening, Mr Pratt.

MR SPEAKER: The Chief Minister and the Deputy Chief Minister should not provoke Mr Pratt. Mr Pratt is on a warning, and he will get thrown out.

Gas-fired power station

MRS DUNNE: My question is to the Minister for Health. Minister, in July you announced the "establishment of a Steering Group comprised of independent experts, the Chief Health Officer and a community representative" to oversee the health impact assessment on the proposed data centre-power station project at Tuggeranong. Why have the independent, unbiased experts now been silenced?

MS GALLAGHER: Didn't you two talk? It is the same question. I think I have just answered it in my answer to Mr Pratt. For those on the B team—I think Mrs Dunne is on the B team as well—who do not understand it, who have trouble understanding these concepts, the steering group was established to provide advice to me when I was in charge of the process. The process has been overtaken by a decision to move to a full EIS, which is what everyone over there and in the community had been calling for.

That process is now underway. The steering group is no longer needed to provide advice to me, because the process for the EIS, the statutory process, is now underway.

MR SPEAKER: Supplementary question, Mrs Dunne?

MRS DUNNE: Thank you, Mr Speaker. Minister, did you sack the steering group because your government could not control what they were doing or what they might say?

MS GALLAGHER: No.

Health—public system

MS PORTER: My question is to the Minister for Health. Minister, could you update the Assembly on how the government's announced overhaul of the public health system is already delivering for the people of the ACT?

MS GALLAGHER: I thank Ms Porter for the question. When we took government in 2001, we inherited a health system with many problems, not least of them the 114 beds that had been cut from the system, the unhappy doctors and nurses working within the system—in fact, one of the first things we had to respond to was paying nurses adequate remuneration that had not been provided for in the budget—and the chronic lack of planning around health infrastructure.

We have corrected these mistakes and we have gone much further. In fact, we have almost doubled the health budget. In recent weeks we have announced our complete 10-year plan for the future on how to provide our community's health system with the services and the buildings that they require. We have restored the 114 beds cut from the system and we have increased those numbers even more. By the end of 2008-09, we will have funded an additional 172 beds across our public health system and our system will provide, for the first time in many years, over 800 publicly funded hospital beds.

Our investment is leading to new, lower levels of bed occupancy rates, with the third quarter showing the bed occupancy rate down to 86 per cent—a drop from 92 per cent. For the benefit of Mrs Burke, who has never really understood bed occupancy rates, I say that it is good to have them falling. We are driving year-on-year record levels of elective surgery throughput. Our system has already provided 7,847 procedures to the end of April this year. This is 348 procedures above the figures for last year and it puts us on track to provide record levels of elective surgery procedures again. Year on year, we have been delivering record levels of elective surgery.

In relation to the critical area of mental health, where we have slumped to the worst per capita spending in the country, we have increased investment by 143 per cent and now enjoy the second-highest per capita spending in the country. This is coupled with the best investment in the community mental health sector of any jurisdiction, and groundbreaking reforms such as the nation's first step-up, step-down facility.

But we have not stopped there. Of course, decisions for the future in health need to be made now, which is why the government has made such a significant commitment to public health infrastructure and services in the 2008-09 budget. This investment includes a down payment this year of $300 million in infrastructure as part of a complete redevelopment of our health facilities, which, over time, is likely to exceed $1 billion. We announced as part of that policy a new community health centre in Gungahlin—another key piece of infrastructure for the people of Gungahlin, and another example of us providing services where they are needed.

The government has identified a block of land for this health service. The site is at section 18, Gungahlin, which fronts onto Anthony Rolfe Avenue and Ernest Cavanagh Street and is very close to the child and family centre—an excellent location for that facility. ACT Health will work with local stakeholders as we move forward on the construction of the Gungahlin health centre. It is expected to be completed by the end of 2010.

We have also seen in recent months 87 new medical practitioners come and work in our public health system. That is 40 to replace people who are leaving but an additional 47 in new areas of specialty. And we are actually attracting people here. I was talking with a doctor recently who is coming up from Melbourne but who I think was based at the University of California before that and who is specifically moving to Canberra because of the ANU Medical School, the research opportunities and the fact that the government has put on the table a 10-year plan and commitment around how to build up the health system of the future. This is unheard of in other places around the country—a 10-year plan which we can start and then meet the demands we are going to see within that time frame. In health, you are often playing catch-up; you have not been able to prepare for the demand. This plan makes sure that we will be able to meet that demand when the health tsunami hits this city in about 2018.

We have more students in the ANU Medical School wanting to work in the ACT than we were able to arrange allocation for through the IMET process. That is the first time in the history of this city that we have graduates wanting to stay and work in the ACT. That is unprecedented.

Mrs Burke: You shouldn't brag; you're about 14 down this year and last year.

MS GALLAGHER: Mrs Burke does not understand about IMET allocations, so she is going on with a load of rubbish over there. The way IMET works, Mrs Burke, is that we get an allocation, and we have had to get that allocation because we have not had our graduates. *(Time expired.)*

MR SPEAKER: Supplementary question, Ms Porter?

MS PORTER: Thank you. Minister, are you aware of community responses to these announcements?

MS GALLAGHER: The students who are wanting to come and work here is a fantastic result and one which we have embraced wholeheartedly. As I said, I have

been able to resolve the issue for this year. As we move into the next years, we will need to work out whether we stay with IMET formally or whether we have our own process. The risk of having our own allocation process is that at some point 50 graduates will not want to work at the Canberra Hospital and we will be left short of interns. It is risky to go out on our own, but with the graduates and the number of graduates that are wanting to stay here it is something that we should seriously consider over the next couple of years.

In terms of the response from the community to the health plan, it has been overwhelming. All the health stakeholder groups have endorsed a 10-year approach—not one based on electoral cycles but one which actually says, "This is the demand we know we are going to see and this is how you fix it." It has given stability to the sector about commitments that need to be made and followed through with.

From across the health community, I have had broad support. We have had support from Mr Mulcahy here in the Assembly. I think Dr Foskey has given conditional support for some elements of it. And Mr Seselja has endorsed it. I expect a copying of our plan to be announced by the Liberals soon. Mr Seselja today said that "A lot of what the government has planned in terms of the last budget we agree with. A lot of that infrastructure spend we very much agree with. It is good stuff; it is overdue and we are not going to change direction on that if we come into government."

That is what the captain of the A team is saying. When we go to the captain of the B team, Mrs Burke, this is Mrs Burke's response to the plan:

> … the Minister now talks about everything but a space ship to take patients to the moon for health treatment … Frankly, we don't need space ships, and brain labs … It's one thing to have bureaucrats toil over fancy ideas, but I'm sure Canberran's want the problems … fixed before we start talking about "brain labs" and "air walls" in a "barn style" operating theatre.

That is the response of the B team captain—completely out, not accepting the data, not accepting the reality, not accepting the facts, not accepting the plan.

Interestingly, I find as I peruse various websites—I have an unhealthy addiction to political websites, I have to admit—that I come across Mrs Burke's website. In there I find out that she is developing a macro health plan for the ACT for the next 20 years. The committee membership advising her—I am not sure if Mr Seselja is aware of this macro health plan for the next 20 years—is confidential. So a secret committee is establishing this macro health plan for 20 years. It is made up of "surgeons, specialist high dependency and ICU professionals, general ward Nurses, emergency and triage trained Nurses, Anaesthetists and GPs".

Mrs Burke: Table that. Does it say "secret"?

MS GALLAGHER: It does not say "secret"; it says:

> The committee membership is confidential because many of those on the Committee work within the ACT health system and do not want to place their employment in jeopardy by publicly speaking out.

That is a secret committee, Mrs Burke. That is a secret committee establishing a secret plan for the future of the health system, a macro health plan. And guess what? This is the corker. It says:

> The Committee is currently assessing that plan and providing specialist advice.

It is like a sick patient already. The committee is having to assess the plan and provide specialist advice. There we go. We wait. We are absolutely beside ourselves waiting for Mrs Burke's macro health plan for the ACT for the next 20 years. I look forward to seeing it, especially when you have publicly said that your macro health plan for the next 20 years will not have things such as brain labs, spaceships—we are pleased about no spaceships—or barn-style operating theatres. Get with it, Mrs Burke. These are the things you need in the next 20 years. Your plan is not going to have it. We wait with much excitement to find out from the secret committee the secret plan to address the health issues for the next 20 years.

I have to say that it must be in direct response. What do you do when someone tables a 10-year plan, a rigorous 10-year plan with all the details in it, all the funding in it? You sit there and you think, "What can we do about that? I know. We'll have a macro plan for the next 20 years." Well, we wait with much excitement.

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

Answers to questions on notice
Question Nos 2003 and 2082

DR FOSKEY: Under standing order 118A, I seek an explanation from the Attorney-General as to why we have not yet had an answer to my question asked in April about the low-doc, no-doc loans and why we have not had an answer to question 2082 asked in June about enduring power of attorney.

MR CORBELL: Mr Speaker, in response to Dr Foskey's question in relation to low-doc, no-doc loans, that question is a fairly detailed one and it is with my office now for finalisation. I apologise for the delay. In relation to the question about enduring power of attorney, I apologise for the delay. I think I did provide an explanation in the last sitting as to the reasons for that delay. I have now signed the answer to that question and it should be with Dr Foskey shortly.

Supplementary answer to question without notice
Planning—omission of retail restrictions

MR GENTLEMAN: Mr Speaker, during question time I received a question from Mr Mulcahy regarding correspondence to the planning and environment committee. I can advise that the committee received that correspondence on 29 July, and a response has been authorised. I will make sure that Mr Mulcahy's office gets that response this afternoon.

Papers

Mr Speaker presented the following papers:

> Standing order 191—Amendments to:
>
> > Justice and Community Safety Legislation Amendment Bill 2008 (No 2), dated 11 August 2008.
> >
> > Medicines, Poisons and Therapeutic Goods Bill 2007, dated 11 and 12 August 2008.

Financial Management Act—consolidated financial report
Paper and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following paper:

> Financial Management Act, pursuant to section 26—Consolidated Financial Report for the financial quarter and year-to-date ending 30 June 2008.

This report was circulated to members when the Assembly was not sitting.

Financial Management Act—instruments
Papers and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following papers:

> Financial Management Act, pursuant to section 16B—Instruments authorising the rollover of undisbursed appropriation, including statements of reasons, for the following Departments:
>
> > Disability, Housing and Community Services, dated 16 August 2008.
> >
> > Education and Training, dated 16 August 2008.
> >
> > Housing ACT, dated 16 August 2008.

I seek leave to make a statement in relation to the papers.

Leave granted.

MR STANHOPE: As required by the Financial Management Act, I table instruments issued under section 16B of the act. The direction for the statement of reasons for

these instruments must be tabled in the Assembly within three sitting days after being given. Section 16B of the act—rollover of undisbursed appropriation—allows appropriations to be preserved from one financial year to the next, as outlined in instruments signed by me. This package includes three instruments signed under section 16B. The appropriation being rolled over under section 16B was not disbursed during 2007-08 and is required in the 2008-09 year for the completion of the projects and programs identified in the individual instruments.

The section 16B instruments included in the package comprise rollovers of government payment for: outputs of $1.146 million for the Department of Education and Training and $110,000 for the Department of Disability, Housing and Community Services; expenses on behalf of the territory of $252,000 for the Department of Education and Training; and capital injections of $4.416 million for the Department of Education and Training, $3.451 million for the Department of Disability, Housing and Community Services, and $73,000 for Housing ACT. Details of these specific rollovers are found in the statement of reasons included with the instruments. I commend these instruments to the Assembly.

Territory Plan–Variation No 289
Paper and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following papers:

> Planning and Development Act, pursuant to subsection 79(1)—Approval of Variation No 289 to the Territory Plan—Belconnen Town Centre—Changes to the Road Network, Inter-town Public Transport Route and other Zone Changes, dated 7 August 2008, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

In accordance with the provisions of the act, this variation is presented with the background papers and copies of the summaries and reports. I seek leave to make a statement in relation to the paper.

Leave granted.

MR BARR: Variation No 289 of the territory plan is concerned with multiple sites that together aim to improve transport and urban design outcomes in the Belconnen town centre. The variation proposes to realign the intertown public transport route to a new transport corridor to improve public transport access to major destinations within the town centre. The existing bus interchange will be removed, and a series of new bus stations will allow buses to operate from the eastern to the western sides of the town centre, creating a more direct public transport link that will be used by all buses and not just a limited number of services that concurrently operate on the existing busway.

Mall extensions will also be facilitated by changing the zoning of parcels of land to permit commercial and retail development. These new development opportunities will

increase the retail and business activity addressing the streets and enhance the presentation of the town centre as a modern, safe, commercially vibrant and interesting place. Improvements to paths and paving for pedestrians and cyclists are also proposed, with upgraded paving, signalised intersections and pedestrian crossings around the shopping centre and within the project area.

Draft variation No 289 was released for public comment in June this year and attracted only seven public submissions. Many of the comments were supportive of the proposals contained within the draft variation. The main issues are related to traffic, parking, vehicle access and noise levels, the IPT route changes, the new bus station's compatibility with future expansion of the ACT public transport system and light rail, expansion of Westfield shopping centre, public and stakeholder consultation, high density residential and office blocks, and future provision for community organisations.

A report on consultation was prepared by the ACT Planning and Land Authority responding to the issues raised in the submissions, and a copy of that report is included with the documents I have just tabled. The proposed changes and upgrades respond to the goals of the sustainable transport plan. A number of studies carried out over the past few years have concluded that the proposals will provide improved accessibility for all modes of transport.

The future car parking requirements for all relevant development proposals have been estimated and will need to meet the current ACT government car parking requirements at the time of design and construction of new buildings. While some surface car parks are proposed to be removed and the sites potentially developed, additional public car parking will be provided as an integral part of Westfield's proposed mall expansion.

The design of works for the Cohen Street extension project is being developed and includes the section of Emu Bank adjacent to the Holy Cross Lutheran Church. There will be further consultation with key stakeholders, including the church, on issues such as access and egress and the requirement for any noise abatement measures as part of the progression of these works.

The proposed new bus stations will provide a better distribution of bus stops and shorter walking distances than the current single bus interchange. The expansion of the shopping mall will provide a people-friendly retail environment with more active and attractive street frontages. An objective of the proposals for both the Cohen Street project and Westfield's expansion is to improve pedestrian and cyclist facilities.

Extensive communication and consultation have taken place relating to the changes to the Belconnen town centre. A number of further consultation activities will occur on the changes to the centre during 2008 until the completion of that work in 2010. These consultations will inform the community of changed arrangements to traffic routes, bus stops, bus routes, car parking and access to the shops.

The proposals are consistent with the goals of the Canberra spatial plan, promoting a greater mix of land uses, higher population densities and improved transport in and

around our town centres. The concept behind the proposals is for transit-oriented development with the creation of compact, walkable communities centred on high-quality public transport systems.

Due to the extensive consultation that has taken place and the limited number of submissions, I have chosen to exercise my discretion under section 73 of the Planning and Development Act and not refer the draft variation to the planning and environment committee. I believe that the issues raised in public submissions have been satisfactorily responded to in the consultation report or can be resolved through ongoing consultation with the key stakeholders. I table the approved variation to the territory plan.

Revised explanatory statements
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following papers:

> Planning and Development Act—Revised explanatory statements—
>
> Planning and Development Regulation 2008—Subordinate Law SL2008-2.
>
> Planning and Development Amendment Regulation 2008 (No 1)—Subordinate Law SL2008-8.

I seek leave to make a statement in relation to these papers.

Leave granted.

MR BARR: I am pleased to table the revised explanatory statements for the planning and development regulation 2008 and the planning and development amendment regulation 2008. The planning and development regulation 2008 and its associated explanatory statement were notified on the ACT Legislation Register on 3 March 2008, and the planning and development amendment regulation 2008 and its associated explanatory statements were also notified on the ACT legislation register on 27 March 2008.

The scrutiny of bills and subordinate legislation committee subsequently reported on the regulations and their accompanying explanatory statements and commented in both cases that the explanatory statements could have been more comprehensive in some respects. As a result, the explanatory statements have been revised with a view to addressing the concerns of the scrutiny of bills committee.

The revised explanatory statement for the planning and development regulation now includes a discussion of issues surrounding the use of a strict liability offence in the regulation and a discussion about how the regulation affects third party appeal exemptions. The revised explanatory statement for the planning and development amendment regulation now includes a discussion of defences to strict liability offences and corrects a typographical error.

The explanatory statements are now a highly informative tool for interpretation of the regulations, and I thank the scrutiny of bills committee for their very careful consideration of the explanatory statements.

Papers

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services): I present the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Adoption Act—Adoption Review Committee Appointment 2008 (No 1)—Disallowable Instrument DI2008-199 (LR, 7 August 2008).

Agents Act—Agents Amendment Regulation 2008—Subordinate Law SL2008-32 (LR, 5 August 2008).

Blood Donation (Transmittable Diseases) Act—Blood Donation (Transmittable Diseases) Blood Donor Form 2008 (No 1)—Disallowable Instrument DI2008-198 (LR, 7 August 2008).

Building Act—Building (ACT Appendix to the Building Code of Australia) Determination 2008—Disallowable Instrument DI2008-202 (LR, 11 August 2008).

Cultural Facilities Corporation Act—Cultural Facilities Corporation (Governing Board) Appointment 2008 (No 2)—Disallowable Instrument DI2008-188 (LR, 6 August 2008).

Education Act—

Education (Government Schools Education Council) Appointment 2008 (No 5)—Disallowable Instrument DI2008-185 (LR, 17 July 2008).

Education (Government Schools Education Council) Appointment 2008 (No 6)—Disallowable Instrument DI2008-194 (LR, 4 August 2008).

Education (Government Schools Education Council) Appointment 2008 (No 7)—Disallowable Instrument DI2008-195 (LR, 4 August 2008).

Environment Protection Act—Environment Protection (Declarations of non-application of section 48) Revocation 2008 (No 1)—Disallowable Instrument DI2008-200 (LR, 11 August 2008).

Financial Management Act—Financial Management (Periodic and Annual Financial Statements) Guidelines 2008—Disallowable Instrument DI2008-191 (LR, 24 July 2008).

Health Records (Privacy and Access) Act—Health Records (Privacy and Access) (Fees) Determination 2008 (No 1)—Disallowable Instrument DI2008-186 (LR, 17 July 2008).

Long Service Leave (Building and Construction Industry) Act—Long Service Leave (Building and Construction Industry) Contractors Levy Determination 2008 (No 1)—Disallowable Instrument DI2008-189 (LR, 17 July 2008).

Planning and Development Act—Planning and Development (Fees) Determination 2008 (No 5)—Disallowable Instrument DI2008-201 (LR, 11 August 2008).

Prohibited Weapons Act—Prohibited Weapons (Laser Pointers) Declaration 2008—Disallowable Instrument DI2008-197 (without explanatory statement) (LR, 1 August 2008).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2008 (No 1)—Disallowable Instrument DI2008-193 (LR, 31 July 2008).

Road Transport (Driver Licensing) Act 1999 and the Road Transport (Vehicle Registration) Act—Road Transport Legislation Amendment Regulation 2008 (No 1)—Subordinate Law SL2008-30 (LR, 7 July 2008).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2008 (No 6)—Disallowable Instrument DI2008-187 (LR, 17 July 2008).

Road Transport (Third-Party Insurance) Amendment Regulation 2008 (No 1)—Subordinate Law SL2008-31 (LR, 21 July 2008).

