



# Debates

WEEKLY HANSARD  
SEVENTH ASSEMBLY

Legislative Assembly for the ACT

11 FEBRUARY 2009

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**Wednesday, 11 February 2009**

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

## **Petition**

*The following petition was lodged for presentation, by **Mr Barr**, from 62 residents:*

### **Planning (No 94)**

**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 residents of Brigden Cres., Latchford St. and Eltham Pl. in the suburb of Theodore, to prohibit changes to the lease at 19 Brigden Crescent, in order to halt a proposed development of 4 one bedroom and 2 two bedroom townhouses, in a quiet residential area comprised of families and retired couples. As residents we are concerned with the substantial increase in traffic movements in a small and narrow suburban street, upon which children regularly play. We are also concerned by the encroachment of noise upon the neighbourhood. Finally, if the lease amendment is approved the proposed development will be out of character, and to the detriment of the existing streetscape.

**Your petitioners therefore request the Assembly to:** Intercede in the deliberations of ACTPLA upon development application 200813348, to ensure the proposed development does not proceed in its current form. Furthermore, we request your consideration of the existing zoning laws that allow development of this nature in quiet, family orientated communities.

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

## **Capital works—projects**

**MR SESELJA** (Molonglo—Leader of the Opposition) (10.02): I move:

That this Assembly:

(1) notes:

- (a) the failure of the Stanhope Government to deliver capital works projects on time and on budget;
- (b) the significant spending on capital works projects as part of the Rudd Government's proposed \$42 billion package of stimulus for the Australian economy; and

- (c) the critical issue of undertaking these capital works projects within tight timeframes; and
- (2) calls on the Stanhope Gallagher Government to explain how it will deliver these capital works projects on time and on budget.

It is timely that we take a look at this government's record on capital works and the delivery of major infrastructure projects, in the context of the Rudd government's proposed stimulus package. We know that, if this stimulus package is passed through the Senate, there is going to be a significant amount of capital money allocated, some \$350 million to the ACT. Much of this is welcome.

We have spoken at length about why we believe that insulating homes, particularly those of low-income families and pensioners, is good economic policy, good social policy and good environmental policy. We also see significant investment in education. If and when this package goes through, the critical issue will be the ability of the Stanhope-Gallagher government to deliver it—to ensure that, if we are going to have a stimulus package, the money is spent, spent wisely and spent well and these projects are delivered on time and on budget.

Given this government's record over the past seven years, we in the opposition have significant concern about its ability to deliver. We have seen the failure of the Stanhope-Gallagher government to deliver capital works projects on time and on budget. We know that there are critical time frame issues with this latest infrastructure package. The last part of this motion, very importantly—and we look forward to hearing from the minister—calls on this government to explain how it will deliver these capital works projects on time and on budget.

It is worth looking at this government's record on the delivery of infrastructure. We need to go through some of their major projects of the last few years, one by one. We have seen the Gungahlin Drive extension. We have seen the Alexander Maconochie Centre. We have seen the superschools. We have seen Tharwa Bridge. We have seen road funding. We have seen this government consistently underspend on its infrastructure budget. Roughly between a third and half of its infrastructure budget in any given year has been underspent. We have seen time frames blow out. We have seen costs blow out. We have seen some projects still waiting to be delivered—projects which have been on the books for a number of years.

This has occurred in the context of a booming economy and at a time of booming revenues. This government always says, "Well, we have thrown a lot of money at this and a lot of money at that." We ask: what are the results? We have seen the windfall. The windfall has been quite significant. We cannot understate just how much extra money the territory has had coming into its budget over the last few years—a windfall over and above expectations every year, altogether amounting to over \$1.6 billion. That is an average of \$279 million. That is almost the size of this infrastructure package. That has been the extra money that this government has had every year to spend on services. They have not spent it wisely.

We have not seen the kind of major city building infrastructure delivered over this boom period that we should have. When you have the greatest property boom in our

history, when you have extra money coming from GST—significantly above expectations—and when you raise taxes every year, we should have more to show for it than we do.

We need to go into some of the detail of the government's failures to deliver on infrastructure. We all know about the Tharwa Bridge. To many—and, we know, to this government—Tharwa Bridge was not important. Many would say, "Well, it is not that important; it is serving only a small part of our community, the community of Tharwa and southern Tuggeranong." But it is a great demonstration of how this government has failed to deliver on infrastructure. It is also an important demonstration of how it has failed to care about communities when it does not believe that there are enough votes in it.

It is worth just going through the legacy. In 2005 John Hargreaves claimed that a new bridge would take two to three years to build. On 19 September 2006, Labor closed the bridge due to safety concerns. Labor waited until 17 January 2007 before they lodged a development application for a new bridge. On 15 February 2007, Labor ruled out investing \$1.6 million on a temporary solution, claiming that it would not be a responsible use of taxpayer money. The spin doctoring is more about the fact that Labor thought fit to spend \$700,000 on interim strengthening works in mid-2005.

On 23 January 2008, Jon Stanhope announced that the old bridge would be retained and that remedial works would occur to enable light traffic to use the bridge, pending full conservation works. Interim solutions were belittled one year but implemented the next. Labor's latest story is that stage 1 works will take 20 weeks and stage 2 works will take three to four years on top of that. This is a significant blow-out on top of the initial estimate of a two to three-year project.

It is worth highlighting this, because this is one bridge. This is one bridge. They managed to get it so badly wrong that it became such a major issue that the Chief Minister had to step in when the former minister was not able to deal with it. Clearly, this government cannot deliver on bridges.

Let us have a look at roads. In 2001, Mr Stanhope promised to build the GDE by 2004, with four lanes, at a cost of \$53 million. Jon Stanhope did not sign the first major works contract until November 2005, one year after the whole project should have been finished. The second contract was not signed until May 2006, two years after the road was originally scheduled to be finished. What about costings? After the 2001 election, Labor very quickly downsized the road from four lanes to two and blamed this on cost increases. The government's 2002 estimate of \$53 million for two lanes blew out five years later to \$120 million for two lanes.

Labor knew for years that traffic would be close to capacity, yet it took until the eve of an election before they agreed that they would duplicate Gungahlin Drive—that they would do something that everyone knew was necessary. Everyone in Canberra knew that this road needed to be two lanes to service the growing community of Gungahlin. This mob did not care; they did not bother to do it. Their failure has not only cost taxpayers tens of millions of dollars but also resulted in the extra delays that will now be experienced by the people of Gungahlin as they use a road that should

have been finished by now. Once again, roadworks will be undertaken, significant delays will occur and we will have another 18 months or two years of frustration and annoyance for peak-hour traffic going to and from Gungahlin.

We have seen the government's record with schools. We have seen it even with their lauded superschools. Initially the west Belconnen superschool was supposed to take 1,500 students; then it was to deliver 1,100. When it opened, it was fewer than 800. Even then, it was still a construction site. Even as students are moving in, we see the barbed wire fences. We see the barbed wire fences around the schools.

This government cannot get it done. We have seen its record in public housing, in the maintenance of public housing. It has not been able to get it done.

It is particularly important that we look at a major infrastructure project. If we are to look at the two infrastructure projects of the last few years that are significant—and in a \$1.6 billion boom this does put it into perspective—we have got the one-lane GDE and we have got the Alexander Maconochie Centre. They are the two major infrastructure projects that the people of the ACT have to show for this boom.

**Mrs Dunne:** What was the common element? Simon Corbell.

**MR SESELJA:** Indeed. We do have Simon Corbell's hands all over it. But this government needs to take responsibility. The prison, which was initially going to cost \$110 million and have 374 prisoners, will now cost taxpayers \$131 million and hold only 300 prisoners. And we have seen a number of other things downsized. We see no gym and no chapel or quiet area. But we do have some significant artworks at the prison. That is \$131 million—\$131 million and it is not open. We are going to be six months past the official opening before we see prisoners start to move in.

This has been the way this government has managed infrastructure in the territory. Costs blow out, time frames blow out, the projects are not delivered in full, and in the case of the prison it is still not delivered. It is still not delivered. It is a major embarrassment to the community. It is a major embarrassment to this government that it had an opening in September, pretending that it was ready, pretending that it was ready to open, pretending that it was finished—doing this sham opening prior to an election to try and say, “Well, look, we have delivered. We have delivered. We have delivered a prison and a one-lane road.” That is the infrastructure legacy of this government over the past few years.

What we need—and we made this case at budget time last year when the government announced significant infrastructure spending—is to see how this government are going to do things differently to get it done, particularly as we see the urgency of some of the infrastructure funding that is likely to come from the commonwealth. This government need to tell us; Ms Gallagher, when she gets up, needs to tell us. There is a new position—which is essentially a public servant taken offline, in the words of the Chief Minister—to work on infrastructure. That is all well and good, but what structural changes will this government make to ensure that their appalling record in the delivery of infrastructure over the past few years will change, that we will see something different, that the hundreds of millions of dollars of taxpayers'

money that is going to be outlaid will be spent wisely, efficiently and in a way that improves the lives of Canberrans?

We want to see infrastructure that improves Canberra. We want to see our roads upgraded. We want to see our schools upgraded. We want to see our basic services taken care of. We want to look down the track at issues like light rail. If you cannot get bridges done, if you cannot build a prison, if you cannot build more than a one-lane road to the fastest growing area of Canberra and get it anywhere near your original budget, what faith can we have that you are going to be able to deliver the kind of city building infrastructure that Canberrans are calling for and that Canberrans need to move forward? We need it to build our economic capacity. We need it for our lifestyle. We need it so that our city can continue to grow in a sustainable way.

We took a plan called “Infrastructure Canberra” to the last election. We have seen elements of that plan copied by the government. They now talk about an infrastructure plan. We welcome that. There does need to be a strategic plan. We have not seen that in the past and we certainly have not seen it delivered. But we do need to see structural changes in terms of the kind of advice going to government, the kind of advice on priorities for them to be able to deliver. We believe that there should be expert advice. We believe that it should be high-level advice that is provided publicly, to the Assembly and, of course, the government, so that government is able to make better decisions on procurement and infrastructure priorities.

We have seen significant problems with procurement in a number of our agencies. We have not heard from the government how they are going to change that. What will they do differently to ensure that these kinds of mistakes, delays and cost blow-outs are not a feature going forward? This is the challenge for the government. We have put forward some ideas, some of which they have adopted. But they—and Katy Gallagher when she speaks—now need to outline the plan to us. Katy Gallagher needs to say how they are going to do things differently. If all it amounts to is moving a public servant from a department to specifically oversee infrastructure, we do not believe that is enough. We do not believe that a coordinator-general, or whatever they are going to be called, is enough. We do not believe that is the kind of structural change that is necessary.

I saw the planning minister walk in. I should not neglect his portfolio—the importance of the planning portfolio and the planning system in the ability to deliver infrastructure. We are still hearing from industry. As recently as yesterday, I had an email from an industry group saying that the problems in the planning system are the greatest risk to the delivery of this infrastructure. Not only is there the issue of this government’s ability to get it done, but the planning system is slowing things down. We saw the head of Actew before our committee, suggesting very clearly to us that the planning system was going to slow the ability of Actew and ActewAGL to get things done in terms of delivering the vital energy needs of the territory. Apart from the rushed announcement that we saw in December from Mr Barr, which was a copy of the Liberals’ policy that was taken to the election, what plans do they have to fix this? What plans do they have to ensure that this infrastructure can be delivered for the good of all Canberrans?

**MS GALLAGHER** (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (10.17): It is nice to see that the tone of the Assembly remains unchanged from last night—we start on the negative, and I imagine we will continue on the negative from the opposition all day.