Road Transport (Safety and Traffic Management) Regulation—Road Transport (Safety and Traffic Management) Parking Authority Declaration 2008 (No 5)—Disallowable Instrument DI2008-190 (LR, 17 July 2008).

Surveyors Act—Surveyors (Chief Surveyor) Practice Directions 2008 (No 1)—Disallowable Instrument DI2008-192 (LR, 29 July 2008).

Training and Tertiary Education Act—Training and Tertiary Education (Accreditation and Registration Council) Appointment 2008 (No 3)—Disallowable Instrument DI2008-196 (LR, 4 August 2008).

Housing affordability
Discussion of matter of public importance

MADAM ASSISTANT SPEAKER (Mrs Dunne): Mr Speaker has received letters from Mrs Burke, myself, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Seselja and Mr Smyth proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker has determined that the matter proposed by Ms MacDonald be submitted to the Assembly, namely:

The importance of increasing the supply of affordable housing.

MS MacDONALD (Brindabella) (3.47): Over the past few years there has been a trend nationally and internationally where housing has become less affordable. We here in the ACT are not immune from this trend despite the fact that the ACT continually performs well in all of the statistical indicators on housing affordability and that Canberra is the most affordable city in Australia. This government understands that not all Canberrans are as well off as others. This government understands that the affordability of housing is an issue facing many Canberrans.

This government is committed to ensuring that all Canberrans have access to safe, secure and affordable housing. Over the past two years our commitment has helped us to develop one of the leading plans to address the supply of affordable housing, elements of which have been supported by the federal Senate Select Committee on Housing Affordability in Australia. In August 2006 the Chief Minister set up a steering group to look at what the government can do to increase the supply of affordable housing.

Eight months later, after extensive consultation, the government released its affordable housing action plan, a plan that was widely welcomed by the community. The government's bold plan has had the support of and was lauded by a number of key stakeholder groups including the Master Builders Association, the Housing Industry Association, the ACT Council of Social Service, ACT Shelter, and Anglicare. In fact, the ACT Council of Social Service described the plan as a smorgasbord of strategies and the Property Council of Australia called the plan "best of the breed". The government's plan included actions to help households achieve the dream of home ownership by increasing the supply of affordable housing. This would be achieved through an accelerated land release program.

Earlier this year the government released its indicative land release program for 2008-09 to 2012-13. Through this program over 15,000 blocks will be released to the market over the next five years. This includes the release of more than 3,400 dwelling sites this financial year, the largest residential land release program since self-government, 4,200 blocks this financial year followed by an average of 2,750 blocks in the following four years.

One of the key initiatives of the plan includes the mandate that 15 per cent of all new estates delivered by either the LDA or the private sector must include new house and land packages priced between $200,000 and $300,000. Through this initiative, new homebuyers, particularly first homebuyers, will be able to purchase their first homes as new homes at an affordable price. In fact, the Land Development Agency has partnered with a panel of builders through the new own place initiative to help deliver affordable homes under $300,000. The first of these homes in Franklin are expected to be ready to move into by Christmas.

Through the government's plan, land is now being released in a variety of ways to the market. We now have land being developed by the Land Development Agency and sold through ballots direct to homebuyers and builders who will then sell the homes they construct direct to homebuyers. For the first time in many years, buyers can now buy land over the counter directly from the Land Development Agency.

To ensure that there is competition in land development in the territory there are now regular englobo land sales that provide the opportunity for builders to develop and construct new estates according to their plans and visions and then sell direct to the market. For instance, at the moment there is land for sale in west Macgregor, Casey and Uriarra through englobo sales. Land is also available for sale at Forde through a joint venture between private developers and the LDA. There will shortly be an auction for the englobo sale of Casey 2, which will provide 1,000 blocks to the market.

The government's plan also includes innovative initiatives which are attracting a lot of attention, such as the land rent scheme. This initiative allows eligible households to rent the land component of their property and has been designed to help the number of Canberrans who might not otherwise be able to experience the security of buying their own home.

Through land rent, households on less than $75,000 can choose to rent the land component at a concessional rate that is well below what a mortgage rate would be. Through land rent, many more Canberrans on low to middle incomes will be able to purchase their own homes.

Through the affordable housing action plan the government provides enhanced stamp duty concessions for eligible first homebuyers by allowing the deferral of payment of stamp duty for five years. The government understands the costs involved for ordinary Canberrans on modest incomes in moving homes and particularly moving into their first home, which is why we offer the stamp duty deferral. It is so that first homebuyers can settle into their new homes before paying the duty. The government has also increased the stamp duty income threshold to $120,000 a year, acknowledging that while as a community our incomes have been rising, so too has the general cost of living.

Increasing the threshold ensures that Canberrans in need of assistance continue to be eligible for the stamp duty concession scheme. Through the introduction of the pensioner stamp duty concession scheme the government provides assistance for pensioners who are looking to move into more suitable accommodation. This helps to free up homes for younger families.

The government understands that not everyone is fortunate enough to be able to own their own home, which is why we have plans to increase the supply of affordable rental accommodation. The government has called for expressions of interest from institutional investors to implement an affordable private rental scheme which will provide 200 to 400 additional rental dwellings for Canberrans. The government is also exploring options for a home share program which would provide accommodation for low-income singles or students and support older people to remain in their homes. The government will undertake a pilot program of this initiative for a 12-month period.

To help private tenants understand their rights, the government has increased funding to the tenants advice service by $80,000. The government is also working closely with the federal government and assisting in the implementation of the national rental affordability scheme, which will provide incentives to private developers to provide affordable rental accommodation. Once online, these initiatives will help increase the supply of affordable rental housing in the territory.

The government is committed to ensuring that all Canberrans have access to affordable housing, particularly those on low to middle incomes. The government acknowledges the vital role and responsibility that community housing has in our community and we are supporting CHC Affordable Housing to deliver 1,000 new affordable properties over the next 10 years. To help CHC achieve this, the

government has in place a program of direct land sales to ensure that they continue to have access to land.

The government has also provided an injection of $40 million in equity through the transfer of 135 properties from Housing ACT, of which 132 have been delivered and three are currently in the process of being transferred. The government has also provided a $50 million loan facility which will enable CHC to replenish its housing stock and deliver its 1,000 new affordable properties within 10 years to ensure that more Canberrans have access to affordable housing.

The government remains committed to ensuring that those who need it have access to public housing. We have reviewed our public housing stocks to ensure that they can better meet the needs of our community. The government remains committed to maintaining our public housing levels, and at 31 July 2008 we had 11,551 properties. Maintaining the high level of public housing requires careful management of an asset that is worth $3.7 billion. A review of the public housing asset management strategy is well progressed.

Eligibility criteria have also been reviewed to ensure that those who need public housing as a priority can be housed within three months. Retaining the most affordable housing—public housing—at high levels ensures that those most in need are able to limit the amount they spend on housing and maximise expenditure on daily necessities.

Changes to the public housing allocation system have enabled the government to focus on those people in the ACT community who are most in need of housing assistance and has significantly reduced public housing waiting times. This week the average waiting time for those Canberrans with the greatest need is 72 days, which is a significant reduction from the previous system of nine months.

The improved targeting has also enabled Housing ACT to work with appropriate community and mental health services. This ensures people have the necessary supports to enable them to live in and contribute positively to our community. The government has introduced eligibility reviews to encourage tenants on higher incomes of over $80,000 to purchase their own home or consider moving into the private rental market.

A shared equity scheme will also be introduced which will allow people who might not otherwise be able to enter the housing market to purchase their own home. The government has committed $20 million over 10 years to improve the energy efficiency of public housing properties. Properties that are more energy efficient are cheaper to maintain and will help with climate change. Mr Speaker, this government remains committed to ensuring that all Canberrans have access to affordable housing.

MR SESELJA (Molonglo—Leader of the Opposition) (3.58): I welcome the opportunity to speak about housing affordability today. I thank Ms MacDonald for bringing this issue forward. It is worth looking at a number of things: first, the government's record on affordable housing and housing affordability and, next, our plans for the future. Of course, there are some specific measures that the government

has claimed to be putting in place. We do need to look at the statistics and there are lots of them around. The ones that particularly point to first homebuyers consistently show that first homebuyers in Canberra are struggling as much as people anywhere.

Jon Stanhope is fond of quoting the statistics which take an across-the-board look at the position. They take into account people who have paid off their homes and others, but when you actually look at the indicators that target those who are buying now or have bought in the last few years, Canberrans do struggle in comparison to the national average.

The report of the Urban Development Institute of Australia titled *An industry report into affordable home ownership in Australia 2007* provided a location affordability index rating in the ACT by central, north and west ACT regions. The rating went from affordable in 2001, to serious constraints on affordability and affordability crisis in 2007. All of this occurred in the life of the Stanhope government.

They have changed the situation from one in which housing was affordable for young people in Canberra, where an ordinary family or an ordinary couple could expect that if they worked, that if they saved a bit of money, they would have a reasonable expectation of purchasing a home and not having a 50-year mortgage in order to pay it back. But, of course, that is changing. It has changed under this government and it has changed for a number of reasons. It has changed because they have allowed taxation to get out of hand, particularly on first homebuyers.

As house prices have gone up, the level of stamp duty and the rates at which stamp duty is levied have not recognised the massive growth in house prices. People now are paying levels of stamp duty which were really only meant to be levied on the rich. They were really only meant to be levied on mansions. Now we are seeing ordinary Canberrans forced to pay upwards of $15,000 in tax just for the privilege of owning their first home. We hear the government talk about it, but they have not been prepared to do anything about it. In fact, they have been very keen to continue to take this massive level of taxation from first homebuyers. Of course, that has added to the problem.

We heard Ms MacDonald actually speaking a bit about the government's conversion to the importance of competition in the market. This is something we have been calling for for a long time. We had this crazy system set up by the former planning minister, Simon Corbell, whereby the Land Development Agency would do all of the development in the ACT, where there was no competition whatsoever when it came to the development of residential land in the ACT. We saw a slight conversion on the part of this government in relation to this issue when it decided to allow some englobo land release—up to one-third, I believe it says in the strategy.

Mr Speaker, we do need to see more competition. We need to see genuine competition. We need to see land that is ready to come online, not constantly playing catch-up. It is worth reflecting on what we have seen in the past few weeks. This was the subject of an article in the *Canberra Times* titled "Builders buy out great Australian dream". Builders and young families were all missing out because of this government's squeeze on land supply and because of their inability to release it

properly. We have seen the suffering of first homebuyers. We have seen the lack of compassion of this government for first homebuyers.

It is worth pointing out that this has happened under the Stanhope government; this has happened at a time when the government has control not only of land release, not only of taxation, but also it has chosen to control the vast majority of residential land development in the territory.

It is worth looking at the action plan and the recommendations that we see in the government's so-called housing affordability strategy. Of course, a number of them are just restating things that are already being done. Recommendation 47 is that Housing ACT continue to provide housing support to households in stress on low incomes. We would expect that; it was happening already; that is nothing new.

Recommendation 51 states:

> Continue to maximise the return to public housing and future joint ventures … Housing ACT to continue to better aligning stock to client needs.

We have these vague sorts of concepts and no-one can measure whether they have actually achieved them. Recommendation 55 is an interesting one for housing affordability:

> Expand the stairwell model of accommodation to key client groups.

Recommendation 61:

> Ensure the ACT has access to accurate data on which to base future land release and service projections and continue to work with the Australian Bureau of Statistics to ensure the availability of high quality data.

Recommendation 62:

> Implement an education campaign to ensure people who move to Canberra update their address with Medicare immediately.

These are not serious measures. Let us turn to some of the more serious measures that are outlined in the government strategy. I turn to the issue of land rent. What the Stanhope government is saying to people on low to middle incomes in the territory is essentially that they will never own a home in the way that traditionally it has been understood. What they are saying is that they have abandoned them. What they are going to offer them is some sort of second-class ownership structure. They are going to offer them something that does not have the benefits of home ownership that traditionally flow to low and middle income earners in Australia.

Home ownership provides one of the great ways for families over a period of time to build up their assets and their wealth. These are not people on high incomes. These are a lot of people on low and middle incomes who have worked hard, who have worked hard to pay off their mortgages over many years on simple three and four-bedroom homes in the suburbs.

We see the government saying to them that we have made it too hard now; you do not get this level of ownership any more. You do not get the security that goes with owning house and land. You do not get the benefits and the capital gains that flow from that. What this government says is that what we are going to offer you is a second-class ownership structure. It is an ownership structure of a depreciating asset. That is all you will own; you will own the house and not the land. We know that the house is a depreciating asset and the land is the appreciating asset.

I think the reason that the Treasury does not expect many people to take it up is because it is not an attractive scheme. It is something that most people would look at and they would immediately see the problems with it. We have seen it operating in New Zealand, as members have mentioned in previous speeches in this place. I have outlined the extraordinarily low take-up and the fact that the banks have not been willing to lend. It has had to come from government. The government has had to guarantee it in New Zealand.

There are major questions about this central plank of the government's housing affordability strategy. It is essentially saying to young people, to people on low and middle incomes: "Forget about owning a house and land package; forget about the traditional benefits that go with that; you will own a house. You will own a house which will depreciate in value over time. You will not see the capital gains that go with owning land." We know that over time land appreciates whereas buildings and structures depreciate over time; they get less valuable over time.

We have seen the charts that have been produced by Treasury that do not take all the factors into account. They do not take account of the fact that the reason houses cost more now than they did, say, 10 years ago is because they are larger and because people spend money to improve those houses. If you take a house now and do nothing to it, it will get less valuable over time. That is the way that taxation arrangements treat building, that is the way we traditionally understand it and that is what we have seen.

Yet this government is saying to these people, "You can own a house, but not land and you can go backwards." Essentially, that is our fear. It is worth looking at the Treasury's assumptions too. The Treasury's assumptions for the average person or couple that would access this land rent scheme are that they would have a family income of around $50,000 and that they would have a deposit of $40,000. That is a pretty good effort.

There are not many people who could get to that level of savings. That is a high level of savings. If you are on a $50,000 family income, to get to $40,000 cash in order to have a deposit to buy a house—not a house and land—that is pretty rare, I would suggest. We have people in this situation who are very good savers, but they are going to be put into a situation where their savings will be essentially subsidising the depreciation in the price of their asset. Their $40,000 deposit will soon diminish and they will have less money than they started with when they bought into this scheme.

There are significant problems, Mr Speaker, with what is going to happen with transfer of ownership. There are unanswered questions when a person who has been

in the land rent scheme for a couple of years wishes to dispose of the house. How do they dispose of the house? Do they negotiate separately? Does the buyer negotiate separately with the government on the one hand, which owns the land, and the owner of the house? How does that negotiation work?

I think that we will be seeing people getting quite a rude shock after a couple of years of the operation of this scheme. They will see that the price of their asset has gone down and that they have, in fact, in many cases lost money and potentially gone into negative equity. That is our great fear.

This is no solution to the housing affordability issue which this government has helped create; it is no solution. This government will continue, if it is re-elected, to charge extraordinary levels of taxation. It refuses to cut tax for first homebuyers for stamp duty; it will continue to mismanage the system.

Let us look at not just the LDA. Let us also look at the problems that are being experienced at the moment in ACTPLA. At the moment the feedback I am getting from people who are dealing with ACTPLA is that despite the legislative changes that we have seen, which the opposition supported because we believed the legislation was broadly on the right track, we are seeing unreasonable delays in building. We are seeing unreasonable delays in approvals with structures such as pergolas. It takes weeks to get a pergola approved. This is not just for punters; this is for professionals who rely on this business.

I have heard from groups such as Patio World who are under enormous pressure because of the delays in ACTPLA. Given the way that this has been handled, given the major stuff-ups we have seen in recent times from ACTPLA and given the significant ongoing delays, this of course affects housing affordability. All of these delays add to the costs for builders and developers, and those costs are inevitably passed on to first homebuyers.

If the cost of doing business continues to be pushed up by slow processes and poor processes then that will be passed on to homebuyers and that means the cost of building in the territory is higher than it should be, and it is. It will continue to be pushed up. Then we see this continuing situation where first homebuyers are seeing the dream of home ownership slip out of their grasp.

This is why we are seeing them move over the border. This is why we are seeing young people unable to purchase a home and unable to access that dream. The poor second-class citizen model that the Stanhope government is putting in place where they will allow people to buy a house without buying the land is a poor substitute for genuine home ownership. It is a poor substitute for the security and stability that comes for families from owning a house and land package, of having that patch of dirt which is their own, which they can plan around, which they can have for many years and see the gains that go with that.

This will now be a critical difference between the Stanhope government's approach and the Liberal opposition's approach. We do not believe in the land rent scheme. We do believe in taxation relief for first homeowners. We do believe in more competition,

not the sort of tentative half-baked model of competition that we have seen under Jon Stanhope's leadership over the past few years. We had no competition for a while and what we see at the moment is a small amount of competition. We need to see more competition. We need to see a land supply strategy that is genuinely responsive to the market, not just releasing 15,000 blocks over the next few years, come what may.

We do not know what the market is going to do. We do not know whether the market is going to slow down or speed up. What we do need to be doing is ensuring that we do not flood the market. We do need to be ensuring that we are ready to respond so we are not constantly putting upward pressure on prices through slow land release. We have seen the people camping out in the last couple of weeks. I think that is emblematic of this government's failure on land release and it is emblematic of their failure in relation to housing affordability generally.

MR MULCAHY (Molonglo) (4.13): This matter of public importance is something of a triumph for government spin. It is designed to assure all of us that the problem of affordable housing and the financial difficulties faced by ACT families have descended on us for some inexplicable reason, and that it is the government that will once again alleviate this unexplainable crisis. In fact, nothing could be further from the truth. It is the government which is the primary impediment to affordable housing in the ACT and it is the government which is adding to the financial burdens faced by families.

Make no mistake: it is the ACT government which imposes its massive tax burden upon the people of Canberra and it is the territory government that strangles the productive power of property developers with red tape, regulations, interference and taxation. I think that somebody needs to provide a basic course in economics, especially for the proponent of this MPI, because the affordability which Ms MacDonald has spoken about is a function of supply and demand in the housing market. It is the supply of housing available in the market and the demand for this housing that determine the prevailing price of housing and the prevailing rental costs. And it is the supply of housing that the government does its best to cripple through the maze of arbitrary red tape that property developers are made to wander through.

The level of taxes on property also has an effect on the price of housing, and the government has done its level best to ensure that these taxes are substantial. With respect to the planning reforms that we were told would deliver dramatic changes and improvements, and that occurred from the end of March, I have not yet found anybody involved in the property sector who has got a good word to say about them. Mr Seselja talked about the pergola builder, but I am hearing it from much larger developers, and they are all saying to me that things are still hopeless in terms of the planning process. That, of course, finds its way into holding costs and therefore into the ultimate price of housing.

The supply of affordable housing is a function of the total supply of housing. It is not a matter of coming in and trying to get smaller houses built rather than bigger houses; it is a matter of allowing houses to be built as the demand for them dictates. When a large house is built, someone usually moves out of a smaller house to live there and someone else often moves out of an even smaller house to live in the house just

vacated. The bottom line in all of this is merely that elementary lesson of economics—that price is determined by supply and demand. Where governments intervene in the market process to impose high levels of taxes, this also contributes to the costs.

I will admit that the government has taken some steps to alleviate the problem of housing affordability. The government is now looking at its land release and is taking steps to ensure that there is an adequate supply of land in the ACT.

I was intrigued when I heard Mr Seselja put quite a caveat on his position about making land available in the market. For three years I cautioned him about flooding the market with land, as he said that the problem was with a lack of land and that we should get a lot more land out there, which I know the developers who are going to some of these dinners he is having are thrilled to hear about. But I did remind him—and I remind him again for the record, as I have on many occasions—that about 67 per cent of this community own their own homes and that what is a cheap way of going into the market for some is an erosion of their principal asset to others. So when you talk about housing affordability, it means lots of different things to different people.