I thank the member for raising this matter of significant importance to the community. In particular, I support many elements of the wording of his motion. I do find it unusual, though, that the motion, in a sense, supports the Rudd government's proposed stimulus package. It notes the "significant spending" and "the critical issue of undertaking these capital works projects within tight time frames". If that is what the Leader of the Opposition thinks, I am sure he is passing on to Malcolm Turnbull and independent senators the critical issue of undertaking these projects on time, because at the moment the delays are coming from your own side, Mr Seselja.

**Mr Seselja:** Have you called the independent senators?

**MS GALLAGHER:** I know it is a little embarrassing after your public stand on this stimulus package, and I was surprised to see the wording of the motion. But there it is—almost complete support for the stimulus package and an acknowledgement of what we have been saying for the last week, that it is important that we get on and do it.

This is not the first time nor, I dare say, the last time that the Leader of the Opposition has pointed his finger at the underspend in the capital works program. It is also not the first time he has ignored some of the basic facts. Capital projects, by their nature, carry timing and cost risks. Planning issues, market conditions and unforeseen physical circumstances are all part and parcel of capital projects. No reasonable amount of pre-planning can completely remove such risks from all projects in a program.

One would expect that a small program, such as those planned by the previous Liberal government, would have a greater chance of delivery—if, of course, done properly. A larger program, such as those budgeted by our government, would carry more risks. Yet in percentage terms our underspends are not at all different from those under the previous Liberal government. The Liberal government planned for small programs and it found it difficult to deliver those. We have planned for much bigger programs and we have delivered much bigger programs. The size of the program matters, and herein lies the true benchmark for comparison of performance.

Another pertinent measure of this government's performance in this regard is the ACT government investment expenditure as a proportion of the total economy. This has doubled since we came to office in 2001. In 2001, ACT government investment expenditure accounted for about 0.5 per cent of total demand in the economy. In 2007, this share was around one per cent.

The growth in investment that this government has made in the territory's infrastructure has outstripped the growth in the economy. The government is, and has been, well aware of the important role that investment in infrastructure plays in the



economy, and this is a lot more important now as our economic circumstances start to weaken. The need for the government to continue our investment program underpins the territory's ability to move through these economically tough times. Investment in our productive assets underpins the territory's ability to support jobs and provide confidence for businesses and communities.

The government's achievements in the area of infrastructure delivery are unparalleled. The government fully appreciates the significance of public infrastructure and, in particular, how the delivery of essential infrastructure contributes to the delivery of high-quality services. That is why we have placed such a huge emphasis on the maintenance and provision of high-quality infrastructure since we came to office.

As outlined in the Assembly several times last year, we have a proven track record in delivery—record expenditure, record commitments. The comparison of our delivery of capital works to that of those opposite could not be more stark. Let us look at the facts. When we came to office in 2001, the average annual expenditure on capital works by the Liberal government between 1998-99 and 2000-01 was around \$76 million. The average expenditure by this government over the last seven years was \$159 million—twice as much as the Liberals. The average expenditure by the Stanhope government over the last three years was \$221 million, almost three times as much as the Liberals. For the 2007-08 year, we have spent a record amount, totalling \$283 million. That is over 3½ times what those opposite were able to deliver.

This year, the budget papers forecast a record level of expenditure, at about \$500 million. This is five times higher than the spend during the last year of the previous Liberal government. This is the comparison, Mr Speaker. We have planned and delivered at levels that those opposite simply were not able to achieve.

The continuing attacks on the government's performance regarding the delivery of capital works simply do not add up. Just one year's expenditure by this government eclipses the expenditure in a whole term of the Liberal government. I am sure those opposite will continue to point to underspends and delays but the facts are that we are spending 3½ times more now than those opposite ever planned for or ever delivered.

We do acknowledge that expenditure on capital programs can sometimes be delayed. However, this is often due to factors which are largely outside the control of government. Factors such as workforce ability due to the high level of construction activity which has been experienced in the ACT over recent years, weather conditions, legal proceedings and the need to carefully schedule works to minimise disruptions and maintain continuity of services all impact on the government's ability to deliver programs on time. But those opposite continue to focus merely on cash expenditure profiles—estimates undertaken at the beginning of a project. We all understand that there can be difficulties in managing cash profiles for complex projects that extend over multiple years, but this does not negate our ability to deliver quality infrastructure to the ACT community.

Given all the factors which can influence the delivery of the program and the size of the capital works program, the government's delivery record is a significant achievement. Over the last few weeks, I have been putting together the details of the

capital works program that has been delivered since 2001-02, and it is enormous—the programs, the works and the projects that have been delivered. Mr Seselja, in his opening address, said that there had been no city-building infrastructure delivered over this term of government. I dispute that; the facts dispute that. With respect to the projects that have been built, I can refer to the childcare centres, the medical school, the operating theatres, the medical records areas, the community facilities, the child and family centres, the new schools, the jail, and the youth detention centre. That is off the top of my head, without even going to the 15 pages of capital works infrastructure that is being delivered.

When we look back at Mr Smyth's government's legacy, what was it? The airport hangar, Bruce stadium and the futsal slab. Well, what massive investments in our city's community infrastructure they were—all great achievements! They are the three things that jump out as the massive capital works projects that those opposite delivered. Not childcare centres, not schools, not medical facilities, not community facilities; none of those were provided for. And we have 15 pages of works that are being delivered. We have record levels of investment at a time when we need to be investing in our community. And what do we have from the opposition? Sniping and whining from the sideline. No ideas, nothing positive to contribute to the debate, no ideas about community building infrastructure projects that they would like to see. There is nothing like that, just harping and whining from the sidelines. I imagine that is all we are going to get from them for the next four years.

I foreshadowed an amendment to Mr Seselja's motion, and I think that has been circulated. I will speak to that amendment now. The amendment essentially keeps the flavour of Mr Seselja's motion alive and well. Firstly, we note the significant spending on capital works projects as part of the Rudd stimulus package. We note the critical issue of undertaking these capital works projects within tight time frames. Secondly, we note that the ACT government will provide a report to the Legislative Assembly on the implementation plans for the nation building and jobs package once the bill has been passed by the federal Senate. I think that is a sensible way forward. It means that we will be providing to members of the Assembly and, through them, to the community appropriate information. And let us dare to seek a collaborative approach to this in times when we do need to work together, when we need to look after our community's interests.

We are more than happy to provide members of the Assembly with all the information that we can to be helpful in the jobs that they need to do in their electorates and having regard to their own work responsibilities. At the same time, if we are going to be providing all of that information, how about if we have a little bit of a spirit of cooperation on it as well, instead of the antics we saw in question time yesterday? I was unclear about what you were trying to achieve yesterday in question time but I will keep mulling that over. Instead of whining about the information you have got, let us look at genuinely working together. This is a new Assembly. We have all said that it is a new Assembly, and we all want to work together and be nice. We have not seen too much evidence of that yet, but it is only the second sitting week of the new Assembly so we can live in hope.

We stand here and say to you that we will provide you with as much information as we can in order to be helpful, and we look forward to you working with us on the

implementation of this very important stimulus package. That is the challenge that we set for you today. That is the essence of my amendment, and I hope the Assembly feels able to support it. I move:

Omit all words after “notes”, substitute:

- (a) the significant spending on capital works projects as part of the Rudd Government’s proposed \$42 billion package of stimulus for the Australian economy; and
  - (b) the critical issue of undertaking these capital works projects within tight timeframes; and
- (2) notes that the ACT Government will provide a report to the Legislative Assembly on the implementation plans for the *Nation Building and Jobs Package* once the bill has been passed by the Federal Senate.”.

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (10:28): We will not be supporting Mr Seselja’s motion this morning. We will be supporting the amendment that has just been put forward by Ms Gallagher. I am unclear as to what the Liberal Party are trying to achieve with the motion they put forward this morning, as I feel we are going over old ground in relation to some of the capital works projects undertaken in recent times. I feel it is better to move forward at this stage and see how best to capitalise on this plan of the commonwealth to revive the economy.

Having said that, I acknowledge that it is vitally important that we heed the lessons learnt from some of the recent capital works and ensure we work to maximise the value of the nation building and jobs plan. At this stage we are still to learn of the detail in the plan. Indeed, it is becoming more apparent that changes will be required if the plan is to pass through the Senate. The injection of this level of funding for capital and other works, matched by a suitable stimulus plan from the ACT government, represents a great opportunity for the ACT economy to weather the storm that the recession threatens to bring and set the right foundation for the future.

Yesterday, in response to Ms Burch’s matter of public importance on the nation building and jobs plan, I raised our concern about the need to ensure that the ACT has the capacity and resources to deliver the programs, including capital works, within the tight time frame set down by the commonwealth government. We note that the Chief Minister has taken Ms Sandra Lambert offline to run the implementation of the plan and we ask that she be resourced to ensure it is possible to meet the deadlines.

While we still await details of the plan, too often funding of this nature, particularly capital works, is totally devoted to the costs associated with construction, so the planning and delivery of the outcome is left to overworked officials who have little choice but to organise the work under enormous pressure. We know that ACT government officials already have their existing workload demands, with the work associated with the ACT government’s third appropriation bill or stimulus package coming shortly. Now they have very tight deadlines imposed on them if they are to deliver key elements of the nation building and jobs plan.

The danger we see, therefore, is that we will fail to capitalise on the significant funding that the plan provides if proper planning and resourcing are not built into the process.

**MR SMYTH** (Brindabella) (10:31: Mr Speaker, Ms Hunter started by saying that we have to trust the Labor Party to deliver this. But to trust the Labor Party, you have to look at their capability to deliver this. You have only to go back over the last seven years to realise that they cannot deliver it. For the information of the new members, the former Liberal government used to table quarterly updates on capital works projects and their progress. The Labor Party, in their spirit of honesty, openness and accountability, stopped doing that. I now FOI them every quarter so that I can know where the capital works projects are. You have to ask why a government that was proud of their record of delivery of capital works would hide the progress and the updates that should be available to the community.

Just the other day I got the latest FOI, so that I can now compare the June quarter for 2007-08 with the June quarter for 2006-07. I will just go to one project in this list, because I drive past it every morning on the Monaro Highway. In the 2006-07 capital works, there is Roads to Recovery, which I think was federally funded. Roads to Recovery was a former federal program cut by the Rudd government. Roads to Recovery—Lanyon Drive upgrade between the Monaro Highway and Sheppard Street. When was it due? August 2008. How much? Five million dollars. How much has been spent to date? This was as at 30 June in 2007-08—\$150,000. So a year and two months before it was due to be finished, all they had spent was \$150,000.

If you look at this year's report, you will see that it is exactly the same, except that, if you look at the June quarter this year, the government have now deleted the column "proposed completion date". Honest, open, accountable! "We'll just squeeze the information out of the public realm any way we can." And when you look at the quarter's date, this was June; this was 12 months on from when they had spent \$150,000. What is the total expenditure to date out of a \$5 million project? \$695,000. So a medium-sized road project is nowhere near completion, it is now seven or eight months late and the money has not been spent. I know some work has been done since this report was put together.

But this is the point we make, Ms Hunter. It is well and good to say, "Trust them and work together with them," but they exclude information from us. They hide the information. They are slow on all of the projects, and not a single major capital work project in the term of this government has been delivered on time or on budget.

**Mr Hargreaves:** You have no integrity, that's why.

**MR SMYTH:** There is Mr Hargreaves. Mr Barr, can't you keep your former boss under control? He will embarrass you as well as the rest of them. If you look at the motion that was proposed, it calls on the Stanhope-Gallagher government to explain how it will deliver these capital works projects on time and on budget. The minister responsible simply has no answer.