When I talk to 67 per cent of Canberrans about housing affordability, what it means to most of them is whether they can afford their mortgage costs because of the rising costs of interest, groceries, fuel and the like. When you talk to some others, younger people wanting to get into the market are saying that the cost of getting in is very high. So when we talk about housing affordability, we have to be sure we are clear on where we are coming from and where we want to put our focus.

The opposition leader has focused on those who want to get into the market and is not that concerned about those who have got an investment in the property market which, in most cases, is their most significant asset. But in this ageing community, we are going to find more and more people who are relying on those homes as a very important asset as they move into retirement. For that reason, we have to be careful, in making land available, that we do not repeat the mistakes of the Rosemary Follett era, when the bottom dropped out of the market here and people lost a large amount of money.

If a typical house worth, say, $400,000 or a bit higher drops down by $100,000 or $200,000, it takes one hell of a long time for the average salary and wage earner to effectively generate a $100,000 net improvement in their wealth. So I sound a note of caution, and I found it intriguing today that it was the first time I have ever heard Mr Seselja retreat from his "flood the market with land" position to a position where he is now saying that we have to be careful not to flood the market. I have said it—

Mrs Burke: You did not think housing affordability was a problem three years ago.

MR MULCAHY: I did not ever say that it was not a problem.

Mrs Burke: You said it is not an election issue.

MR MULCAHY: Mrs Burke says I have never thought it is a problem. The fact is that Mrs Burke knows that, for 67 per cent of the people in Molonglo, their biggest single asset is their family home. If she is saying to me today, "Let's erode the value of that," I am delighted to hear that, because I know the people of Canberra want to hear that message! On top of her new-found commitment to the Stanhope tax regime, it is really becoming a point of differentiation. Basically, what housing affordability means to Mrs Burke is: "Flood the market, devalue the family home and good luck to you, if we can get a couple of votes by giving people on $200,000 a year a subsidy."

I acknowledge that the government has taken certain steps in relation to improving housing affordability, but I do not think that the government has done anywhere near enough to assist in relation to the burden on families through its tax regime. I think it is quite hypocritical to get up here and wax lyrical about a deep commitment to affordability, at a time when there have been substantial increases in the level of taxation attached to the ownership of property and to basic utility expenses.

During this term of the Assembly, the government have substantially increased rates and charges and continue to increase this tax in real terms every year. Their policy of indexing rates and charges by WPI ensures that the people of the ACT will face a growing tax burden in real terms every year. In addition, the government have introduced the utilities tax, which has increased the cost of basic utilities for all families in Canberra. This tax has particularly hit people on low incomes the hardest, since it is those families that spend the greatest proportion of their income on basic utilities.

The government has also introduced the fire and emergency services levy, which has increased rates on properties in the ACT. Whilst the bulk of this tax falls on commercial properties, it has nonetheless increased the burden on families. Indeed, since this government came to power in 2001, total taxes, fees and fines in the ACT have increased by over 66 per cent, which is more than 7.5 per cent per annum—almost twice the rate of inflation. Growth in taxes has massively outstripped the CPI, the WPI and the rate of growth of the economy.

I was talking to someone the other day in relation to what goes on in the property market. Whilst I am sure that the commissioner for revenue has worked this out, I was staggered to hear about the number of people in Canberra who are now going to agents to buy places in Queensland. Why are they doing it? It is because they get out of paying land tax and other duties. So just as whacking on high taxes, as we are about to consider in relation to motor vehicles, will guarantee that a lot of people will have friends across the border, and you will see even more New South Wales plates on vehicles around this town, similarly a lot of people say: "Well, I've got some spare capital. I won't put it in the Canberra market because of the taxes and the land tax; I'll put it up in Queensland where they'll take your investments." They get their return, they do not have the tax burden and the people of the ACT miss out because there is less investment in housing here. Anyone who assumes that you can make these taxation decisions without having any impact on the market is simply running contrary to the fundamentals of economics.

Of course, it should not be thought that these increases in taxes only affect property owners. Taxes and charges which fall onto property owners are passed on to renters in the rental market. As far as I am concerned, I interpret housing affordability in the broader sense of that phrase. It does not just affect people who want to buy a new home; it affects people who are in the rental market. The ACTCOSS people were in here this week, and they told me that was one of the biggest single issues. They are just trying to get people who are coming out of programs into rental accommodation and, of course, they cannot afford it. These things are all directly related to issues of supply and demand and taxation.

I know that the Liberal Party have got initiatives in relation to stamp duty for first homebuyers. Whilst that might be welcome in itself, it is a very narrow policy and I would much prefer to see a broad-based attack on the high level of taxation in the ACT. They have certainly shown from their voting patterns that they are not committed to tax reduction, as they have voted against the repeal of the fire and emergency services levy.

In conclusion, I think there is more to this whole story than we have heard so far, and I will leave my contribution at that point.

MRS BURKE (Molonglo) (4.23): For a number of years, the Chief Minister has been putting out media releases trumpeting the affordability of housing in the ACT. That is, of course, while private rents surged in the wake of spiralling median house prices. On 6 September 2006, he put out a media release headed "ACT housing affordability best in nation" and telling us that "the ACT's housing is the most affordable in Australia and actually improved over a 12-month period".

You have to give it to Mr Stanhope, Mr Speaker; he would get an Olympic medal if they awarded them for being in denial. It was reported in the *Canberra Times* on 25 July that, according to Australian Property Monitors, Canberra private rental prices are continuing to rise dramatically, with median weekly asking rents for houses and units up by five and 10 per cent respectively on the past year. The median weekly asking rents for houses in Canberra rose from $390 in June last year to $410 in June this year. Canberra's median is higher than in Perth, Melbourne, Adelaide, Brisbane and Hobart, whose median rents range from $235 to $350.

Over the term of the Stanhope Labor government, there has been a drop of 59 per cent in the affordability of housing. In the March quarter, affordability in the ACT slipped another 16 per cent—more than for any other Australian capital city. Much of this is due to the Stanhope government's slowness in releasing land and its hike of property taxes, particularly in the 2006-07 budget, when residential property taxes rose by up to 45 per cent, even in the poor areas of Canberra, and property taxes on commercial properties rose by up to 60 per cent.

The ACT has the highest per capita rate of public housing in Australia, with assets of over $3 billion in value. But in the 2006-07 budget, the Stanhope government slashed the ACT housing budget by $33 million over three years. In the same budget, the government slashed the waiting list of around 2,000 people for public housing by half.

For example, they cut the eligible income threshold for a couple with a child by 37 per cent, from $1,000 to $700 a week. This has had the effect of keeping the working poor out of public housing, while private rents have become so high that they are not able to rent in the private market.

There is a very slow turnaround time on preparing housing properties for tenants. I have brought that up many times in this place. We have heard of cases of places sitting idle for as long as five months. At May this year, there were 371 properties sitting idle. The 2006-07 budget papers indicated that Housing ACT, under the Stanhope Labor government, was only managing 11,272 properties—127 less than under the last Liberal government in the ACT. However, it seems they then got a bit of momentum and now it is around 11,600 properties. Worthy of mention here is the fact that the government is also behind in collecting debt from housing clients, with 1,612 owing a total of $1,245,929.37 as at March 2008.

The Stanhope Labor government continues to neglect public housing, with little in the latest budget, at a time when housing has never been more unaffordable in the ACT. Only 10 million of the government's Building the Future fund of $1 billion has been allocated to public housing. Despite having the highest number of public housing properties per capita in Australia, this government is doing a poor job of housing those who need public housing.

At some point in 2007, it is interesting to note that the Chief Minister must have had a "Damascus" moment. I do not know whether he fell off a ride-on mower or the like, but all of a sudden, he discovered that there was a problem with a lack of affordable housing. So we were to ignore all those media releases that went before, and which told us how affordable Canberra housing was, because it clearly was not the case after all. So enter Jon Stanhope, who came rushing in, just like he did after the bushfires, hoping we would not notice his government's ineptitude in adding to the magnitude of the problem after a long period of neglect and punishing taxes.

The plan to expand affordable housing through Community Housing Canberra is, like everything else with this government, a sleight of hand. The fact is that the affordable housing offered at a cost of $40 million in government funding to Community Housing Canberra and the transfer of 132 public housing properties does not do anything to help the people who have found themselves made ineligible overnight by the decision in the horror budget of 2006-07 to severely limit eligibility criteria for public housing. This has left low-income workers with nowhere to go because they certainly cannot afford to rent in the private rental market.

The model being used by CHC works on 75 per cent of market rents. This leaves a huge gap between public housing, which works on 25 per cent of income. The affordable housing is effectively middle-class welfare. It is for households on $50,000 to $74,000 per annum. What about the people earning $30,000? Where do they go? There is a huge void left by the hatchet that the government took to eligibility rules for public housing, and this housing affordability scheme they are talking up, around Community Housing Canberra, does not fill this cohort of people at all.

Indeed, what will happen to the tenants of the around 60 public housing properties managed by one of the bona fide community housing providers which are to be transferred to CHC as part of the government's affordable housing plan? These tenants will have to pay around an extra $160 a fortnight under this plan which, for all or most of them, will not be sustainable. This means that 60 more households will be looking for somewhere else to live.

Minister Hargreaves talks in the progress document about community housing, but to my knowledge nowhere mentions any of the community housing providers in the ACT—Havelock Housing Association, ECHO and TAS. The people who are most likely to be left in this void are age pensioners and people with a disability. They simply do not have the means to rent anything in the affordable housing offered by Community Housing Canberra. The name is a total misnomer. This is not what community housing is.

Ara Creswell of the ACT Council of Social Service has quite rightly talked about the need to differentiate between affordable housing and community housing. It is important to help first homebuyers and people in the middle, but how much more important is it to help people at the bottom who are even more vulnerable and who have considerably fewer means? What a strange priority this government has, and it is giving no less than $40 million of public money, plus 132 properties, for this venture. Could it be a vote catcher for the Gungahlin and Belconnen areas, where the new land is being released? This government is cynical enough for that.

According to the latest Australian Institute of Health and Welfare SAAP data for 2005-06, of the SAAP clients in the ACT who exited services, 28 per cent went to public housing, 15 per cent to private rental and five per cent to community housing. The remaining 52 per cent went to other SAAP services or to institutional care. This is clearly where the need is. The government needs to invest in community housing and it is not doing this. The ACT is the only jurisdiction in Australia which is not seeing any growth in community housing. Clearly, to this point, the government has put all its eggs into one basket and is enabling only one provider, and that one is not using a true community housing model. Why is the government not using Havelock Housing Association, for example, which is, after all, the only nationally accredited community housing provider in the ACT, to deliver accommodation to those most in need?

Sadly, the government is not promoting enough diversity in the type of housing options for Canberrans. There must be seamless transitions for people to exit from public housing when their conditions improve, but now there is a big gap in the market and the government has only added to it. In the meantime, public housing is increasingly being given to the homeless and fewer people are finding places now than two years ago, according to the Australian Institute of Health and Welfare report.

Declining government funding has been behind this nationwide decrease in public housing stock. Almost 40 Canberrans are waiting to be allocated priority public housing, with 54 days the average waiting time. Some 354 people are waiting for standard public housing and, on average, they will wait just over two years for a home. About 740 are awaiting high-needs housing and will have to wait a year, according to

the report. This trend is exacerbating the gap with respect to those who cannot afford private rentals and cannot afford the government's affordable housing but equally are unable to access public housing or at least must stay on the list.

A headline in the *Canberra Times* on 9 August 2008 said it all: "The ACT housing crisis appears to be much worse than the government says". The community housing providers are turning people away, including those recent homeowners who have defaulted. This government has delayed action for too long and is still doing nothing much for community housing.

I thank Ms MacDonald for bringing this matter on today. It is an important matter to discuss and one that this government continues to be in denial over.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (4.33): Access to affordable and appropriate housing is a basic right that we are all entitled to. That is why my government is committed to ensuring that all Canberrans have access to safe, secure, affordable housing.

To help address the issue, a little over a year ago the government issued an action plan for housing affordability that is the most comprehensive ever attempted by an Australian government. The report was extremely well received by the community, with industry bodies unanimously welcoming the plan. Peak housing bodies, including the Master Builders Association and the Property Council of Australia, supported the plan. Not only did the Property Council describe the plan as the best of the breed, but Ms Catherine Carter, its executive officer, described the progress of the plan as the Chief Minister "underpinning better quality, more affordable housing development, in double-quick time". That is the Property Council of Australia's assessment of this plan and the progress in its implementation.

Our plan has gone on to attract attention from other Australian states and was endorsed by the Senate select committee for affordable housing. Officials in my department are regularly called on to provide information to outsiders, even by departments in other countries, due to the success and broad-ranging nature of the action plan to address affordable housing.

Our plan considered supply and demand and identified the levers the government might be able to manipulate to bring about sustainable, long-term change influencing affordability. The plan contains 62 initiatives, which focus on ways to make home ownership more affordable; ensure there is affordable private rental accommodation available; provide community and not-for-profit housing for those on low-middle incomes; improve our public housing to see that it meets the needs of those who need it most; and improve access to supported accommodation, including emergency housing.

The government understands that the only true way to tackle the affordability of housing is to simply increase the supply of affordable housing. The government is doing that. The government has accelerated its land release program, with more than

3,400 blocks released in 2007-08. That is the largest residential land release program in a single year since self-government. We have a further 4,200 blocks to be released in this financial year and an average of 2,750 blocks to be released over the following four years. The government now provides blocks for sale over the counter, with sites currently available in Bonner and Ginninderra Ponds.

The government has also listened to industry. Through our land release program, we have a number of new estates for development through regular englobo land releases, with house and land packages now available at west Macgregor, Casey and Uriarra.

Another key cornerstone of the government's affordable housing action plan is our requirement that at least 15 per cent of new estates include house and land packages under $300,000. Through the government's first englobo land sale, we have seen Village Building Co far exceed this requirement, providing almost 30 per cent of the estate as affordable house and land packages of that order. We now also have in place the OwnPlace initiative, in which the government has partnered with builders to deliver affordable house and land packages under $300,000. The first of those homes will have families in them by Christmas this year.

The government have also sought innovation through our action plan. We now have in place the land rent scheme, which is attracting lots of attention, with the first four information sessions on the scheme completely booked out and places for future information sessions filling fast. The land rent scheme which has just now been derided by the Liberal Party—a scheme which they have signalled that they will abolish—will make housing more affordable by allowing households on incomes as modest as $50,000 a year to rent rather than buy the land component of a house and land package at a concessional rate by removing the mortgage component of land and substituting it for a concessional rental rate. Many Canberrans on lower incomes will be able to realise that great dream of owning their own home. This government is providing homeowners with greater options to make housing more affordable.

I find it absolutely remarkable that the Liberal Party do not believe that the land rent scheme should be continued. They believe that it should be abolished. Their attitude is that you own a land and house as a complete package or you continue to rent. The Liberal Party would deny households on incomes of under $50,000 the opportunity of owning a house albeit through a land rent arrangement. They would prefer to see those people continue to access public housing or simply continue to rent from the private market. It is a wonderful Marie Antoinette response to issues around housing affordability: "Oh well, you earn less than $50,000; your fate is to remain in the rental market or wait and access public housing. We do not believe that there should be this innovative popular option to allow you to access your own home through a land rent scheme."

It is remarkable. It is remarkably patronising of the Liberal Party to say to all those Canberrans—at those four booked-out first information sessions for the land rent scheme, to all those people who willingly accessed it—"We note your interest but this is not a scheme that we think is for you; we think you should continue to rent. We think you should continue to rent; you should stay in the rental market. Look, you earn less than $50,000; home ownership is not for you—not even pursuant to a land rent scheme."

As I said earlier, our plan has carefully considered supply and demand and identified the levers that the government might be able to manipulate to bring about sustainable, long-term change influencing affordability. That is unlike those opposite, who have a plan to make housing more affordable—a plan which, incidentally, will simply increase the price of houses.

The Liberals' housing affordability plan is reduced to a single option or position, to remove stamp duty for first homebuyers who buy a home under $500,000. Here we have it. We are eight weeks out from an election and a significant position is put today in a matter of public importance on affordable housing. The Liberal leader's response in this debate today was to reiterate that their policy on housing affordability is centred on a single initiative—that they will reduce or remove stamp duty for first homebuyers who buy a home under $500,000.

What has all the analysis said, even analysis by objective experts—even, most particularly, by Westpac? Westpac has done detailed analysis of the implications of removing stamp duty in an untargeted way such as this—un-means tested. Un-targeted removal of stamp duty for first homebuyers with a house under $500,000, in the assessment of Westpac, will drive up the price of houses by at least two per cent on a medium-priced house in the ACT. That will produce an increase in the overall price of those homes of $9,000.

Mr Gentleman: We'll all be paying for it.

MR STANHOPE: Everybody will pay for it. If you remove stamp duty for first homebuyers—un-targeted, un-means tested—those that are in the first tranche do very well; they have the stamp duty holiday. The price of houses will rise immediately by $9,000, according to Westpac. That $9,000 increase in the price of houses is then passed on to everybody else seeking to buy their first home. And it just continues to spiral. They then get their stamp duty exemption; the price of houses goes up another two per cent. And on it goes.

It is a flawed policy; we know it is a flawed policy. It is populist; it is simplistic. It is the policy of a party that has done nothing but fight and brawl for the last four years and suddenly realises "Oops, there's an election in a few months; we'd better develop a policy or two." They have not bent their mind to it. They have come up with a single policy; we see the second aspect of the policy announced today. "We will have a stamp duty exemption for first homebuyers, un-means tested, un-targeted, up to $500,000. We'll do nothing but push up the price of houses."

Their second policy pronouncement was delivered today: they will abolish the land rent scheme. They do not believe that people under $50,000 who cannot find the wherewithal to provide a house and land package should be denied the option of buying a house. It is a classic Marie Antoinette: "We don't think you deserve your own house. Let them rent." It comes out of Mr Seselja's mouth today: "Look, we don't think this option should be open to those that can't afford a house and land package. We think they should simply rent."

Mrs Burke: It's flawed, your policy.

MR STANHOPE: It is flawed policy, they say, so they will abolish it and deny the opportunity to those that wish to take it up. "We will deny them." Those that wish to access the land rent scheme will be denied the opportunity under the Liberals. This is a point of distinction or separation, according to Mr Seselja. "We will promise to abolish the land rent scheme because we don't think people can be trusted to make these decisions on their own behalf."

In the context of that analysis by Westpac, it is interesting that this particular policy on stamp duty will drive up the price of houses by 10 per cent. There have been figures released. Just today, coincidentally, the Housing Industry Association revealed that first homebuyer affordability in the ACT actually increased by 10 per cent in the June quarter of this year. Under this government, housing is becoming more affordable. We see the latest indication of that today in Housing Industry Association figures.

The plan is having a real impact on affordability across the board. I have found remarkable Mrs Burke's attack on Community Housing Canberra today. Here is another project or policy in the sight or in the gun of the Liberal Party today—a project with a $50 million finance facility, a direct injection of $40 million. Even that is not good enough, with a promise by Ross Barrett that he will deliver 1,000 houses in the next 10 years. *(Time expired.)*

DR FOSKEY (Molonglo) (4.43): I have probably got about two minutes; I will go very quickly. People will have seen last night the program on the impact of mining in Western Australia and will have noted that there is an affordable housing crisis. It is not peculiar to Canberra; it is a national problem. I first want to assert that; we need to see a great deal more action at the national level on this one.