Yesterday, the members of this place were going to get this information in the budget papers. We were going to get it in May: February, March, April, May. “We will work it out and we’ll tell you in May.” Now, I see through the amendment, we are saying, “Once it’s passed, we’ll get some idea.”

It is quite clear that the government cannot detail how they will deliver this. I simply go back to the public accounts committee meeting of 22 January this year. If you want something done, you don’t go to the planning minister, because the planning minister is a failure. You don’t go to the former territory and municipal services minister to get something done, because he failed as well. It seems that the only way you get something done in this town—this is the new process according to the Chief Minister—is to go and see David Dawes, because David Dawes is the only person who gets anything done in the government. It is interesting because the Chief Minister said:

One of the crowning successes of Chief Minister’s has been the appointment of Mr Dawes and the creation of the section. I am embarrassed, when I go around, at the number of companies that are upset that they have made approaches to project facilitation and project facilitation’s books are full.

Why aren’t they going to ACTPLA? They do not go to ACTPLA because nothing happens there. Projects are delayed there because of the process that this government put in place. You go and see somebody in Chief Minister’s and, if you cannot get in to see David Dawes, you cannot get your project through. He goes on to say:

There is an inclination these days, because of the quality of the service, to actually come to David Dawes, and project facilitation is the first point of call.

How extraordinary is that? Here is the admission by a government that have a process that is so appallingly bad that they had to put “Mr fix-it” in. They could not trust him in TAMS or put him into ACTPLA; you have to put him in Chief Minister’s, because that is the only way to get things through the processes that the government have put in place. That is simply the point that we make today: they cannot deliver. This is the fear out in the community. Yes, here is an opportunity, but we know from talking to small business and to industry associations that nobody has any faith that this money can be spent. The Chief Minister continued:

The nature of the service of a project ... facility in the government is to cut across any bureaucracy, and any bureaucracy creates bureaucracy and we have seen the need to try to fast-track and get these things on the rails. That is why the innovation of a project facilitation unit has been the success that it has.

There is the condemnation of TAMS and there is the condemnation of ACTPLA and their ministers. They have failed. Are we going to fast-track the fast-tracking process so that we can get this extra \$350 million into our economy? That is the question. That is why this motion should be supported. We are saying that we simply want to know how you are going to do it.

You have only to go back to some of the history of these projects—important projects such as health projects. Let us look at the step-down facility that Michael Moore, as

health minister, promised in March 2001. It was funded in the May 2001 budget. And when did it open? Six years later, in 2007. Let us look at another health project involving Simon Corbell—the mental health facility that was meant to start in 2005 and be opened in 2007. It has not even started. Not a single brick has been laid for the new mental health facility. Delay, delay, delay.

In arts, let us look at something like the glassworks, which was funded in our last budget in 2001. When was it opened? In 2007. Let us look at the prison that was funded at \$110 million in 2001 for completion a couple of years later. It is still not occupied by a single prisoner. It is at far less capacity than was originally planned. It has cost more, and will cost even more in the end, when the full cost is revealed, and it has fewer facilities than what was proposed. This is the problem that we encounter every time we deal with this government. And the list goes on and on.

We talk about delivering social housing. Let us look at Burnie Court. We closed Burnie Court and transferred the people who lived there in 2001, and the process to get rid of it started in 2001. We are now in 2009, and yet, apart from the aged-care units which have been completed for some years—so there is a tick there, Mr Hargreaves—the rest of the site is vacant. There are no residents there, eight years later. That is why we have no faith in this government's ability to deliver. That is why we are asking them to detail how they are going to do it.

Ms Gallagher started off with the rhetoric that they like to write for Ms Gallagher upstairs and said that Mr Seselja did not start with anything positive and had not said a positive thing about delivery. Well, we had a plan—"Infrastructure Canberra", the Canberra Liberals' infrastructure plan. We had a plan to break the bottlenecks, we had a plan to deliver in 10 key areas and we had a plan to have somebody to deliver it. The government, in cheap imitation, have taken a senior public servant—and I note that it is not a senior public servant from TAMS, which delivers most of the capital works, or from ACTPLA, which plans and delivers some capital works; they have taken this person from another part of the government. I think it is in stark contrast to those that would normally deliver this sort of project. They have chosen not to go to ACTPLA and they have chosen not to go to TAMS to look for these things.

Ms Gallagher makes the point that the expenditure went from \$76 million under the Libs to \$149 million or \$150 million under the Labor Party. It has doubled. Well, the budget has doubled in that time. Do the maths.

**Mr Hargreaves:** Come on!

**Mr Barr:** It has not doubled, Brendan.

**MR SMYTH:** The budget is close to double.

**Mr Seselja:** It's pretty damn close.

**MR SMYTH:** That is right; it is pretty damn close. But there is no recognition of this. It is a matter of glibly using some numbers and distorting the facts because the budget is much bigger than it was when we had it. But you still cannot deliver. If you look at

the rates of non-delivery over seven years of Labor, you will see that they are not in a position to deliver. We have asked them to detail today how they will deliver this. We have not heard a single word from the minister on her ability or on the ability of her government to deliver any of these capital works, and they should at least know how they are going to do that.

**MR BARR** (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (10.41): I rise in support of Ms Gallagher's amendment. I do so for a number of reasons, primarily as the amendment creates a constructive way forward for this place to work together to achieve the goals that it would appear we jointly agree on.

The first and obvious point to make is that the wording of the motion that Mr Seselja has put forward perhaps finally indicates a position from the Liberal Party on this matter. One might look at which day of the week it is—is it an odd or an even day—to determine whether the Liberal Party supports this or not. It appears we have now landed on one of those days where they do.

Perhaps the greatest risk, Mr Speaker, to the delivery of this project is the Liberal Party in the Senate, and I again invite Mr Seselja to pick up the phone—6277 4022—ring the Leader of the Opposition's office, deal your federal party into this and maybe we might be able to get an outcome. The quicker we get an outcome through the Senate, Mr Seselja, the quicker we will be able to get on with delivering these projects.

I must make just one other observation about Mr Seselja's contribution in this debate—that is, I think any progressive Australian would have enjoyed the irony of Mr Seselja waxing lyrical about barbed wire and children. When you cast your mind back to the Liberal Party's position in relation to children in detention, for Mr Seselja and Mr Doszpot to start raising any concerns about barbed wire and children is really—

**Mr Hargreaves:** It's breathtaking, isn't it?

**MR BARR:** It is breathtaking, Mr Hargreaves, it is. Perhaps the Liberal Party might want to reflect on their position in relation to those matters before coming in here and making accusations about the government and the delivery of capital works. But the reason that paragraph 1(a) of Mr Seselja's motion needs to be deleted is that it is fundamentally not true.

In looking at education capital works within my portfolio responsibility, more capital works have been delivered in the education portfolio in the last 18 months to two years than were delivered in the entire term of the previous Liberal government. Let me go through some of the capital works that have been delivered. At Ainslie primary school we have resurfaced all hard paved surfaces. The school has received a \$650,000 older school upgrade, a roof safety system has been installed and the school has been externally painted. Alfred Deakin high school: external painting, a new disabled lift, landscaping and hard court upgrades, electrical upgrades and a new

science laboratory. Amaroo school has new classrooms. We have had the conversion at Aranda primary school of some storage facilities into new classroom facilities, classrooms have been upgraded and disabled access has been improved. Arawang primary school: landscape works, roof upgrades and the conversion of a storage area into a new classroom facility.

Belconnen high school has seen toilet upgrades, internal and external painting, hard court upgrades, electrical upgrades, security upgrades and an external painting of the school. Black Mountain school has a new car park, electrical supply upgrade, new classrooms, a new lift, specialised play areas and upgrade of the intercom speaker systems. Bonython primary school had solar panels installed on its roof, electronic security upgrades and new classrooms.

**Mr Hargreaves:** Are they all done?

**MR BARR:** All completed. Calwell high school: upgrades of technology areas, new shade shelters, disabled toilets, hard court upgrades and external painting. Calwell primary school: front office upgrade. Campbell high school: student achievement centre completion, repair of the existing roof, upgrade of lighting throughout the school, new computer labs, upgraded hard court and car park surfaces, external painting and a million-dollar older school upgrade completed. Campbell primary school: electrical upgrade, roof repairs, installation of a roof safety system, landscape upgrade and a security upgrade.

Canberra college has had new flooring in its gymnasium and an environmentally sustainable design upgrade, science lab upgrades and home science upgrades. Canberra high school: a new student achievement centre, evaporative cooling, art room upgrades, hard court upgrades and science facility upgrades. Chapman primary school has had a range of water efficiency and conservation measures and has a new hall. Charles Conder primary school: external painting and security fencing. Charnwood Dunlop primary school: external painting, upgrade of student toilets and internal painting. Chisholm primary school: external painting.

The Cooperative primary school has had its playground restored. Cranleigh school has had external painting, an additional bathroom and renovation of change rooms in the pool area. Curtin primary school has had landscape upgrades and conversion of a storage area into a new classroom. Dickson college: landscape upgrades, major school refurbishment, new basketball and tennis courts and a security upgrade. Duffy primary school has had an upgrade to its special needs unit and its glazing.

Erindale college: upgrade of its gym floor and its power factor correction units. Evatt primary school: new toilets, external and internal painting, ceiling upgrades, and landscaping of the senior playground. Fadden primary school: glazing upgrade and security upgrade. Farrer primary school: new toilets and water collection tanks with a tank and pump system to water their school grounds. Florey primary school, external painting and security upgrades and their admin centre has been upgraded. Forrest primary school has new awnings and has had roof safety improvements. Fraser primary school: new landscaping, new classrooms, extension to the school hall, and external painting. Garran primary school: external painting and landscaping, school



hall, older school upgrade and a staff room upgrade. Gilmore primary school has had its facade improved and external painting. Giralang primary school has a new preschool unit, refurbishments and upgrading of facade.

I can go on, Mr Speaker, on the A to Z of school upgrades delivered in the last 18 months to two years. More capital works have been delivered in the last 18 months in schools than the Liberal Party was able to achieve in their entire term of government across the whole lot.

In terms of where we are going in delivering these commonwealth projects, should the Senate pass the legislation that will enable this money to flow into schools, I attended a briefing with the Prime Minister, Deputy Prime Minister and Treasurer last Friday. I have subsequently written to all school principals, and school principals will be at the meeting with the Department of Education and Training this afternoon. I have a meeting with Sandra Lambert, the coordinator-general, after I finish this speech in about 15 to 20 minutes. We will then look to get proposals from schools by the end of this month. The timetable for the first round of school pride projects requires submissions to the commonwealth within the next four to six weeks and works to commence on those minor projects which do encompass a range of capital works but which also include provision for information and communication technology.

Not everything in that first round that needs to be delivered in this current financial year will require a planning approval, for example. It could involve shade structures, covered outdoor learning areas, installation of water tanks, insulation, specialised infrastructure for support for students with a disability or special needs, and the installation or purchase of ICT facilities and equipment that are not covered by the digital education revolution. That provides plenty of scope for the quick delivery of projects into schools that do not require planning approvals. That will mean a capacity to deliver those particular projects very, very quickly. All it will require is the money to flow from the commonwealth to the territory and then on to the schools.

More significant projects that come in through some of the other funding rounds, particularly around the construction of new school halls, gymnasiums and major refurbishments of that nature, will of course require development approval. The Planning and Land Authority is geared up for this, Mr Speaker, I have met with the chief planning executive last week and will hold further meetings and seek further advice from the chief planning executive in relation to any further measures that the government may need to take, and the government will take those measures. It is important that we deliver these projects.