The Greens have been calling for an affordable housing plan or strategy for most of this time. We were very happy when the government set up an affordable housing task force or whatever this government called it in this iteration. We are very pleased that all those moves have been made.

We do note, however, that there seems to be a real push towards home ownership and that that leaves out a huge number of people. We have had Mr Seselja talking for the homeowner. We have had Mr Mulcahy talking for the investor. We have had Mrs Burke talking about community housing, and I endorse a lot of the remarks that she made about community housing. I would like to let the Chief Minister know that CHC is no longer Community Housing Canberra; it is CHC Affordable Housing, and it is different.

We know that with a lack of affordable housing we lose our discretionary workforce. People who do not have well-paying jobs and people who live in single-income households cannot afford to live in Canberra unless they own their own homes. I should declare an interest here. I rent in the private rental market. I notice that no-one else declared their interest when they spoke on behalf of various constituencies. I speak on behalf of the group that no-one has really talked about, people living in the private rental housing market. That is where the pinch is really felt.

We need to expand housing. It is great if people can own their own houses, but remember that people who come to Canberra first come as renters; unless they have various complex needs, they are not likely to get government housing. The community housing sector is not expanding, and affordable housing from CHC is in its early years and just catches one segment of the market.

We need more public housing and we need to make sure it is viable. That means we need to have a mix of market renters and people of high needs. Otherwise we are going to end up with ghetto-ised public housing that is only cause for complaint. We are already seeing it in this place—complaints, complaints, complaints about public housing tenants. It is a populist issue and we are hearing it here.

We need to have inclusionary zoning so that in every new development that is built there is a percentage of affordable and social housing. That means community housing and public housing. The government refused that a few years ago when I put it up. I am waiting to see it in their own policy. We need more mobile and long-stay parks; we need security for people who live in them. We need houses which are affordable to live in; it is not enough just to buy them. We need to build boarding houses for out-of-town secondary students. They do come here. We need to facilitate empty nesters who rent rooms in their houses. We know that that could help solve the social problem of loneliness and isolation and also the lack of affordable housing.

Another concern I have is whether the people who end up with the blocks of land from the moderate-income land ballot are the people that the program is directed at. I have had anecdotal evidence that there are people who already own homes benefiting from the moderate-income land ballot. There are people who build homes on the land who do not ever live in them and who rent them and sell them out. There are concerns. It is not enough to just say, "We are doing it." You have to show that you are doing it well and that you are benefiting the people who most need benefiting.

For this reason, I was very pleased—*(Time expired.)*

MR SPEAKER: The time for discussion of this matter has concluded.

Duties Amendment Bill 2008 (No 2)

Debate resumed from 7 August 2008, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella) (4.48): This is a deceptively short bill. It inserts one clause into the Duties Act, but its objective is quite profound. The intention of this bill is to provide a market signal, a pricing mechanism to encourage people to buy new motor vehicles—essentially passenger vehicles and smaller commercial vehicles—that are less damaging to the environment.

I thank the Treasurer for arranging a briefing on this bill, although I am concerned that a number of questions that I had asked about this scheme that were taken on

notice last week have not been answered. This morning, when my office asked if they were to be answered before this debate, Mr Stanhope's staff advised that, in fact, I should ask the Minister for Territory and Municipal Services for answers to my questions. I think the lack of courtesy in this regard is quite sad and I am disappointed that the details were not provided by the Treasurer's office.

I would like to thank Mr Hargreaves's staff because when we were informed—I think at about 20 past 10 this morning—that the answers would not be forthcoming from the Treasurer, that he could not answer the questions, and that I should go to Mr Hargreaves's office, we did, and, through you, Mr Hargreaves, I want to thank your staff for promptly answering a number of the questions. Unfortunately, some of the reports are still running, so the details cannot be available for this debate, but thank you for trying, Mr Hargreaves, and thanks particularly to your staff.

I am disappointed that I do not have the detail that I sought, and this has helped influence my decision and the decision of the opposition about this bill. The opposition will be opposing this bill. While it is a very simple bill and the notion of encouraging the purchase of more environmentally friendly motor vehicles is excellent, there are a number of adverse implications that arise from the proposals in this bill. The longer term implications of this proposal are significant and I need to satisfy myself that any implications arising from this proposal will not significantly disadvantage either consumers or the ACT government.

My concerns with respect to consumers include whether the mechanism chosen to indicate environmental friendliness is a satisfactory basis for distinguishing between the environmental performances of vehicles, indeed, the whole-of-life cost to the environment of vehicles. We also need to know that there is no undue discrimination that would affect choices being made by consumers and that there is no increased regulatory or financial impact on business or, indeed, on individuals.

My concerns with respect to the government's bill are, firstly, that the administration underpinning this proposal is not complex and, secondly, that the revenue base is protected. What the bill does not propose is a specific mechanism for determining environmental friendliness or, indeed, a definition. It seems to be based on the consumption and performance of vehicles and the amount of greenhouse gas that they emit, not an all-of-life summary of the cost to the environment of the vehicle.

It is interesting to visit the green vehicle guide website and to try and find out what it is that they are attempting to measure. There is a section called "Information on green vehicle guide ratings and measurement". I would like to read to members of this place the note at the end of the section, because this is the nub of the problem. The note states:

> The ratings are based on tailpipe emissions. Like any manufactured product, motor vehicles can have other impacts on the environment. For example the vehicle manufacturing process and the level of recyclability of vehicle components can impact on the environment, as can emissions from the refining of different fuels. These elements have not been factored into the Green Vehicle Guide ratings as it is not possible to provide objective numerical values for these factors at an individual vehicle level.

Why can't we do that? We know how they are manufactured and we know the cost of that manufacturing. The Treasurer is putting in place a disallowable instrument and at this point the process would use the very same green vehicle guide to provide the basis for determining the rating of the different vehicles. The guide would be called up by instrument and the instrument could be debated to ensure that the Assembly is satisfied that the right objective is being targeted.

As this guide is maintained and validated by the commonwealth government the integrity of this guide as the basis for determining the relative environmental merits of different vehicles is assumed. The proposal contains complete flexibility. However, if there were concerns with the ongoing integrity of the guide or if there were any other issues with the guide, a different source of rating of vehicles could be called up, if necessary.

The proposal at this time will only apply to new vehicles at the time at which they are first registered. This means that the scheme will be relatively straightforward to apply. The impact of the scheme will be felt gradually as the territory passenger vehicle fleet is turned over, although one has only to observe the proportion of new number plates on the streets of Canberra to see the number of new vehicles that are bought each year. Unfortunately, I have not got that data because the Chief Minister could not provide it.

The scheme proposes four grades of vehicle, and the grade at which the vehicle is rated will determine the duty that will apply. Grade A vehicles will have no duty. Grade B vehicles will be dutied at $2 per $100 of value. Grade C vehicles and vehicles that have no environmental rating will be dutied at $3 per $100 of value—and that is the current rate of duty. Grade D vehicles will be dutied at $4 per $100 of value, representing a 33 per cent increase in the current rate of duty. In his presentation speech the Chief Minister said:

> For those vehicles with less than average environmental performance, the rate of duty will increase slightly.

Well, it is not. It is going up from $3 to $4. It is going up by one-third. If that is a slight increase then the Chief Minister needs to get a new dictionary.

The problem is that the scheme does not look at what those vehicles are. I have a number of concerns about the impact of this proposal on the Canberra community. In the first place, according to the information that Mr Stanhope has sent to the ACT motor vehicle industry, the top selling vehicles in the ACT in June 2008 will all actually have an increase in duty under this proposal, and three of those are work vehicles. There are two Toyota Hilux models and a Nissan Navara. To that you could then add a Toyota Prado. Some use a Prado as a work vehicle; some would use it as a recreational or personal vehicle.

The reality of this scheme is that there will be higher tax on local business and higher tax on families who have more than three kids—there are three seats in the back of a sedan—and who, because of limited choices, have to buy a larger vehicle. This is the reality that I think the Chief Minister ignores.

This is a tax on tradesmen. It is a tax on those small businesses that use vehicles like a Hilux or a Navara. A Hilux or a Navara are not necessarily flash luxury vehicles. They are commercial vehicles and they are required by many tradesmen or women for their occupations.

It is a tax on families. Many families now have to buy larger vehicles, one of which is a vehicle like the Prado, to enable them to fit their family safely into one vehicle. This bill is the Lexus buyer's tax relief bill. If you look at the list that the Chief Minister sent to the industry and if you look at the sorts of vehicles he is suggesting that we have available for the green vehicle launch, they are the Audi A4 and the Lexus wagon. My particular favourite is the Lotus Elise convertible! We are saying that working families should be buying Lotus Elise convertibles, A, B and C class Mercedes, Peugeot 308s and Saabs. This is Mr Stanhope standing up for the environment and looking after working families.

The problem is that most of these vehicles are completely out of the reach of working families. There is no indication from our briefing that these impacts or consequences were taken into account when this proposal was developed. The opposition is concerned about these impacts. We cannot support this proposal until we are satisfied that these impacts and their consequences have been fully thought through.

The opposition is also concerned about the impact of the changes in duty and the mix of vehicles in the ACT's fleet. Again I thank Mr Hargreaves's office, unlike the Chief Minister's and Treasurer's office, for their assistance. For the information of members, at 1 August 2008 there were 272,953 vehicles in the ACT fleet. About 36 per cent of those are less than five years old. Another 26 per cent are between five and 10 years old. The rest are more than 10 years old. They are still running the report so they cannot tell me what proportion is changed in each category in each year. I hope that information is forthcoming.

We are aware that there are many vehicles that are used by families and businesses that will not rate well under the green vehicle guide. In fact, many families and young people have vehicles that are relatively old and we are now going to make it even harder for them to replace those vehicles that are having considerable impact on the environment. There is no consideration of which we have been made aware in this proposal to encourage these vehicles to be taken off the road and be replaced by more suitable vehicles. As the Chief Minister's press release says, second-hand vehicles and motorcycle purchases will not attract a discount. If you cannot afford to buy a new Lexus or a new Audi or a new Mercedes-Benz or if you cannot afford to buy a second-hand Lotus, well, then, too bad, too sad.

I also have some concerns about the revenue implications of this proposal. The intention of the government's proposal is that the same quantum of revenue will be collected under this tax arrangement as has been collected under the existing arrangements. What revenue is lost through registering a grade A or grade B environmentally friendly vehicle will be gained by the higher duty paid by a less environmentally friendly vehicle. Again, it is interesting to note from the Chief Minister's speech that he thinks a one-third increase is a slight increase. He is saying that when you go from $3 to $4 per $100, the rate of duty will increase slightly.

I was assured that the modelling that has been done by the government shows that this outcome can be maintained for at least some time. But *Greenrazor*, the electronic newsletter of Green Pages Australia, contains, as its first story, an article headed "Australians believe they will be driving hybrids". The brief introduction states:

> An online survey conducted by UMR Australia's leading research and issues management company, has discovered that over a quarter (28%) of people believe they will be driving a hybrid car in five years' time …

I do not believe that the sustainability of this proposal is well founded. If, as the UMR survey says, in the next five years we will see this change, the revenue base in the territory will be affected. I suspect that what will happen, as the government applies their land policy of 'squeeze them till they bleed but not quite till they die' to owners of old cars and owners of less environmentally friendly cars is an increase in the size of the fleet. Anyway, the fees will come back onto the green cars.

The concern that I have is that at some point there will be so many vehicles subject to the zero rated duty, with the rate on other vehicles so high that the revenue collection will fail. At that point the government will either have to accept the loss of the revenue or rearrange all duties across all motor vehicles to maintain revenue collection. What we want is something sustainable into the long term, not something you do in the weeks before an election.

I do not believe that this will be a good policy outcome when that situation is reached. Indeed, I am concerned that the longer term implications of this proposal have not been properly thought through. This proposal has a superficial appeal to it, but the reality is that after it has been operating for some years it will require modification, and probably significant modification.

I have also a more fundamental question about determining the appropriate standard for determining environmental benefit. It seems to me that it is important to consider the whole-of-life cost of a vehicle to establish a more acceptable environmental outcome for each vehicle. I would like to be satisfied that the green vehicle guide—it is just one example—does provide the broadest possible estimate of the whole-of-life environmental impact for a vehicle. As I have already said, my understanding of the guide is that it is quite clear that it tests vehicles only on the basis of emission standards and fuel consumption.

I would be interested to hear the Chief Minister and Treasurer stand and tell us what other guides or standards are available in Australia and other countries and how these compare to the green vehicle guide, and in particular how they deal with matters such as whole-of-life environmental impact. I was at a function the other day and it was stated to me that in theory the most environmentally friendly vehicle is a Jeep Cherokee because it is made of steel. There are low inputs of energy in the construction and delivery processes and it runs a fairly efficient motor. So, contrary to what we might all expect, it is something that might in the long term be more friendly to the environment.

The common perception is that if you are driving a Prius or a hybrid, it is good for the environment. It might be good in terms of petrol consumption and emission, but you have to change the batteries. The current thinking is that batteries have to be changed every five years, although I have heard a range of three to seven years. Because of their particular construction and design and the materials that they are made of, they actually use up a larger amount of energy than in the manufacture of the vehicle.

If we are going to be selective and just say that the only thing we are worried about is emissions then let us be honest about it. But if we are actually talking about the long-term reduction of the impact on the environment through this duty then it is not going to be achieved. We are not taking into account the all-up cost of construction on the environment. We need to hear from the Treasurer about alternative guides that might be used, in particular how these guides deal with matters such as whole-of-life environmental impacts.

I want to talk about consultation. I have consulted with the motor industry on this bill and I have learnt of two further concerns about this proposal. The first is the impact of this proposal on motor vehicle businesses. I do not know whether the Stanhope government prepared a business impact statement—perhaps the Treasurer can enlighten us—in respect of this proposed scheme. I assume that one was prepared, but there was not any mention of it.

I need to emphasise to the Stanhope government that all motor vehicle retailers in the ACT will have to make changes to their existing computer systems, and they tell me that they are concerned about this. What has been quite a simple system will now have to incorporate four different grades of vehicle according, presumably, to the guide used at the time. Currently it would be the green vehicle guide or whatever guide is pulled up under this legislation.

Small businesses are the life blood of the ACT economy and the Stanhope government, through this proposal, will be making life just a little bit more complex for those businesses. My concern is that while this proposal, in principle, appears reasonable there are consequences, particularly for small business, that also need to be taken into account.

The second matter is the consultation itself. You would think that on such a proposal the ACT government would have consulted widely. From my consultations with various business groups, I know that the motor trades association was consulted, but when you are jacking up the prices of utes and four-wheel drives, which are the mainstay of the construction and the building industry, I would have expected that the government might have spoken to, for instance, the master builders or the HIA.

I know they did not speak to the master builders, because I did. The master builders have not been consulted on this specific proposal and were not aware that some potential new vehicle owners would be punished by having to pay an increase in stamp duty. The bottom line is that business, yet again, has not been consulted adequately by this government.

But what about the impact on low-income families, the working families that this government is so proud of, and who the government thinks should be driving Lotuses and Lexuses? Again, ACTCOSS was not consulted either. Most people on low incomes probably do not go out and buy new cars. The sorts of cars that they would normally purchase are not Mercedes-Benz, Lexus and certainly not Lotus. This bill should probably be called the luxury car tax rebate bill.

The other aspect is the affront to the Assembly. Apparently the launch has already been organised. I have a letter that was sent to Mr McGilvray at the MTA that simply states, "The ACT government will be launching the green vehicle duty scheme on Tuesday, 2 September 2008". The invites are out. People have been asked to bring their cars to the green vehicles launch. There is an Audi A4, a couple of Jeeps, a Lexus, a Lotus, a Mercedes-Benz and a Peugeot on sale. The list goes on.

It is quite arrogant, Chief Minister, to be sending out the invites to your launch when you actually have not yet had the scheme validated by this place—

Mr Mulcahy: Just a rubber stamp.

MR SMYTH: That is right. Then again, there is nothing to fear for a majority government. We just do what we want. It is sheer arrogance on the part of the Stanhope government to be sending invites out and inviting the car sales people to actually bring their vehicles. The list is here. These are the vehicles they want on display. A more appropriate form of advice would have been to tell the motor vehicle industry that while there is a proposed launch date for the scheme the legislation is still to become law. But, no. Once arrogant, always arrogant. This is so typical of the Stanhope government.

At this point the opposition is not prepared to support this proposal. Once again it appears to be a tax proposal by the Stanhope government that has not been fully and properly prepared. There are issues with this proposal, especially regarding the impact on small business, on families and, in particular, on tradespeople. I note that we will require additional information when we debate the proposed new duty regime in the Legislative Assembly. *(Time expired.)*

MR MULCAHY (Molonglo) (5.08): This is one of those bills that look quite good and quite innocuous on the surface but which have fairly wide ramifications for government accountability to the legislature. The bill appears to do little more than make a fairly minor administrative amendment to the mechanism for ministerial declarations as to rates of duty on motor vehicles.

Specifically, the bill amends section 208 of the Duties Act, which deals with the rates of duty for motor vehicles, by adding an additional section—section 208 (3). This section provides that section 139 determinations under the Taxation Administration Act, which allow the minister to make declarations regarding the rates of duty on motor vehicles, can incorporate an instrument as enforced from time to time. Whereas under the existing system, the ministerial declaration would need to be amended and reissued in order to change the rules for the assessment of duty, the amendment put

forward in this bill would allow rules for calculation of duty to be changed merely by a change in the instrument referred to in a ministerial declaration.

As I have said, this seemingly innocuous change has fairly wide ramifications for government accountability to this legislature. This is because, unlike changes in ministerial declarations, changes in the accompanying instrument, I am advised, do not have the same mechanism for scrutiny by the Assembly. Whereas a determination under section 139 of part 1 of the Taxation Administration Act is a disallowable instrument, an accompanying policy is not, and it may easily be changed without the Assembly ever being aware of the change. This has clear ramifications for accountability to the legislature. It is a core principle of the Westminster system of parliamentary democracy that the executive arm of government must be accountable to the parliament through proper mechanisms for notification and review of decisions.

In this case, I fear we are setting up a mechanism where the rules for the duty on motor vehicles in the ACT are essentially being delegated, to a large extent, to policy makers who are unaccountable to the legislature. We are also setting up a system in which changes can be made without any legislative assurance of notification to the Assembly. No doubt, some would argue that so long as the Assembly is able to disallow the ministerial declaration, it does not really matter whether it can disallow the instruments to which it refers. However, I do not think this is good enough, since those instruments can be changed without any notification to the legislature. I think at some point we have to ask ourselves whether legislation has delegated too much power to the executive government at the expense of parliamentary oversight.

Although not forming part of the bill itself, I will speak for a moment on the green vehicle stamp duty scheme, which is the policy instrument contemplated by this bill. If this bill is passed then it appears that this policy will be adopted as part of a ministerial declaration on rates of duty. This will mean that this policy will become part of the law affecting duty determinations and that any changes in this policy by bureaucrats in the ACT government will become de facto changes in ACT law—all, I might again add, without any notification to the legislature.

I will begin by saying that there is certainly some merit in schemes to allow duty concessions to vehicles with good environmental performance. When the government wishes to attain some environmental objective, a tax concession aimed at incentivising this objective can be a good way of accomplishing this goal. But I am always sceptical of government subsidies, and so I stress that a tax concession is not a subsidy. It involves essentially taking less of a person's money rather than giving them money taken from others. I therefore have no objection in principle to schemes of tax concessions for this or that government objective.

I am on record as being an opponent of the high levels of taxation imposed by this government, and so I certainly welcome proposals for concessions and reductions in those taxes, even if those concessions are contingent on specific circumstances, actions or, in this case, purchases. I am generally in favour of tax concessions designed to encourage environmentally friendly products and practices, and a duty concession for environmentally friendly vehicles seems to me to be prima facie a worthwhile suggestion. However, the devil is in the detail of the accompanying

policies. It seems that, in this case, despite the rhetoric about concessions, this is not merely a concession scheme—it involves punitive increases in duty for some new vehicles. In his presentation speech on this bill, the Chief Minister stated:

> A duty concession will provide an incentive for the purchase of vehicles with better than average environmental performance. For those vehicles with less than average environmental performance, the rate of duty will increase slightly. The duty rates will not change for vehicles with average environmental performance.

They are the words of the Chief Minister: "will increase slightly". As Mr Gentleman, I am sure, will know from his friends who are motor vehicle enthusiasts, they will clearly have a different view about what slight increases are when they read the consequences of this bill. This is a revealing statement:

> For those vehicles with less than average environmental performance, the rate of duty will increase slightly.

That does not sound like a concession scheme to me. In fact, it is not all that slight. According to the current green vehicle stamp duty scheme, people driving vehicles rated as having below average environmental performance will pay substantially higher stamp duty. For vehicles in this category under $45,000, the rate of duty will increase by 33 per cent. For a $45,000 vehicle, the stamp duty will increase from $1,350 to $1,800, and for vehicles in the category above $45,000, the rate of duty on this portion of the cost will increase by 20 per cent. For a $60,000 vehicle, the stamp duty will increase from $2,100 to $2,700.

Moreover, as I have said, these categories and rates could easily be changed by changing the policy, and that would not require any notification to the legislature. In incentive-based schemes like this, it is important to make sure that we do not end up with any perverse incentives which may not have been anticipated. It does trouble me that we are dramatically increasing the rate on some new cars on the grounds that they do not perform as well environmentally as others, but in doing so we are creating a disincentive for purchase of a new, improved vehicle compared with keeping an older vehicle on the road, at least amongst those who are wedded to particular brands of vehicle which may not have optimum environmental performance. This is one perverse incentive of the scheme that does cause me some concern. However, as I have said, what really troubles me is that the scheme can be changed without any accountability to the legislature, thereby creating a de facto change in ACT tax law.

Mr Smyth made reference to families, particularly those involved in the trades. I went through the lists with my staff, and we have talked to people in the industry. There are many people involved in the trades who purchase vehicles in the D category—that is, two-seater vehicles that are clearly for work purposes—who are going to cop a slug from this legislation. Frankly, there are many families who are going to be hit as a consequence of this measure.

I emphasise that I am happy to see concessions. My wife recently bought what I am sure will qualify as a low-emission vehicle, and I think that is great if people can do it. But there are people, because of all sorts of circumstances, who are not going to be able to enter the market for those smaller vehicles. I am particularly concerned that

those who need utilities for their work-related activates are going to wear a slug from this measure. We hear the cliche about working families. I regularly ask my staff whether they can tell me what a working family is. I met James Packer a few months ago—he works, he has got a family, and he is worth $7 billion. I do not know whether that is a working family. Apparently there is a group of people who are working families, but I do not quite understand who they are. Is it all of us who work, or is it only those who are in the right political camp?

The fact of the matter is that those in the trades are going to cop it in this particular area. Families who must have larger vehicles will wear the impact of this, and I am not sure that that is good tax policy. We have heard all the media about the incentive for purchasing lower emission vehicles. When I heard it in the media on whatever day it was issued, I was saying to my family: "Well, that seems sensible. That's something I'll vote for." But when I got into it and started looking at the fact that this is another tax increase, another hit for the back pocket for many people, I suddenly cooled on the whole idea.

I am pleased the opposition has gone back to opposing this particular tax increase. I thought it had totally converted to the cause of high taxation, but it sounds like, for whatever reasons, it sees the deficiencies in this bill and it is not going to support it, from what I believe I heard Mr Smyth say. I will be taking a position of opposition to the bill, too, for the very reason that, whilst I am delighted at the concession for the purchase of these lower emission vehicles, I simply cannot bring myself to support measures that are going to see some massive increases in taxes for many people in Canberra who, for various circumstances in their life and their work, are compelled to buy certain types of vehicles and will not have the option of picking up a Hyundai or something else and trying to use it as a trades vehicle. I think the bill is insensitive to those people and it is going to hurt them further.

I will be interested to learn of the stance of the Greens on this bill, as it raises some points which I think may be a conflict for them. The bill does involve quite a large derogation of power from the legislature to the executive arm of government, which may give some Greens an uneasy feeling, given their previous advocacy for government accountability. However, I suspect that, so long as the policy under review involves the environment, there is probably no argument that will stand in the way of Greens support for this bill. Accountability to parliament will go out the door. To make it very clear, Mr Assistant Speaker, I will not be voting in support of this bill.

DR FOSKEY (Molonglo) (5.19): Mr Mulcahy's moment has come—the Greens are standing up and, yes, we will support this bill, but not without a great deal of concern. Indeed, we share many of the concerns that have been expressed by the Liberals and by Mr Mulcahy. Nonetheless, I am glad that the government is offering us this amendment today. When I put up a similar proposal in 2006—actually a much better proposal—the government offered very flimsy grounds for not supporting it. That would be because the Stanhope government does not like to agree to another's sensible proposals; it likes to take those ideas and present them as their own, long after the need is identified but when it can claim full credit. At least the Liberals are consistent—they opposed it in 2006 and they are opposing it in 2008. Mr Mulcahy, once a Liberal, now an independent, is also consistent on that one.

Having argued for it in 2006, I should not have to expand on why I think this is a small start to forming a new economy based on resource-use costs and pollution reduction incentives. I think Mr Mulcahy and the Liberal Party are going to have quite a few problems as we adjust to the reality of climate change. They are putting their heads in the sand. If they do not like this one, let us see the better one.

The government is crowing about this particular incentive whereby the purchase of a more efficient car leads to a lower tax and the more polluting car attracts a larger tax. It is a carbon tax, if you like. But it should not be an anomaly. There are plenty more opportunities, even in our small ACT economy, to apply such incentives to various taxation rates and duty measures. But let us stick to cars. Yes, it is fantastic that lower emission vehicles will not be paying stamp duty or will be paying lower stamp duty—we agree on that. But if we go back to my 2006 proposal, we will remember that the other side of car-related revenue adjustment is registration. I have not heard either Mr Mulcahy or the Liberals speak about that today. That is an equitable way of taxing high-emission cars.

Even Mr Rudd is proposing that this be a lever in pushing people towards low-emission cars, but it is a state and territory charge, and one that this territory could have taken the lead on. It is well and good to adjust a one-off tax, but it is the ongoing costs that people really notice and which, in the end, influence people's spending patterns. Do people really decide on a car type based on a one or two per cent discount, or do they make their decision based on initial cost in tandem with how much the annual and weekly on-road costs will be? I have seen people paying over $100 at the petrol bowser, and this explains why there are so many large four-wheel drives sitting on the corner of streets with big "for sale" signs on them. People are getting rid of them; they are making these changes already.

The Bracks review, which was recently published, proposed harmonising stamp duties as well as car registration. But the government's own sustainable transport plan says in paragraph 3.1 that it wants to encourage the use of more resource-efficient and low-emission private motor vehicles through regulation and pricing of vehicle registration, reduction in stamp duty et cetera. Although this plan was introduced in April 2004—over four years ago—such measures are yet to be implemented. Indeed, with its focus on roads, last week's plan was a step backwards from the sustainable transport plan. Today's proposal is the first step towards implementation of any of this goal, which I am sure that the Liberals endorsed with the sustainable transport plan, but we have only two sitting weeks left before the election.

I had to laugh when I read my 2006 speech on this proposal where I said:

> … we hope that … the government will come back with its own initiative and claim it for itself later on … I look forward to seeing it when it comes back from the government … certainly before the next election …

How spot on I was, Mr Assistant Speaker. That was not the first time it was raised, either. The report of the Standing Committee on Public Accounts of February 2004 titled *Revenue raising issues in the ACT* recommended that the ACT government

review the environmental sustainability of taxes on motor vehicles. The government supported this in principle in June 2004, saying it would be considered in the implementation of the sustainable transport plan. The wheels turn slowly indeed—not the car wheels, of course. Although climate change is, as the Chief Minister has remarked, the greatest challenge of our generation, the sustainable transport plan does not seem to be being implemented in a great hurry. I am glad that the new integrated transport plan will be refreshing the sustainable transport plan, but I hope there will continue to be community discussion to help the government understand just how integrated transport planning could be. We need a sustainable integrated transport plan.

The recent state of the environment report recommends establishing an independent, multidisciplinary, sustainable transport task force to do such work, which I wholeheartedly support. It is certainly time that the government of a car-based city—Canberra—took greater account of the effect that cars have on our environment. Although this scheme will help reduce transport emissions, which account for almost one-quarter of the ACT's overall greenhouse gas emissions, it will not reduce them by much.

How many car-purchasing decisions will be based on the adjustment of this tax? Not as many as we would like, I guess. If we really want to reduce our emissions and climate change impact, we need to offer more than reduced stamp duty schemes. We also need a similar scheme for annual car registration, and we need motor bikes and electric scooters to be included in such schemes. Why, indeed, have they been excluded from this scheme that we are debating today? Are they not more efficient than cars? Do they not mean less demand on roads and less demand on parking spaces? Do they not provide the benefits of independent travel combined with low fuel usage? Constituents have written to me in frustration about the difficulties that they are having registering and finding safe routes to ride their scooters and motorised bicycles. Both the NSW and ACT governments are making it very difficult for people who seriously want to consider this efficient form of transport. That is not an approach that should be taken by a government that wants to reduce emissions and integrate transport.

One aspect of this scheme is that it will most likely be revenue neutral for the government. From a conversation with the Federal Chamber of Automotive Industries, I understand this to be the case. However, depending on how many efficient cars are purchased, the scheme could even increase stamp duty revenue. If there is a net gain, I suggest that those funds be put towards improving public transport and not just lost in general revenue.

We need to consider what experts are proposing. Professor David Karoly of the United Nations climate change panel was recently appointed as the chair of the new Victorian expert panel on climate change. He proposes a major rethink of our transport funding to weight public transport over new roads at five to one. That is very different from what was in the integrated transport plan. He also proposes something you have all heard me say before—that is, all government policies should be assessed in terms of climate change.

Unfortunately, in this city that was designed to ease the movement of cars, people tend to see the good life that can be lived here as being dependent on driving from place to place. With the price of oil on the way up, goodness knows what the future holds for petrol-based cars. If we are going to drive them, we need to make sure they have the least impact possible on our environment, and that includes not just stamp duty but making sure that we have as many people in the cars as possible. How do we encourage people, for instance, to fill their cars with passengers rather than having to see that endless line of single-driver vehicles on our way to work every morning? That is as good a way as any of reducing emissions. Let us see the incentives for car sharing.

Any follower of automotive company developments cannot fail to notice the number of battery electric vehicles due for release in the near future. Obviously the manufacturers are aware of something hitherto unpublished that will make fossil fuels unattractive.

I note and endorse what the Liberals said about life-cycle approaches, and I share a lot of their concerns about the hybrid vehicles. Of course, it is counterintuitive to think that a hybrid might not be good for the environment. In fact, I believe that a really low-emission, petrol-driven car can be as efficient as a hybrid at the present stage. But what the hybrid is telling us with its growing market is that people want change. That is the crux of it. It is an absolute demonstration that people want to make a difference, and it will push these technologies so that we do get better and more environmentally sensitive cars. Things do not change just because the Liberals say they should.

We hear that the ACT government is also doing all that it can to reduce its own transport emissions. Mr Hargreaves says that 100 per cent of the car fleet is carbon neutral. That is greenwash! Giving people the impression that they can drive a car as much as they want and then paying someone else to plant some trees is not carbon neutrality. There is so much more to this story. Let us have a whole-of-life-cycle analysis of each car type; let us think about the annual costs to the owners and to the government of running cars; let us think about the roads, the parking spaces we provide, the health impacts and so on. Even if all the cars in the ACT were converted to low-emission vehicles, we would still have traffic congestion, the same lack of parking spaces and the same number of accidents.

A recent study in the US showed that even if every single car was converted to hybrid but our current growth in car usage continued, we would produce more CO_2 than we do today. We need to reduce the number of cars, not just the CO_2 that they produce. Without better public transport and without more car pooling, the car population will increase at the rate of population growth and the coming of age of our children. Our children want cars when they reach 17, and many of them get them. The answer is not more roads and car parks but a better, more reliable public transport system. If the ACTION network was as good as the government brags it is, Canberra would be a better place. We need real incentives to get people out of their single-occupant cars and into buses and light rail.

I am glad to see that this scheme is based on a combination of two environmental ratings from the commonwealth green vehicle guide greenhouse rating, based on the

vehicle's carbon dioxide emissions and the air pollution rating, a measure of noxious pollutants that reduce our air quality.

Mr Stanhope brags that the ACT is the first jurisdiction in Australia to introduce this duty scheme, but, in the international context, we are far behind. Australia, land of the open road, is lagging in adopting incentives to increase low-emission vehicle purchasing. The UK, Germany and even the US implemented these incentive schemes years ago. The UK has a vehicle registration scheme based on the level of grams of carbon dioxide emitted by a vehicle per kilometre. Even President Bush, whose country produces the most greenhouse gases and who has stated many times that he safeguards his country's right to use 25 per cent of the world's resources and does not want to see any compromise in the American lifestyle, delivered a revised federal tax incentive program for hybrid cars in August 2005.

Of course, at the federal level, we need to mention the requirement under the fringe benefits tax scheme for a vehicle to travel a certain number of kilometres before receiving a tax credit. The ACT government needs to lobby strongly to abolish that requirement.

I will refer to the issue of low-income people being disadvantaged by this. For a start, I have been a low-income earner. I have never bought a new car in my life and do not expect to. This tax does not apply to them. The other thing we will see is that it is going to be cheaper for poor people to buy high-emission cars because they will be cheaper. It is already happening. There are new cars, for people who can afford them, at the lower end of the market that will fit into the category, and I will list some: Mitsubishi Colt, Hyundai Getz, Toyota Yaris, Toyota Corolla, Toyota Camry, Toyota Aurion, Hyundai Sonata and Mitsubishi Outlander. So let us demolish that argument. If we really do want to make a difference to low-income people, we will work on the registration for low-emission cars, because that is what will really help them.

This scheme will have its greatest effect on people's purchasing choices of brand new cars, and this is the point at which consumers have the most effect on the industry. This is where their demand counts. If this green vehicle scheme can affect whether people purchase cars which are not very efficient and can make them decide instead to purchase ones with fewer emissions then that is a great outcome.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (5.34), in reply: The Duties Amendment Bill 2008 (No 2) amends the Duties Act 1999. The amendment gives effect to the government's green vehicles duty scheme, which I am very proud to say is the first of its kind in Australia. The green vehicles duty scheme is action 7 of this government's "weathering the change" climate change action plan and is consistent with our integrated transport framework, in which we have stated our commitment to encourage people to drive environmentally friendly vehicles.

This government wants to encourage Canberrans to purchase the best environmentally performing vehicle that meets their needs. We know that the people of the ACT are committed to doing all they can to address climate change. This government is

committed to providing Canberrans with the resources, incentives and support they need to make their contribution.

The response to the government's program to assist people to reduce their carbon footprint and to use our resources in a more sustainable way has been overwhelming. We provided an energy wise program to audit households' energy use. Through this free advisory service, ACT residents can work out how to save money by improving energy efficiency in and around the house and at the same time assist in reducing the ACT's greenhouse emissions. Another service is the home energy advice team, HEAT; for $30, a professional energy auditor from the HEAT service will visit your home, check the features of your house that affect your energy use and identify where savings can be made. Eligible home owners are able to receive a $500 rebate from the ACT government for energy efficiency measures such as the installation of a solar hot water service.

Canberrans also responded with gusto to the government's think water, act water program. As we have been enduring the longest drought on record, we are all aware of how precious this natural resource is. Because of this government's leadership, Canberrans have been able to contribute to the sustainable use and management of our water resources. The government provides a garden smart program to assist Canberrans to plant and cultivate gardens that require less water and that are better suited to the climate conditions of our region. We have a program that provides rebates on the installation of dual-flush toilets.

Mr Assistant Speaker Gentleman, I am sure that you share my interest in the latest state of the environment report in which the Commissioner for Sustainability and the Environment, Dr Cooper, provided a comprehensive stocktake of the ACT's environment. While Dr Cooper's report points to some areas where we need to do much better—such as waste reduction, and the government will respond—the report does confirm that Canberrans have been very effective in tackling environmental issues through high levels of recycling and reduced urban water consumption. This is something we should all be very proud of as it shows what kind of results can be achieved when we all switch our thinking and consider the impacts of our behaviour and choices.

This government is providing the leadership and the framework for us to contribute even more to climate change solutions. Our $100 million 10-year investment in tackling climate change, the climate change strategy "weathering the change", was released just over a year ago; we have already made great progress on all actions.

The subject of this bill, the green vehicles duty scheme, is but one of our achievements to date. We have already mandated that all electricity retailers source 10 per cent of their power from renewable sources by 2010, rising to 15 per cent by 2020. My colleague Mr Mick Gentleman spearheaded a world-leading feed-in tariff law to allow households which generate power through solar or other renewable power technologies to receive a generous tariff when that power is fed into the grid. We are showcasing renewable energy technology, including the installation of photovoltaic cells, solar panels and wind turbines at public sites.

We have installed on-bus bike racks and are letting bike riders who use these to travel on buses for free. We are converting our bus fleet. We have legislated for an opt-out system for the purchase of green power by new customers rather than an opt-in system. This will take effect from 1 January 2009. We have a program of retrofitting public housing with energy-saving and water-saving devices to save money for our tenants and help them contribute to a more sustainable future.

We are always seeking new ways to improve our efforts. Our last budget included massive new investment in climate change programs. We committed $3 million this year to install energy-efficient streetlights in Canberra as well as providing half a million dollars for energy-efficient housing and $1.6 million for public school carbon neutrality. A new climate change adaptation research centre at the Australian National University will be established in partnership with the CSIRO, with a $2.5 million one-off grant. We have put in $440,000 over four years to enable the implementation of strategic off-reserve conservation programs, improving the ability of private lessees to help land of high conservation value.

This latest initiative, the green vehicles duty scheme, is another practical step in assisting Canberrans to make more sustainable choices and contribute to climate change solutions. The bill inserts a new section into the Duties Act to enable a determination made under the Taxation Administration Act to recognise or adopt another instrument such as the commonwealth green vehicle guide. The differential duty rate for new vehicles based on environmental performance will be set by disallowable instrument subsequent to the passage of the bill. The best environmentally performing vehicles, with five stars in the green vehicle guide, will have an A rating under the ACT green vehicles duty scheme and pay no duty on first registration. This is a saving of over $1,000 in duty on an A-rated vehicle valued at, say, $34,000. Vehicles with an above-average environmental performance will also pay a reduced duty rate.