Fundamentally, what we see in Mr Seselja's motion is yet another flip-flop from the Liberal opposition. They cannot make up their minds. On odd days it appears they oppose the package and on even days they support it. Or is it the other way around? In a desperate effort yesterday to gain his neo-liberal credentials—I am not sure whether he has been welcomed into that club yet—the Leader of the Opposition tried his little chest-beating exercise during the MPI, but this morning we see another about-face. It is that sort of flip-flopping; it is that sort of indecisiveness that shows why he is unfit to sit on this side of the chamber, and why he probably never will.

In the 15 seconds remaining to me I should respond to Ms Hunter's suggestion in relation to the difficulty for states and territories in implementing these projects and the additional workload on ACT public servants. Fortunately, the commonwealth has made provision within the budget for project management, so we are able to meet those needs.

**MR COE** (Ginninderra) (10.51): I rise to speak on this bill because this bill is about the future.

*Members interjecting—*

**MR SPEAKER:** Order! Let us hear from Mr Coe.

**Mr Seselja:** The bill may well fall over. It was looking a bit shaky yesterday.

**MR SPEAKER:** Mr Seselja, we are waiting for your side to speak.

**MR COE:** This motion is about the future. However, what the amendments have done is remove an obligation on the government to talk about their plan for the future. Meredith Hunter, member for Ginninderra, spoke earlier and said, "We have gone through this before; we have gone over this before." That is largely what parts of No 1 in the original motion are about. However, section 2 in the motion is about the future. It is about what the Stanhope-Gallagher government are going to do in the future with regard to capital works. Sure enough, they have tried to get rid of that part of the motion because there really is no plan. They have tried to put to the chamber this very weak motion which once again removes the Labor Party from any obligation to talk about the future.

After all, why would you want to talk about the future when you have got a past like the Labor Party's? The last seven years—they cannot deliver budgets on time; they cannot deliver capital works on time. They have had \$1.673 billion of windfall—\$1.673 billion. Imagine what you could do with that amount of money. Imagine, if you were in Tuggeranong, what you could do for that—or if you were in Woden, Weston Creek, the inner south, north Canberra, Gungahlin or Belconnen. What would you do?

What you might do with some of that money is put some pay parking in hospitals. That is a good bit of infrastructure, isn't it? I am sure that all those opposite love that. They love putting in pay parking in hospitals. It was a roaring success. It is one of their great infrastructure success stories. Is it any wonder the ALP's vote in Ginninderra went backwards by so much? Is it any wonder that there was a 14.5 per cent swing against the Chief Minister in his own electorate—14½ per cent?

What would you do with \$1.673 billion? If you were in the Howard government, you would have put together a future fund. You would have put together a future fund to prepare for rainy days. In the boom times you put away so that in the bad times you are well resourced. But no, not this government—not the ALP government here in the ACT. No future fund with that \$1.673 billion. No future fund. The only future fund

the Labor Party is concerned with is John Hargreaves's retirement fund. That is the one of importance—John Hargreaves's retirement fund. And Mr Stanhope's retirement fund; that is another important future fund the Labor Party is worried about.

**Mr Hargreaves:** On a point of order, Mr Speaker: I let it run but, because Mr Coe was referring to the Jon Stanhope retirement fund and then my retirement fund, there is an implication in there that we might do something improper with funds available to us administratively. I want him, now, to prove whether he is a boy or a man and stand up and withdraw it.

**MR SPEAKER:** Mr Hargreaves, there is no point of order.

**MR COE:** The only future fund the Labor Party are concerned about is the future fund, the retirement fund, of some of their members, because they are in retirement mode. Why wouldn't they think about their future? Why wouldn't they think about their future beyond 2012? But who knows? With the economic crisis and super funds going the way they are, maybe we will see Mr Hargreaves and Mr Stanhope for another term or two after this. We can but hope that they go to the next election.

Mr Barr spoke about how we do flip-flops. Let us look at the Labor Party—that great bastion of ideology, that great bastion of freethinkers and people that have conviction. These are the people that were economic conservatives a year ago. Now they are social democrats. If you go to the Labor Party website, click on “LaborTV”, click on “Kevin Rudd: economic conservative” and then hit the play button, you get this lovely picture of Kevin Rudd—I imagine in a commonwealth parliamentary office, probably in Brisbane—looking at the cameras, very sincerely looking at the cameras—

**Ms Gallagher:** Mr Speaker, on point of order: there has to be some relevance to the motion—

**MR COE:** Stimulus package.

**Ms Gallagher:** Watching LaborTV in his spare time—which I am sure turns him on—probably can be dealt with in the adjournment debate rather than in a motion about capital works delivery.

**MR SPEAKER:** There is no formal point of order, but, Mr Coe, it would be useful if you spoke to Ms Gallagher's motion.

**MR COE:** That is right. What this is all about is showing what the Labor Party stand for and showing what their capability is for delivering infrastructure projects. Then you have a transcript:

A number of people have described me as an economic conservative.

When it comes to public finance, it's a badge I wear with pride.

If elected Prime Minister, I'm committed to balancing the budget over the economic cycle, and maintaining the independence of the Reserve Bank.

He goes on to say:

Some call us the lucky country, but I believe you make your own luck.

I believe that too. I do believe it: you make your own luck. Kevin Rudd is spot-on. I hope he has not flip-flopped on this as well. I hope he is not suddenly saying that you do not create your own luck. Kevin Rudd said, "But I believe you make your own luck." That is what he said.

I wonder whether the Treasurer and Chief Minister believe in making your own luck. If you look at the circumstances of the next budget that we are going to be facing here in the territory and the ability for the Labor Party to deliver on capital works programs, you have to ask, "Did they create their own luck?" Of course, they did. Why? Because they had \$1.7 billion of extra money—this is, money in addition to the capital works budgeted money—that they did not invest in public works. There was all this money that they have squandered.