Having regard to some of the discussion, it is relevant to place on the record the vehicles for which there will be no change or an additional discount. A Toyota Corolla will receive a $210 discount. For a Holden Commodore there will be no change. For a Mazda3 there will be no change. For a Ford Falcon there will be no change. For a Mitsubishi Lancer there will be no change. For a Hyundai Getz there will be no change. For a Ford Focus there will be no change. For a Holden Astra there will be no change. For a Mazda2 there will be no change. For a Toyota RAV4 there will be no change. For a Toyota Kluger there will be no change. For a Holden utility 4x2 there will be no change. For a Toyota Yaris there will be a $152 discount. For a Toyota Camry there will be a $285 discount. For a Toyota Aurion there will be a $390 discount. For a Honda Civic there will be a $218 discount.

Duty rates on vehicles with average environmental performance or no rating under the green vehicle guide will not, as I just indicated, change. Vehicles with a below-average environmental performance will pay a higher duty rate, consistent with the scheme and the philosophy that underpins the scheme. In that regard, for instance, a Toyota HiLux 4x2 will suffer a $180 increase.

The green vehicles duty scheme is about encouraging people to consider low emission vehicles when choosing a new vehicle by rewarding them with a reduction in the amount of duty payable based on the environmental performance of the vehicle. The green vehicles duty scheme takes into account the environmental performance of vehicles without focusing solely on fuel type. This means that it will be receptive to new vehicle technologies in the future.

Very clean diesel and petrol engines are already available in Australia and an increasing number of better performing hybrid models are expected to be available here shortly. In fact, of the five vehicles that currently achieve a five-star rating on the green vehicle guide, one is a hybrid while the other four use conventional petrol engines. Newer technologies such as fully electric vehicles are expected in the medium term. There are lower emission options in almost all vehicle classes, including four-wheel drives and higher performance vehicles. Even now, technology is being developed that will increase this proportion in the future.

This government's leadership in this area fits well with the national approach being developed as a result of the recent Bracks review of Australia's automotive industry. The commonwealth government commissioned the former Victorian premier, Steve Bracks, to look at all aspects of the motor industry and provide recommendations to improve its viability, particularly when it comes to the opportunities presented through new technologies and more fuel-efficient and lower carbon dioxide emitting vehicles. One of Mr Bracks's recommendations relates to the harmonising, and in some cases reducing, of state and territory passenger motor vehicle taxes while encouraging governments to support an environmentally sustainable Australian industry. The green vehicles duty scheme is a practical way of the ACT responding to this idea.

The green vehicles duty scheme will encourage Canberrans to consider the environmental performance of their next new car using the green vehicle guide. Low emission vehicles not only are good for the environment but also can reduce the money spent on fuel.

The scheme is an important step towards reducing the ACT's greenhouse gas emissions and climate change impact. It provides a practical measure that will assist Canberrans to make better choices when it comes to the motor vehicle they purchase. As I said earlier, it is the first scheme of its type in Australia and it is a great credit to this government and to this community. It is an enormous pity that, in relation to an Australian first—a very significant scheme in terms of leadership—the Liberal Party in this place slinks straight to its traditional position, refusing to accept that this is the most significant issue facing this community, Australia and the world. At every test in relation to climate change, our opponents, the Liberal Party in this place, fail. They failed in government. They achieved nothing.

At an earlier sitting of the Assembly we discovered that, in their last budget when in government, they appropriated the grand total of $240,000 to implement measures. I think it was that; I would have to check. But from memory I am pretty sure that it was somewhere in the order of $240,000. A massive amount was appropriated by the Liberal Party to deal with issues of climate change!

This is a well-thought-out, constructive approach to leadership in relation to issues around greenhouse gas emissions—the encouragement of the community, the active encouragement by a government of community acceptance of the need to reduce emissions.

This scheme is all about how to reduce greenhouse gas emissions through motor vehicle usage. In terms of emissions here within the territory, there are two significant sources of greenhouse gas emissions—motor vehicles and the generation of electricity. We need to deal with these two. These are the great challenges facing this community most particularly—a community with the heaviest carbon footprint in the nation and one of the heaviest in the world.

We have to take every opportunity open to us. We have to think laterally. We have to act with courage. As a government we have to show true leadership. We see today an abysmal failure of leadership by the Liberal Party in this place. They could not bring themselves to support an Australia-leading novel scheme that will take off the roads thousands of polluting vehicles and, over time, reduce those thousands of high polluting vehicles with lower polluting, lower emitting vehicles.

The equation is simple. This project, this proposal, will incrementally result in the reduction of greenhouse gas emissions through motor vehicle usage in the ACT. It will work. It is simple; it is effective; it is targeted. It provides a whole range of options. It does not apply to second-hand cars; it applies just to new vehicles. It is generous in relation to those who will make the choice and move from a higher emitting to a lower emitting vehicle. It provides guidance. It nudges. There is a series of levers. There are options. There are many cars on the market; they all have different environmental characteristics. This is a piece of active legislation showing true leadership by this government that allows or nudges the people of the ACT into selecting vehicles that will not pollute, that will not add to our greenhouse gas emissions.

Opposition members interjecting—

MR SPEAKER: You can take your conversation outside if you like.

Mr Smyth: We are just discussing—

MR SPEAKER: I refer you to standing order 39.

Mr Smyth: We are just discussing the Lexuses.

MR SPEAKER: Order!

MR STANHOPE: The Liberal Party failed the test. The Liberal Party slipped straight into their ideological position: "Oh, it will affect the really big end of town, those that perhaps would buy the great big Nissans and the Commodore V-8s." They are out there to protect them.

This bleat that this is a tax or will impact on families is a nonsense and is shown to be a nonsense. Toyota Corolla—a $210 discount. Holden Commodore—no change in stamp duty. Here we have this confected nonsense that this will affect families or average families. Holden Commodore—no change. Ford Falcon—no change. Toyota Corolla—$210 discount.

Mr Barr: That's Australia's biggest selling car, I understand.

MR STANHOPE: Yes. The biggest selling—Holden Commodore.

Mr Barr: And then the Corolla.

MR STANHOPE: Yes, the Corolla. There you have it. The biggest selling car in Australia, the Toyota Corolla—that is the car purchased by more families in Australia than any other car—achieves a $210 discount. The Holden Commodore—no change. The Ford Falcon—no change. The Mitsubishi Lancer—no change.

Mr Seselja: How many bought the Lexus?

MR SPEAKER: Order!

MR STANHOPE: The Holden utility 4x2—no change.

Mr Seselja interjecting—

MR SPEAKER: Order! Give up.

MR STANHOPE: And we have this confected nonsense that this will be a law that impacts on families. What a load of confected nonsense! The signal it sends though is this. I must say in terms of points of distinction, and we have discussed a couple today, that the Liberal Party formally announced today that they will abolish the land rent scheme because they want a point of difference with us in relation to housing affordability.

Mr Seselja: We've already got some.

MR SPEAKER: Mr Seselja, I warn you.

MR STANHOPE: Today they send the most powerful signal possible. I do not think there is a more powerful signal that a would-be government could send in relation to its attitude to the most serious and significant issue facing the world—namely, climate change—than this.

Mr Smyth: You forgot about it for six years. Six years and not a mention of climate change.

MR SPEAKER: Mr Smyth!

MR STANHOPE: They would today oppose a piece of significant legislation—legislation that passes every test in relation to its capacity to deal with this particular issue.

Mr Smyth: Every test?

MR SPEAKER: I warn you, Mr Smyth. Another bleat out of either of you and I will name you.

MR STANHOPE: It passes every test. It is rigorous; it is well targeted. The Liberal Party could not bring itself to support the most significant advance we have seen in relation to a community's willingness to grasp this very difficult issue in dealing with this greatest challenge that the earth faces. It is an indictment of the Liberal Party. *(Time expired.)*

Question put:

> That the bill be agreed to in principle.

The Assembly voted—

Ayes 9		Noes 6	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Smyth
Mr Berry	Mr Hargreaves	Mrs Dunne	
Mr Corbell	Ms Porter	Mr Mulcahy	
Dr Foskey	Mr Stanhope	Mr Pratt	
Ms Gallagher		Mr Seselja	

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Territory plan—variation No 281
Paper and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following papers:

> Planning and Development Act, pursuant to subsection 79(1)—Approval of Variation No 289 to the Territory Plan—Belconnen Town Centre—Changes to the Road Network, Inter-town Public Transport Route and other Zone Changes, dated 7 August 2008, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee—Report 36—*Variation to the Territory Plan No. 281—Molonglo and North Weston*—Government response.

I seek leave to make a statement in relation to the papers.

Leave granted.

MR BARR: Variation No 281 to the territory plan is the next important step in the implementation of the strategic direction for Canberra's urban growth, as documented in the Canberra spatial plan. The spatial plan identifies the Molonglo Valley as Canberra's next major greenfield urban area. Molonglo and north Weston will accommodate a significant part of the future population growth and change in Canberra over the next 30 years and, in doing so, achieve high standards in sustainable design.

The major changes proposed in variation 281 include replacing the current rural and forestry land use policies in east Molonglo and north Weston with primarily urban land use policies such as residential, commercial and urban open space. Variation 281 will be implemented through changes to the territory plan map and the written statement, including the Molonglo and north Weston structure plan, north Weston concept plan, Coombs concept plan and Wright concept plan.

Following further consultation with the community, I directed that the draft variation be revised, and I will outline some of the specific issues that have been incorporated into the variation since the draft variation was released. These are:

- implementation of recommendations from the evaluation of the preliminary assessment draft variation 281, specifically, bushfire management plans, heritage management plan for the Weetangera cemetery and planning of buffer zones;

- implementation of those changes is required to ensure that it is not inconsistent with the proposed changes to the national capital plan;

- implementation of changes to variation 281 and the associated structure plan and concept plans pending the agreement arising from community consultation;

- the variation to the territory plan is altered to remove central Molonglo from being considered as a future urban area;

- through the structure plan for Molonglo and north Weston the variation makes specific reference to the provision of infrastructure and a TZ2 services land use policy for the proposed Molonglo zone substation; and

- through the north Weston, Coombs and Wright concept plans the variation makes suitable provision for refinements shown on the maps in the final variation documentation.

Draft variation 281 and the accompanying preliminary assessment were released for public comment in August 2007 and attracted 158 public submissions. The main

issues identified in the consultation period were environmental issues, recreation, traffic concerns, population projections, housing supply, water supply, bushfire protection and planning process matters.

As a result of the community concerns raised and the ongoing consultation with key stakeholders, significant changes to the draft variation, structure plan and concept plans were implemented. These changes include refinements to urban development and open space boundaries, the realignment of road layouts, changes to landscape protection requirements and the undertaking of further environmental studies. Further changes included increases to urban open space and increases in development densities in areas close to key transport routes and areas of higher urban amenity.

In my separate role as environment minister under the former land act I was required to evaluate the preliminary assessment for draft variation 281 to determine whether the potential environmental impacts of the variation had been adequately identified. An independent auditor was engaged to assist in this evaluation. I found that the preliminary assessment adequately identified the environmental impacts associated with variation 281. However, this was conditional upon the ACT Planning and Land Authority addressing several recommendations identified by the independent auditor and me.

The relevant recommendations are incorporated into variation 281 and include:

- the requirement for environmental impact statements under the Planning and Development Act;

- the requirement for bushfire risk assessments in the detailed planning stages;

- the requirement for a heritage management plan to be undertaken for Weetangera Cemetery;

- the requirement for further air quality studies to be undertaken, and

- the requirement for the planning of buffer zones to maintain habitat connectivity in sensitive areas.

There has been significant interest in regard to a stormwater quality control lake on the Molonglo River. A lake on the Molonglo River was identified in the preliminary assessment as an option for stormwater management. It is important to understand that a lake or any other stormwater management measure is not identified in variation 281 and no government decision or commitment has been made with regard to this issue.

Stormwater management options for Molonglo will be analysed using a triple-bottom-line assessment approach to identify a preferred stormwater management option. Gauging the level of community support associated with stormwater management options will form a key component of this study. Further, the environmental impact statement ultimately required for the final preferred stormwater management option will include a community consultation component. Additional to identifying community concerns and support associated with the stormwater

management options, further detailed ecological bushfire management and economic work will also be undertaken prior to government committing to a specific option.

The Standing Committee on Planning and Environment considered draft variation 281 in August. In its final report the committee made 16 recommendations in relation to draft variation 281, among which was a recommendation that the variation proceed. The government has considered the issues raised and I am pleased to advise that it has agreed to all or part of the committee's 16 recommendations. I will now provide a statement on the government's response to the committee's report and each of its recommendations.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MR BARR: The committee's first recommendation is that the proposed variation to the territory plan proceed, subject to the committee's other recommendations. The committee's second recommendation is that the ACT government retain and manage remnant pockets of yellow box-red gum grassy woodland in east Molonglo for conservation purposes. This recommendation is supported. The ACT Planning and Land Authority will plan for the retention of the remnant pockets of existing yellow box-red gum grassy woodland in east Molonglo, where possible. Detailed woodland mapping in east Molonglo is programmed for 2008-09.

Topographical constraints and ecological value are some of the issues that will be used to establish specific patches for highest priority conservation. Responsibility for the land management of the urban open space within which the remnant patches exist lies with the Department of Territory and Municipal Services. It should be noted that the remnant pockets can be retained as part of the urban ecology—that is, urban open space—and will be unlikely to retain the characteristics of any yellow box-red gum grassy woodland community.

The committee's third recommendation is that the Kama nature reserve be expanded to provide a more significant wildlife corridor. This recommendation is supported in part. Consultants Biosis Research recommended an expansion of the Kama reserve boundaries to achieve a width of 1,100 metres. The proposed Kama reserve, as shown in draft variation 281, had a width of between 950 and 1,050 metres. The ACT government has committed to locating any buffer and bushfire protection zones outside the Kama nature reserve boundaries adjoining east Molonglo, which may further expand the functional width of the reserve.

The committee's fourth recommendation is that central Molonglo be removed in perpetuity from being considered as a future urban area. This recommendation is supported. The ACT government will remove central Molonglo from being considered as a future urban area.

The committee's fifth recommendation is that the ACT government consider implementing a set of conservation leases in the central Molonglo area. This recommendation is also supported. ACTPLA, in consultation with TAMS as land

managers, will consider the implementation of conservation leases in central Molonglo and other areas of the ACT. It is, however, important to note that there is currently no allowance for conservation leases in the planning legislation and that large parts of the area are covered by existing 99-year rural leases.

The committee's sixth recommendation is that a comprehensive survey of raptors and woodland birds in the Molonglo Valley, including nocturnal species, should be conducted over the course of four seasons so as to better inform planning decisions. This recommendation is supported in part.

The preliminary assessment of draft variation 281 identified the expected impacts to the Molonglo Valley raptor community as a result of urban development. The PA evaluation found that the impacts had been adequately identified and reported. Notwithstanding this, further raptor studies in east Molonglo, including nocturnal raptors, will be undertaken, as required.

The details of the studies will be drafted in consultation with TAMS and relevant stakeholders. Where required, further consultation with raptor experts will determine the specific type and length of raptor studies to be undertaken. The committee's recommendation to conduct a survey over four seasons is noted. Further studies specifically in central Molonglo will not be conducted as part of any planning work.

The committee's seventh recommendation is that the ACT government consider mitigation measures for loss of habitat—in particular, the conservation and restoration of remnant woodland areas. This recommendation is supported. Further work with regard to mitigation measures, conservation and restoration is to be undertaken.

The first study to look further at these issues will be a strategic assessment of Molonglo and north Weston under the commonwealth's Environment Protection and Biodiversity Conservation Act 1999. This strategic assessment is planned to be commenced in spring of 2008. The assessment will consider additional environmental protection policies, mitigation measures and restoration opportunities for woodland, grassland, riparian areas and threatened species habitat in east Molonglo and the surrounds. The findings of the strategic assessment will be implemented through on-ground actions and management policies and agreements.

The committee's eighth recommendation is that the Planning and Land Authority assess the impact of the development on other uncommon species in the Molonglo Valley. This recommendation is also supported. While the evaluation of the PA of draft variation 281 found that the potential environmental impacts of the variation were adequately identified, further environmental studies on uncommon species in east Molonglo will be undertaken.

These are currently being progressed through the Molonglo stormwater management option study and the strategic assessment. Species and communities of particular interest include the pink-tailed worm lizard, yellow box-red gum grassy woodlands and natural temperate grassland. The findings of these studies will inform opportunities for mitigation, conservation and restoration and will inform further detailed planning of east Molonglo.

The committee's ninth recommendation is that cat containment be mandatory for the whole Molonglo Valley region. This recommendation is supported. While this is not a matter that can be dealt with through the territory plan variation process, this issue has been referred to TAMS for consideration.

Declaration of new cat containment areas can be implemented by TAMS through a disallowable instrument under the Domestic Animals Act 2000. It should be noted that the declaration will not make the suburbs cat free. Rather, it would mean that domestic cats in the declared cat containment areas would be required to be kept within residential premises or purpose-built cages at all times—that is, 24 hours a day, such as is in effect in the new suburb of Forde.

The committee's 10th recommendation is that the lake option not proceed unless it receives community support. This recommendation is supported in part. Draft variation 281 does not identify or commit the government to a lake on the Molonglo River or any other stormwater management option. Stormwater management options for Molonglo will be further analysed using a triple-bottom-line assessment approach.

Identifying the level of community support associated with stormwater management options forms a key component of this study. Further, the environmental impact statement ultimately required for the final preferred stormwater management option will include a community consultation component. Additional to identifying community concerns and support associated with stormwater management options, further detailed ecological and economic work will be undertaken prior to any government commitment. There may, however, despite community views, be compelling reasons for pursuing a particular course of action identified through an EIS process.

The committee's 11th recommendation is that the critical management zone for bushfire protection be located outside the Kama nature reserve. This recommendation is supported. Any buffer zone, such as edge roads, wider verges and appropriate land uses around Kama, including those zones for bushfire control, will be located outside the Kama nature reserve boundaries identified in variation 281. This is specifically stated in the urban development policies of the Molonglo and north Weston structure plan in variation 281.

The committee's 12th recommendation is that the ACT Planning and Land Authority undertake further assessment of bushfire management planning risks without a lake. This recommendation is supported. Further bushfire risk assessments are required for concept plans and estate development plans and will be consistent with the territory's strategic bushfire management plan. This is specifically stated in variation 281.

Until the final stormwater management option is identified, bushfire studies associated with land release will not include the lake as part of the assessment. Further, the detailed planning of the river corridor for recreation, stormwater management or open space will be cognisant of the need to provide high-quality bushfire protection for all Molonglo and north Weston residents.

The committee's 13th recommendation is that the Australian Archaeological Survey Consultants Pty Ltd 2006 heritage review recommendations for the Molonglo Valley be adopted. This recommendation is supported. The AASC report recommendations are being implemented. In relation to north Weston, Coombs and Wright, a consultant is being engaged by ACTPLA to undertake a thorough review of the 2006 heritage report, together with additional field survey investigations that will include test pit sampling, as required.

This will be undertaken in conjunction with the ACT Heritage Unit, the Heritage Council and registered Aboriginal organisations. The Weston caretaker's cottage is currently undergoing an assessment to determine its heritage significance. Additional heritage investigations will be undertaken for all future suburbs as part of the concept planning process prior to any development occurring.

A heritage management plan for Weetangera cemetery located outside the development area is also to be undertaken. It should be noted that the final alignment of the east-west arterial road will be further investigated with particular reference to adjoining areas of potential high archaeological sensitivity.

The committee's 14th recommendation is that the requirement to adhere to Australian standards relating to road lighting, obtrusive effects of outdoor lighting and sports lighting be specifically listed in the development controls for all types of development in east Molonglo. This recommendation is also supported. Variation 281 specifically identifies the relevant Australian standards that are to be addressed in any development in east Molonglo.

The committee's 15th recommendation is that the ACT government prepare a map of all horse accessible shared paths throughout the Molonglo development area. This recommendation is supported. The ACT government will prepare a map of all horse accessible shared paths in the Molonglo development area. Trails will be designed to provide connectivity between the Bicentennial National Trail, the Pegasus Riding School for the Disabled, the Forest Park Riding School and the public equestrian park in Yarralumla. Horse specific underpasses will be incorporated where required and will be built, at a minimum, to the relevant Australian standards.

The committee's 16th recommendation is that the ACT government take all reasonable steps to maximise solar block orientation for residential development in the Molonglo Valley. This recommendation is supported. Development will continue to prioritise sustainability measures such as solar orientation in all greenfield development areas. Further, the Planning and Land Authority is currently undertaking a review of the ACT subdivision standards to ensure that best practice planning for sustainability is being applied in the ACT.

I am very pleased to table the approved variation 281 and the government's response to the Standing Committee on Planning and Environment report No 36 on the draft variation to the territory plan No 281. I would like to take the time to thank the committee for considering and reporting on the draft variation and acknowledging the formalisation of the outcomes of the strategic planning for the Molonglo area, as identified in the Canberra spatial plan 2004.

ACT Civil and Administrative Tribunal 2008

[Cognate bills:
ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008
ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008 (No 2)]

Debate resumed from 8 May 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SPEAKER: I understand that it is the wish of the Assembly to debate this order of the day concurrently with orders of the day Nos 4 and 5. There being no objection, that course will be followed. I remind members that, in debating order of the day No 3, executive business, they may also address their remarks to orders of the day Nos 4 and 5, executive business.

MR SESELJA (Molonglo) (6.12): The opposition will be supporting this legislation in principle. The purpose of this bill is to consolidate most ACT tribunals into one ACT Civil and Administrative Tribunal. The main bill establishes the ACAT and its operations. The first amendment bill provides for consequential amendments to 51 acts that are affected by the proposed new arrangements. It also tidies up language and makes it consistent. Where appropriate, it abolishes boards and transfers functions to ACAT and other agencies, such as the Commissioner for Fair Trading.

The second amendment bill provides for consequential amendments to 109 acts that are affected by the proposed new arrangements. As happens in the first amendment bill, language is tidied up and made consistent. The bill also establishes the ACAT trust account, which will be used for defined purposes, including funding the recurrent costs of the tribunal. We will have something more to say on this later. The second amendment bill also preserves people's little-known right to apply to the Attorney-General for financial or legal assistance in relation to an administrative review.

These ACAT bills seek to consolidate 16 tribunals, councils and boards, including the Administrative Appeals Tribunal. They also give the tribunal jurisdiction for small claims. The tribunal will have four divisions: administrative review, civil disputes, occupational discipline, and general. It will be able to establish other divisions by notifiable instrument.

Members will be appointed by the executive against selection criteria that will be made public because this requirement will actually be enshrined in the legislation. We need to wonder whether the actual selection process will be a public one or whether the Attorney-General will take a leaf out of the Chief Minister's book when he has appointed chairs in the past.

The qualification requirements for appointees to the tribunal will be as for appointment to the Supreme Court or Magistrates Court—that is, five years or more in the legal profession. Appointments will be for a minimum of seven years for

presidential members and five for non-presidential members. All current members will be reappointed for an interim term for the convenience of continuity. I note that they have been asked if they wish to be considered for reappointment for full terms under the new arrangements.

The tribunal will have the power to draw to the Attorney-General's attention any systemic problems with the new tribunal arrangements to allow for ongoing review of the efficiency and effectiveness of the tribunal through the legislative process. Civil jurisdiction of the tribunal will be limited to claims or declarations of debts up to $10,000. I note with interest, too, that the tribunal will be required to resolve matters in an application before they go to a hearing. It will also be empowered to refer matters to a registered mediator for mediation.

A number of other procedural matters will apply, including the application of the Criminal Code, chapter 7, in relation to tribunal hearings. This means that penalties would apply in situations such as perjury, falsifying evidence, failing to attend or refusing to be sworn. Money or non-money orders of the tribunal will be taken to have been filed in the Magistrates Court for enforcement and rules and procedures will be in place for referrals and appeals. I note that WA, Victoria and New South Wales have a similar arrangement and that Queensland is in the process of adopting one.

The opposition will support the ACAT bills because together they will provide: better access to justice through new processes to facilitate fast decision making, including a mechanism for internal review of tribunal decisions before applications for appeal are made to the Supreme Court; improved governance across all the affected jurisdictions, including provisions to protect the statutory independence of the tribunal; improved allocation and use of resources, including better training and career opportunities for staff and tribunal members; and a consistent look and feel across all tribunals, including simple, inexpensive and informal access and more streamlined administrative processes such as forms.

Let me turn briefly to the areas of concern that the opposition has about these bills. We are told the ACAT initiative will be cost neutral, but with this government and their record of financial management, the concept of cost neutrality is most likely as fuzzy as their revenue forecasting ability. Indeed, unit title owners, for example, have been concerned for some time that interest in their administrative funds will be swallowed up to fund ACAT. This may not be caught specifically by the ACAT bills but, equally, the way is left open. We will be debating that when the unit titles bill is being considered. It is an area of real concern for unit owners and, indeed, for renters that this government is looking, in one way or another, to take the interest earned from the body corporate funds.

The government have signalled their intention to do that, they have made it clear and that is the understanding of owners. We know that they are running around in all sorts of ways. We know that the planning minister has subsequently been changing his tune and that the message that is given by the bureaucrats and the planning minister's office has gone back and forth, as to whether they are going to take the interest, which parts of the interest they are going to take and, indeed, whether they would actually

issue a levy. Either way, we know their real intentions, and that is for a secret tax. There is no doubt about it; they have signalled their intentions. It is a tax by any other name. The government may well push it through next week. Even if they back away from having that either in the act or in the regs, we know that after the election they would force it through. That is their intention, they have stated their intention, and they certainly cannot be trusted not to do that in the future.

On the ACAT initiative, the government talks about it being cost neutral. One would have thought that the bringing together of all these bodies would provide streamlined efficiencies that would actually provide savings, but we see no evidence of that yet.

I would like to flag my concern about the late notice given for some of the amendments which have been circulated by the attorney. I understand they were dropped on the Assembly at 3.49 this afternoon. Having looked at them, it looks like they were ready sometime around lunch time yesterday. It is disappointing that this government is continuing to treat this place with absolute disregard and is giving us no notice.

Having had a quick flick through some of them, whilst many of them seem technical in nature, there are a number that we would like a bit of time to actually consider. There are changes in relation to rules of evidence; there are changes in relation to admissibility of evidence given at preliminary conferences. These are not small, technical matters. I do not know whether Mr Mulcahy has seen the amendments. They were circulated at 3.50, so he may not have seen them. I flag my intention that I will be moving that this debate be adjourned so that we can properly consider these amendments.

MR MULCAHY (Molonglo) (6.19): I share the concerns that Mr Seselja has pointed out with respect to things being done at the eleventh hour. It is becoming part of a routine and I think it is very bad for the process of the democratic function of this legislature. There seems to be this indecent haste to the finish line, to get as many laws passed between now and Thursday week, with minimal scrutiny. The fact that on 48 hours notice I could fill the reception room with people who are concerned about one piece of legislation just shows that the job simply is not being done in terms of proper consultation and communication. I am not a believer in keeping on endlessly consulting, but people are getting alarmed by some of the legislative changes. I share the same sentiment—that some of these things ought to be adjourned until after the election.

In relation to the specifics of this bill, I have not seen the amendments that were circulated at 10 to four today. The ACT Civil and Administrative Tribunal Bill consolidates existing tribunals in the ACT into a single body which will have jurisdiction over a large number of matters that are currently the domain of 16 separate tribunals in the ACT. The Attorney-General has already listed the tribunals that are consolidated under this bill, so I will not bore everyone by going through them again. Suffice to say that it is the objective of this bill to achieve greater administrative efficiency and economies of scale by consolidating the disparate tribunals that currently exist into a single, one-stop-shop.

I had some concerns about this, and some concerns were relayed to my office some weeks ago about this initiative. Let me say, however, that there is good reason to suppose that this bill will achieve some efficiency in this regard. We currently have a system in which administrative tasks and tribunal facilities are duplicated across 16 different areas. The Attorney-General has noted the difficulties in properly serving parties that go to the current tribunals because of difficulties in providing adequate waiting rooms, administrative assistance and other services and facilities. One would expect that, with a single body, these facilities could be provided at a higher level, while at the same time costing ACT taxpayers less. I do hope that the government will look very critically at the staffing requirements of the new tribunal and that this will not simply become a bloated organisation that retains all of the existing staff that have been required under the 16 different areas to date.

Since the government have presented this bill on the rationale of achieving efficiency and economies of scale, it is incumbent on them to deliver these and they will need to make sure that this new system results in savings to ACT taxpayers. I understand that governments are often reluctant to cut the number of public servants in their employ, but there is also some natural attrition in the public service that can do the job if we cast a critical eye over our staffing needs. I would imagine that a new body of this kind could run perfectly well with far fewer staff than currently occupy the 16 existing tribunals.

Another valuable aspect of this bill is to achieve greater administrative and procedural uniformity across the different tribunal matters. Currently, we have a system where the rules, procedures and forms are very different, depending on whether you have a dispute about liquor licensing, adoption, boxing control, tree protection or the host of other issues which can come before ACT tribunals. This also adds costs in terms of the time spent by applicants and others in familiarising themselves with the different rules and procedures. By running these matters through a single body, I hope that we are able to achieve a single procedural system which is sufficiently flexible to handle the different matters, but also sufficiently standardised to ensure that tribunal users and staff are able to quickly and easily deal with administrative matters.

Some additional concerns were raised with me about this bill with respect to the specialisation of tribunal officials, and I think it is worth speaking about this aspect of the new tribunal. It is important that we do not lose the required specialist knowledge that tribunal members possess in order to make sensible legal determinations on regulatory issues pertaining to specialised subjects. While I do not doubt the ability of the legal fraternity to make sensible determinations on legal issues with regard to a wide range of issues, it is certainly advantageous for arbiters in regulatory issues to be familiar with the specialised areas over which they are making determinations.

Tribunal members that practise in the existing tribunals naturally gain experience and knowledge of the areas over which they make their determinations. An understanding of the industry or specialty involved in a determination is advantageous for tribunal members and ensures that determinations sensibly apply the law. For this reason, I hope that we retain tribunal members who have specialist knowledge and experience in dealing with matters that are covered by the existing tribunals. I note that this kind

of specialisation is not incompatible with the efficiencies which I hope would follow from this new tribunal. This is because it is mainly on the administration and facilities of this new tribunal where costs can in fact be saved.

I am satisfied from my discussions with stakeholder groups and from the Attorney-General's views on the bill that specialist knowledge of tribunal members will not be compromised by this bill. However, I think it is an issue that we will need to keep an eye on once these various areas of law are dealt with by a single tribunal.

I do not wish to pre-empt debate on the Unit Titles Amendment Bill, but I do note that this tribunal will be handling matters under the Unit Titles Act, and there has been some speculation by the government about adopting some mechanism for unit owners to pay for the additional costs. In fact, until recently, the government made it clear that they intended to skim interest payments out of the funds paid by unit owners to their body corporates to cover the costs of running unit titles matters in the tribunal. That proposal within the bill has now been temporarily shelved—and I emphasise "temporarily". The government have stated that they are looking at different funding models and have not ruled this out as a means of funding.

I have raised this issue because I think there is a fair degree of inconsistency being shown by the government on this issue. On the one hand the Attorney-General spoke in his presentation speech about the efficiencies that this tribunal will deliver. But on the other hand we are being told that more funding is needed and that the government is looking at a new way of taxing people to cover the costs. I would certainly hope that the savings made from the consolidation of the various tribunal functions would be enough to ensure that taxpayers save money, rather than being made to pay more, but I fear that is in fact what is going to happen as a result of these changes.

I understand that the government is absolutely determined to go ahead with the Unit Titles Amendment Bill, to which this legislation has some degree of relationship. I can only hope that a little more confidence can be provided to those concerned about how the funding of this activity will occur. It is a matter of the old cliche that we hear from the government that "we're here to help you". A lot of people are saying, "We don't need your help, and we sure as anything don't want to be paying for your help, but we are being told that this will happen." What is concerning me is that, with a little over a week of sittings left, we still do not know the answer to that question and yet we are going to be asked to vote on the legislation.

There is a tendency to turn this legislature into a rubber stamp. I think that is a very unfortunate development. It is a particular issue when you have a unicameral legislature. It is of particular concern when you have committee memberships structured as they are in this place, in the main, and the unanswered questions that arise from some of these measures trouble me.

Mr Seselja has pointed to certain amendments. I will be interested to hear the explanation as to why they came in at the eleventh hour. It simply is not good enough. They have had four years to address these issues, and then stuff is being chucked onto the table here with a few sitting days left, and members of this place, the elected representatives, are expected to do their duty and examine legislation, which we all try

and do thoroughly, and we are flying blind. I will support a motion by the opposition leader to defer this. I know it will go down on the count, but in the event that that fails, I will be interested to hear about not only the nature of the amendments and an explanation of what they entail, but also why this has been handled in such an eleventh hour, sloppy, rushed fashion.

I am being asked about other things that we are told are about to be enacted. I am being lobbied to support changes to the implementations act because regulations are not ready on third-party matters. It is no way to run an administration. We are not talking here about the Yass council, where there might be half-a-dozen people in the back office who do the paperwork. We have an administration here which employs some 15,000 people, and we can't get our act together sufficiently to have regulations brought before this place and give members time to consider them. It is an indictment of the management of the legislative program. There is no nice way to put it. I do not like having to express it in these terms, but it is an annoyance that things are left, and this is not the only illustration. I let many of them go through to the keeper.

I hope that those in the administration of this territory government that are listening to the comments that have been made this afternoon by Mr Seselja and me do get the message. Ministers accept responsibility, but at the end of the day, the people behind the scenes have to respect the fact that this is where the laws of the ACT are passed. Frankly, if people can't get their act together in time to let them be properly considered by the legislature, the government should be sending back a message saying, "You've left your run too late; if you can't get organised in a sufficient time then these matters will have to be left over," and we will then await the electoral outcome on 18 October to see what kind of arrangements are in place for governing this territory.

DR FOSKEY (Molonglo) (6.30): This is very important, significant and far-reaching legislation. It is a fundamental change to one of our means of doing justice in the territory. There are three arms of government—the Assembly, the executive and the courts, and the government is changing one of those arms in the sense that tribunals are part of our justice system. Therefore, I cannot help but endorse the remarks made by my colleagues in the Liberal Party and by Mr Mulcahy that the legislation is just too important to rush. We were delivered today a new bunch of amendments, and there is no way that my staff could get through them. I do not know about anyone else's staff. Although I do not think there are any concerns with this bill, I have to emphasise that it is the case that I do not think there are concerns with this bill. There are not significant concerns with those bits my staff have been able to look at in detail, but to extrapolate from that that there are no concerns with the whole bill is asking a lot of people who take seriously their job as being the eyes and ears of the community. In that sense, I certainly support a deferral of the debate, and I wait to see whether that is heard by the government.

These laws follow the jurisdictions of New South Wales and Victoria by creating a so-called super tribunal. Those states have experienced different levels of satisfaction and efficiency with their new tribunal bodies. The differential in performance has apparently been a reflection of the degree of solid and, hopefully, bipartisan political will driving their implementation and consolidation. Factors that have been identified

as crucial in establishing these kinds of bodies include the appointment of a core of full-time members and the creation of an open institutional culture which facilitates the sharing of information.

Attention to resources, staff development, lines of accountability and organisation need to be thoughtfully addressed. There have been tensions and mistakes made in the past regarding the relationship between the government and the judiciary. Members will remember that just recently I tabled the report of the public accounts committee on its inquiry into the Auditor-General's report into courts administration, and during that inquiry committee members heard some of these concerns. From the changes that have occurred since in relation to the Auditor-General's report, it is clear that some lessons have been learned from these conflicts. But I have not yet seen a very thorough evaluation of the tribunal system as it exists at present. I think that should be done before we see such far-reaching legislation as this.

What are the shortcomings that we are attempting to overcome, and what are the strengths that we are going to have as a result of this legislation? Hopefully—we do have to have hope and we do have to have trust, because we do not have full information—this tribunal will benefit from the more harmonious relationship and understanding that appear to have evolved over the past year or so.

I welcome the government's assurance that current tribunal members will be encouraged to fill positions in the new tribunal. At least in the transitional period, it will be essential to maintain continuity and to retain the expertise and corporate knowledge that have developed in the individual tribunals. This is as important for the protection of the interests of the clients of the tribunal as it is for educating tribunal members who will be exercising power in subject areas that they have hitherto had little, if any, exposure to. On the other hand, some tribunals will have evolved evidential standards and procedures that differ markedly from the more formalised and standardised procedures that apply in more mainstream review and disciplinary tribunals. While it is desirable that they will now have a greater level of judicial oversight, which should ensure greater conformity with standards of procedural fairness and natural justice, it is also important that, in some areas, greater informalities and assistance which is currently given to applicants is allowed to continue.

The public needs to have trust in the fairness and impartiality of the tribunal, which for most people will be the most intimate point of contact they have with the operation of the rule of law. To get to this point, values of independence, accountability and integrity of the tribunal system need to be addressed in a practical way. Tribunals cannot maintain public trust and confidence if any one of these principles is neglected. These points were raised in a paper by Dr Gabrielle Fleming, Deputy President of the Workers Compensation Commission of New South Wales. She said:

> In recent years there have been instances where jurisdiction is returned to, or duplicated, in the courts, because of a perceived failure of Tribunals to demonstrate an ability to meet their statutory objectives. Experience also suggests government is not adverse to abolishing, restructuring or amalgamating tribunals that do not remain relevant, flexible and responsive.

In other words, we might see some legislation further down the track that does just that—abolish the tribunal. We hope that this amalgamation will be reviewed and monitored very closely to make sure that it is able to maintain those advantages in our existing system of tribunals. But we do not want to see that we have the need to do so, and that is the problem with rushing through this legislation. We can only hope that the government of the day, whatever day it is and whatever government it is, maintains sufficient interest to inform itself of the statistical underpinnings and the civil disputation, that it recognises the difference between judicial decision making and administrative review which is legally correct or that which is publicly popular, and that it supports the judiciary to perform its duty to apply the law fairly without fear or favour or eye to political and media overtones.

It is unacceptable that the Attorney-General has not seen fit to respond to the scrutiny of bills committee reports on these amendments. He has had since 10 June to do so, and it is not as if people have not been beavering away to get this legislation before the current Assembly—we know they have. It should not be too much of an ask to expect them to justify their legislation or adopt the committee's recommendations or at least tell the committee why it is not doing so. Having said that, I thank the Attorney-General and his staff for being so cooperative and providing my office with numerous briefings on the bill, often at short notice. They were able to answer many, but not all, of our concerns, and many of my concerns with this bill relate to how it will operate in practice. Obviously, these concerns cannot be addressed here today. For instance, will the tribunal's capacity to determine its own procedures turn out to be a refreshing break from oppressively prescriptive and inappropriate legal formalism, or will it be used to boost throughput statistics at the expense of proper consideration of evidence and argument? Only time will tell. The tribunal is certainly being given sufficient discretionary power for either of those scenarios to play out.

I assume that some kind of sliding Briginshaw-type scale of legal formality will be adopted, where closer approximation to judicial procedure and rules of evidence will be a feature of more serious and contentious proceedings. One of the government's primary strategies for ensuring that the tribunal's discretionary powers are not abused or misused is to rely on applicants and respondents to appeal tribunal decisions on the grounds of breaches of natural justice. I understand the argument behind this approach, but I feel that it assumes that applicants in these lower level legal forums have both the awareness, resources and the interest to recognise that there has been a possible breach of their procedural rights and to pursue these matters on appeal. The Attorney-General has the power to intervene in any legal proceeding, and I think it would serve the purposes of justice and good governance if he were to exercise his discretion more often in order to pursue public interest in human rights matters and to seek clarification from superior courts on ambiguous points of rights and law.

These amendments entrench one of the most shameful features of this government's tenure in office—I am referring to its proclivity to secrecy and lack of transparency, represented by the enthusiasm it has displayed for various legislative measures that ensure it can keep the workings of government hidden when it feels that public disclosure does not serve its narrow electoral interests. We have seen a proliferation of conclusive certificate provisions, and these amendments pick up a large number of

secrecy provisions and adopt them without comment. I would have thought there would at least be a half-hearted attempt to justify these secrecy and non-disclosure provisions in light of the Human Rights Act and the right to a fair trial. The Human Rights Act was not in effect when some of these non-disclosure provisions were enacted. The explanatory statements at the time did not address the human rights implications of allowing one party to use proceedings to hide evidence from the other party.

When these kinds of provisions are resurrected in new legislation—and these amendments are new legislation—there should be an attempt to justify them in terms of proportionality or whichever other argument the government relies upon to justify a clear derogation from the rights under the Human Rights Act. Sometimes the reasons for these non-disclosure certificates are perfectly valid and are actually proportionate to the human rights derogation involved. But we know that the temptation provided by these kinds of secrecy provisions are overwhelming for some public servants and their ministers, and they can be used to cover up incompetence, malfeasance or worse.

The amalgamated tribunal model being implemented provides opportunities for highly efficient resolution of cross-jurisdictional disputes by allowing tribunal members who exercise powers from different jurisdictions where appropriate to tailor a solution to any particular dispute which addresses most or all of the foreseeable consequences of any tribunal orders. For example, a hearing in the Residential Tenancies Tribunal may have implications under child welfare and mental health jurisdictions. There should be provision for an applicant or their legal representative to foreshadow the different jurisdictional areas that they anticipate the dispute intruding into, and then for the tribunal to allocate a member with the requisite expertise to exercise his or her powers in those areas.

The scrutiny of bills committee raised a number of concerns with the bill, and it does look like a number of them have been addressed in the amendments that were tabled today. Giving only a couple of hours notice of important amendments has become a hallmark of the government. It demonstrates a lack of commitment to open government and is bad governance. How can anyone provide meaningful and constructive commentary when they are given only a couple of hours to read and assess the impact of proposed legislation?

There is one more concern I have with these amendments, and that is the lack of automatic protection from unforeseen cost burdens imposed on a party in the event that their matter is referred to the Supreme Court. It seems that the department and the minister rely on the retention of provisions which enable a party to apply to the Attorney-General for legal and financial assistance to pursue proceedings in certain circumstances. But under proposed section 22S, an applicant must prove that he or she would suffer hardship. It seems axiomatic that anybody getting hit with an unexpected costs order because of a Supreme Court referral will suffer hardship, but I suspect that the provisions under section 22S relate to financial hardship relative to the applicant's income level. It remains to be seen how future Attorneys-General use or misuse these new powers.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.45), in reply: I thank members for their comments in relation to these

bills. These three bills will establish the consolidated ACT Civil and Administrative Tribunal, ACAT, and consequentially amend a large range of the territory's legislation. As I foreshadowed, the government will be moving a number of amendments, which I will be happy to discuss in the detail stage of the debate.

The decision to consolidate most ACT tribunals has been reached after extensive consultation with stakeholders. Contrary to claims made by members this evening, it is simply not the case that this has been a rushed process.

Mr Smyth: The amendments have.

Mr Seselja: When did you drop the amendments?

MR SPEAKER: Forget it.

MR CORBELL: In fact, it began in 2006, with the study of ACT tribunals by the Department of Justice and Community Safety. This study culminated in the release of an options paper, which highlighted the shortcomings of the existing tribunal structure and canvassed a number of options for reform. Members were also provided with this.

Opposition members interjecting—

MR SPEAKER: Don't forget that you are both on a warning.

MR CORBELL: After consideration of the options paper and extensive consultation with stakeholders, the government decided to proceed with the full consolidation of most tribunals, as this best accommodates the differences in jurisdiction whilst maximising the access and efficiency benefits for amalgamation.

This involves the consolidation of the following jurisdictions and tribunals. It mentions the Administrative Appeals Tribunal; Essential Services Consumer Council; Mental Health Tribunal; Guardianship and Management of Property Tribunal; Discrimination Tribunal; Health Professions Tribunal; Legal Profession Disciplinary Tribunal; Liquor Licensing Board of the ACT; ACT Architects Board; Chief Surveyor, when acting as a tribunal; Commissioner for Fair Trading, when acting as a tribunal; Construction Occupations Registrar, when acting as a tribunal; Consumer and Trader Tribunal; Credit Tribunal; and Residential Tenancies Tribunal.

In addition, the government has decided to include the small claims jurisdiction of the Magistrates Court in the transfer of functions, as stakeholders put forward a convincing case for its inclusion in the consolidated tribunal, including that small claims do not fit well under the civil jurisdiction of the Magistrates Court and that incorporation within a consolidated tribunal provides the possibility of enhancing access to justice for small civil matters. It will also provide a better fit, as a one-stop shop for a range of associated claims presently associated with residential tenancy, building disputes and utility matters.

I would like to thank the Standing Committee on Legal Affairs for their scrutiny of the bills. I have prepared and forwarded to the committee a detailed response to their

comments. I will, however, briefly reiterate the substantive content of that response for the benefit of members.

The committee expressed a concern that inclusion of small claims could pose a rights issue, submitting that the tribunal does not have the degree of independence from the executive as possessed by the courts, that it does not comprise people with the same degree of legal experience as judges or magistrates and that the ability to dispense with the law of evidence and fashion its own procedure may offer less protection to litigants.

In response, as I have explained previously, I would say that allowing the ACAT to hear and determine small claims matters allows for increased access to justice, by providing a more appropriate and accessible forum for small claims hearings. Incorporation within a consolidated tribunal provides the possibility of an accessible jurisdiction for dealing with small civil matters. It would also provide a better fit, as a one-stop shop for arranged related claims presently associated with residential tenancies, building disputes and utility matters.

The bill requires that, before the general president allocates a case, he or she must consider the nature and complexity of the case and whether to allocate a member with special qualifications and expertise to handle the case. This is exactly the point Dr Foskey raises. The general president will have the ability to do that. It should be noted that, within the existing ACT tribunals, a number of tribunals handle a large number of what might be considered small civil disputes, such as the Residential Tenancies Tribunal.

With respect to procedure, although the certainty created by rules can be desirable, excessive and unnecessary rigidity in procedure may frustrate access to justice and lead to unjust outcomes, particularly in relation to the subject matter to be dealt with by the tribunal. The tribunal and its members must have an appropriate level of flexibility to deal with individual cases and not be unjustifiably bound by rules inappropriate in the circumstances which may create additional costs and unnecessary delays. The bill strikes a balance between certainty and flexibility by allowing the tribunal to determine procedural rules for general application whilst allowing for flexibility in the appropriate circumstances.

With respect to the committee's concerns in relation to allowing a rule to prescribe a longer time for doing a thing than was initially prescribed in the act, I note that a rule may only extend, and may not shorten, the time for doing a thing under the act. Lengthening the time available to complete a process is more likely to result in greater fairness and improved access to justice.

I also thank the committee for its suggestion that notes to subclause 41 (1) and clause 33 should refer to sections 170 and 171 of the Legislation Act 2001 so that privilege against self-incrimination is explicitly preserved in the bill. This suggestion has been incorporated into the foreshadowed government amendments.

In response to the committee's comments on the closed hearing provisions, it is a fundamental principle of our justice system that justice must not only be done but be

seen to be done. Allowing public access to courts prevents the potential for abuse of power behind closed doors. Any provision which considers the possibility of closing a court should begin from the principle that the court should be open unless there is a strong public policy reason to the contrary. The exceptions to the open court rule in the bill have been drafted consistently with the right to fair trial provision in the Human Rights Act and allow sufficient scope for the closure of the court where the right to a public hearing is outweighed by competing interests.

The committee has also commented on clause 42, which empowers presidential members to issue a warrant requiring a subpoenaed person to be brought to the tribunal to give evidence vital to the hearing of a matter. The committee considers that I should provide an explanation as to why the government considers that clause 42 is human rights compliant, and I am pleased to do so. It is necessary to ensure that witnesses vital to a hearing are compelled to attend the tribunal to avoid unnecessary delays and additional costs to the parties.

Accordingly, clause 42 creates a limited power to issue a warrant requiring a subpoenaed person to be brought before the tribunal; this balances the right to liberty and security of a person against the tribunal's fundamental object of resolving matters brought before it as quickly as is consistent with achieving justice. The first check on this power is that the order may be made only by a presidential member, whose independence is ensured because he or she may be removed from office only by way of a judicial commission. Secondly, the warrant may be issued only where the tribunal has taken reasonable steps to contact the person and the issue of the warrant is in the interests of justice. This step ensures that the presidential member will carefully consider and balance the competing rights in each individual case.

Finally, clause 43 sets out stringent procedures for the police officers who execute the warrant. The procedures include that an officer must release the person if the officer reasonably believes that the person cannot be immediately brought before a presidential member. This procedural requirement ensures that a person subject to a warrant will not be detained for any longer than is necessary to bring the person to the tribunal to give the subpoenaed evidence.

These checks and balances ensure that clauses 42 and 43 comply with the right to liberty and security of a person contained in the Human Rights Act. The power to issue the warrant is clearly not arbitrary, as it may be exercised only where it is in the interests of justice, which are clearly defined in the clause, and at most will result in a person being detained for a very short period of time.

The committee considers that there should be some explanation of why the usual rule in civil matters that the loser pays does not apply in the civil dispute jurisdiction of the tribunal. The cost policy in the bill starts from a user-pays principle but allows for adjustment depending on the circumstances. I note that clauses 48 and 49 are wide in their application, allowing the tribunal to award costs in a variety of circumstances, including where the tribunal finds in favour of the party where a party causes unreasonable delay and where a party contravenes an order.

Finally, the committee has requested justification for inclusion of provisions allowing a minister to issue a non-disclosure certificate. The right of a minister to issue a

non-disclosure certificate is clearly limited to instances where the disclosure of information is not in the public interest. A basic and established principle of judicial review is the right of government to decline to disclose information where the disclosure is not in the public interest—refer to section 13 of the commonwealth Administrative Decisions (Judicial Review Act) 1977—thus justifying its inclusion in the tribunal's administrative review jurisdiction. These provisions apply only in the administrative review jurisdiction. They do not apply to the civil jurisdiction of the tribunal.

The government has received further comments from stakeholders on the bills. Issues raised in the scrutiny of bills report and by stakeholders have been addressed by the forthcoming government amendments.

In conclusion, let me say that the consolidated tribunal will deliver a number of benefits to members, registry and tribunal users. The ACAT will promote access to justice, reduce costs and provide better support to tribunal members and registry staff. I commend the bills to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

Motion (by **Mr Seselja**) put:

> That debate be adjourned.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Burke	Mr Pratt	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Seselja	Mr Berry	Mr Hargreaves
Dr Foskey	Mr Smyth	Mr Corbell	Ms MacDonald
Mr Mulcahy		Ms Gallagher	Ms Porter

Question so resolved in the negative.

Bill as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.59): I seek leave to move amendments Nos 1 to 26 circulated in my name together.

Leave not granted.

Standing orders—suspension

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

> That so much of the standing orders be suspended as would prevent Mr Corbell from moving his amendments Nos 1 to 26 together.

MR MULCAHY (Molonglo) (7.00): Mr Speaker, the reason I have sought to deny the minister leave, and the reason I will oppose the suspension of standing orders, is that, with respect to the amendments being addressed by the minister, I was bewildered when Mr Seselja raised this issue earlier, and I have now confirmed with my office that we have not been given the courtesy of even seeing those amendments, so he is ahead of me in getting them at 10 to four. The minister's office needs to get their act together on these matters. It ought to be adjourned. If we have not resolved to adjourn it, I will oppose the continuation of consideration of this amendment.

MR SESELJA (Molonglo—Leader of the Opposition) (7.01): For similar reasons we will not support the suspension of standing orders. The Attorney-General is seeking to ram this through. There are a number of amendments that were dropped at 10 to four with no notice. We were not given any notice in the offices. Mr Speaker, if you look at these amendments, there are some substantive issues that need to be looked at—issues around rules of evidence, representation, hearings in private or partly in private and admissibility of evidence given at the preliminary conference. These are issues that should not be rushed through with absolutely no consideration from members. That is why we will not be supporting the suspension of standing orders so that Mr Corbell can ram it through.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7.02), in reply: The issues before the Assembly are not of the incredibly complex nature that members are seeking to make out. If members had been present for my closing speech in the in-principle stage, they would have heard that the amendments are a consequence of issues raised by the scrutiny of bills committee and by the stakeholders which I have outlined in my response—

Members interjecting—

MR SPEAKER: Order!

MR CORBELL: and which I have also outlined in correspondence to the scrutiny of bills committee.

MR SPEAKER: Mr Corbell, just resume your seat for a minute. No matter how passionate members feel about this, there are a couple of members here who are on a warning. I have reached the limit of my tolerance.

MR CORBELL: And which I have also outlined in my detailed four-page letter in reply to the scrutiny of bills committee. These issues are not new. They are not a surprise for members. They have been put on the record; they have been dealt with in a comprehensive government response to the scrutiny of bills committee.

You cannot in any way claim that the government is seeking to push these amendments through this evening. These issues have been on the table for some time. Any members who have half a wit would have had regard to the issues that were being dealt with in the response to the scrutiny of bills report. The government has subjected this bill to the normal level of scrutiny—that is, through the scrutiny of bills process. It has responded in detail to those issues. I am disappointed that at this hour of the day members are seeking to make an issue of this when the issue simply does not exist.

If members are not inclined to support the suspension tonight, that is unfortunate. It simply means that the government will need to bring the bill back tomorrow evening and deal with it then. That is what we will do. But the issues will be dealt with in the considered way they have been dealt with to date.

I understand that there is probably not an absolute majority to suspend standing orders this evening. If that is the case, the Assembly will simply adjourn and the government will deal with this matter tomorrow.

Dr Foskey: I wish it to be noted that the Assembly does not have—

MR SPEAKER: Order! Resume your seat. The debate has been closed. Nobody rose when Mr Corbell rose.

Question resolved in the negative.

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

> That debate be adjourned.

Adjournment

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

> That the Assembly do now adjourn.

Scrutiny reports

DR FOSKEY (Molonglo) (7.06): I want to say what I so rudely tried to say earlier on, simply because it did need to be said. It needs to be on the public record that Mr Corbell's response to the scrutiny of bills report has not yet been received by the committee. It may be somewhere; it must be somewhere. Apparently it has left Mr Corbell's office, but it has not been received by the committee. It certainly has not been considered by the committee and it is not therefore available to the Assembly because it is not in the scrutiny of bills report.

That is a matter that informed my response to the motion that we adjourn the debate. It was mentioned in my speech that I was concerned about the lack of response to the scrutiny of bills report. If this government stops respecting those reports, our

committee system is in a very bad way. I have expressed concerns about the committee system before now—the inability for us to receive the documents that we call for and other concerns.

This is an interesting first day of the last two weeks of sitting. It is worrying. I am inclined to trust that this legislation is not of any worry at all, but we know that the people who voted for the Legislative Assembly have lost trust in the government on a number of matters. Therefore, I do not see why we in this Assembly should be so naive as to just assume, because we are told in the minister's speech, that those amendments are all benign.

I am glad that we now have a moment to have a good look at them, but of course we will be doing that in the context of all the other rushed-through business that we will be doing as well.

Question resolved in the affirmative.

The Assembly adjourned at 7.08pm.

Schedules of amendments

Schedule 1

Housing Assistance Amendment Bill 2008

Amendments moved by Dr Foskey

3
Clause 8
Proposed new section 25S heading
Page 12, line 24—

omit the heading, substitute

25S Affordable housing providers—housing commissioner may intervene

4
Clause 8
Proposed new section 25S (1)
Page 12, line 27—

after

registered

insert

affordable

5
Clause 8
Proposed new section 25S (2)
Page 13, line 8—

after

registered

insert

affordable

6
Clause 8
Proposed new section 25S (3)
Page 13, line 17—

after

registered

insert

affordable

7
Clause 8
Proposed new section 25TA

Page 14, line 11—

insert

25TA Affordable and community housing providers—voluntary removal from register

The housing commissioner must remove a registered housing provider from the register if—

(a) the provider asks, in writing, to be removed; and

(b) the housing commissioner has no ground for believing that the provider has breached a condition of registration, or is in breach of this part.

Schedule 2

Housing Assistance Amendment Bill 2008

Amendments moved by the Minister for Housing

7
Clause 8
Proposed new section 25S (1A) and (1B)
Page 13, line 6—

insert

(1A) If the housing commissioner proposes to intervene in the business of a registered housing provider, the commissioner must give the housing provider written notice stating—

(a) the reasons for the proposed intervention; and

(b) how the commissioner proposes to intervene; and

(c) the reasonable time within which the housing provider may make representations to the commissioner about the proposed intervention.

(1B) The housing commissioner must not intervene in the business of a registered housing provider unless the commissioner—

(a) has considered any representations made to the commissioner within the time stated in the notice given under subsection (1A); and

(b) is satisfied on reasonable grounds that the intervention is appropriate in the circumstances and in accordance with the intervention guidelines.

8
Clause 8
Proposed new section 25S (3)
Page 13, line 15—

omit

may

substitute

must

9
Clause 8
Proposed new section 25S (4) and note
Page 13, line 18—

omit proposed new section 25S (4) and note, substitute

(4) The intervention guidelines are a disallowable instrument.

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

10
Clause 8
Proposed new section 25T (1) and (2)
Page 14, line 3—

omit proposed new section 25T (1) and (2), substitute

(1) The housing commissioner may remove a registered housing provider from the register if satisfied the provider—

(a) has breached a requirement of this part or a condition of the provider's registration; or

(b) no longer satisfies the eligibility criteria.

Note Eligibility criteria for affordable and community housing providers are set out in s 25F and s 25G.

11
Clause 8
Proposed new section 25T (3A)
Page 14, line 9—

insert

(3A) The notice must include a statement of the reasons for the decision.

12
Clause 9
Proposed new table 31A
Page 15, line 1—

omit proposed new table 31A, substitute

Table 31A	**Reviewable decisions**	
column 1	**column 2**	**column 3**
item	**decision**	**affected entity**
1	s 24—refusing application for housing assistance	the applicant
2	s 25—suspending or cancelling all or part of housing assistance being provided to entity	the entity
3	s 25A (1A)—registering entity as housing provider on conditions	the entity

4	s 25B—refusing to register entity as housing provider	the entity
5	s 25O (2) or (3)—refusing to approve change to constitution or rules of housing provider	the applicant
6	s 25S—deciding to intervene in business of housing provider	the housing provider
7	s 25T—removing housing provider from register	the housing provider

Schedule 3

Housing Assistance Amendment Bill 2008

Amendment moved by Mr Seselja (Leader of the Opposition)

3
Clause 8
Proposed new section 25S (2) (c)
Page 13, line 13—

omit