What sort of ability do they have for spending money in the future in the capital works area? Very little. If you go back to the capital works estimates and outcomes for 2001-07, firstly, there was a 33 per cent underspend of share promised; then a 37 per cent underspend; then a 36 per cent underspend; then a 48 per cent underspend; then a 48 per cent underspend; and then a 38 per cent underspend. When we are looking at the next capital works estimates and outcome, how about we take out 48 per cent? Then we will get the real spend. Then we will get what the Labor Party actually intend to invest into the community.

That is not to say they will invest it wisely, but it is one of the inputs that they will say they measure things on. After all, they measure only on inputs. The Labor Party measures only on inputs. Never do they measure on output. Never do they actually say, "These are the results we achieved." In actual fact, there are so few to actually point to that inputs are all they have got.

We have debacles like the good old GDE, a road that I avoid like the plague. You can go down Northbourne Avenue, because that is a better alternative from my Gungahlin suburb. It is a single-lane parking lot. It was meant to cost \$53 million. For five years I should have been driving down that road—for five years. Instead, even today I will not drive down it, because it is a single-lane parking lot. That road cost \$120 million—\$120 million.

It is no wonder that the ALP went backwards in Ginninderra and everywhere in Canberra when they cannot invest in their own neighbourhood. I very rarely saw Mr Stanhope on the campaign trail. Why would Mr Stanhope go and campaign? Why would he campaign? He was the bad-news boy. He was the bad-news boy that no other ALP candidate would want to be tagged with. In fact, he was so bad that they had to put pictures of Katy next to the Chief Minister to try and make him a bit more palatable to the electorate. I am afraid that they did not fool us.

Let us go back to Kevin Rudd and his great ministry. Let us look at Wayne Swan perhaps. Wayne Swan put a few crackers on LaborTV—

**Mr Hargreaves:** I raise a point of order, Madam Deputy Speaker.

**MR COE:** Could you stop the clock?

**Mr Hargreaves:** I ask that you bring the member back to the motion and direct that the federal Treasurer has absolutely no hand in the delivery of the capital works program of the ACT.

**MR COE:** Of \$42 billion?

**Mr Hargreaves:** I am talking to the Deputy Speaker, young fella. A little bit of manners. Your mum should have taught you about that. You will have to learn here.

**MADAM DEPUTY SPEAKER:** Mr Hargreaves, there is no point of order, but, Mr Coe, would you please speak to the amendment.

**MR COE:** For 22 seconds, I shall. Perhaps the Treasurer could put up her own tip for cheaper petrol. Perhaps that might be a good one that she could put on an ACT ALP TV.

In conclusion, let me say this: the original motion as the Leader of the Opposition put it was about the future. The amendment is about the past and hiding from the future.

**MR SESELJA** (Molonglo—Leader of the Opposition) (11.01): I thank members for their contributions. We will not be supporting the amendment proposed by Ms Gallagher.

Firstly, I will respond to what Ms Hunter had to say in relation to my motion. It is very relevant that we look at this government's record. We ask them to show us, in the context of that record, what they are going to do differently—what they are going to change in the future, looking forward, to ensure that going forward we do not see the kinds of problems that we have seen over the past few years, so that the community in the ACT can fully benefit from any money that comes to the territory. That is a most reasonable thing to ask from a government. It is most reasonable to ask them, "What is your plan?" At the moment, they do not seem to have one.

We saw the lack of knowledge and the lack of detail in yesterday's question time. When we asked for details on how they are going to do it, they were not able to provide them. All we have to go on, therefore, is their record. All we have to go on is their record on capital works delivery, particularly on some of these major infrastructure projects that we have seen over the last few years: the prison, which is still not open, which still does not have any prisoners in it, months after the sham opening; the GDE; and Tharwa Bridge. There is the legacy of this government in failure to deliver and in underspends—as Mr Coe highlighted in his speech—of between 36 and 48 per cent of the capital works budget.

These are major shortcomings—major shortcomings that we have seen over the past few years. If there is going to be more taxpayers' money thrown at the ACT, we

expect that this government will demonstrate how it is going to get it done better than it has in the past. It has demonstrated nothing in terms of a plan. It has not given us an indication of where these structural changes will come which will actually improve outcomes, which will actually improve delivery, which will mean that we do not see the massive delays in delivery of infrastructure and capital works, major cost blow-outs and projects being downsized while the cost is going up, as we have seen with the prison. This is a reasonable thing to ask of a government.

It is noteworthy that the Greens do not believe that it is a reasonable thing to ask a government to highlight what will be their plan to make things better. We put forward a very detailed infrastructure plan, “Infrastructure Canberra”, that showed a way forward. We have never heard a critique of it. Before the last election, the main critique of our policies from the Labor Party was that they were not theirs. We have seen them adopt a number, and we welcome that. We saw them adopt our lower class sizes policy, and we welcomed that because we believe it is good policy. We saw them, after the election, adopt much of our planning policy, although not all of it. We would encourage the planning minister to adopt some of the key structural changes that we have put forward. But he has moved some way, because he has seen that our policy was the right one. We would also say that you do not have a plan on infrastructure. You need to actually have one. Have a look at what is out there.

We will continue to put forward a positive vision because we believe that we can do better. Canberrans deserve better. Particularly if we look at the context of the last few years, when there has been so much money coming in, it has been the great shame of these last few years that we do not have more to show for that.

As we approach tougher times, it becomes even more important. It becomes even more important that we have a vision. It becomes even more important that our spending is clearly targeted—that it is targeted in a way that will stimulate growth and deliver the kind of infrastructure and services that all Canberrans need. We will face challenging times. The last seven years do not fill us with any confidence that this government can get it done. It is now time for them to demonstrate to the community how they are going to do things better than they have over the last seven years.

Question put:

That **Ms Gallagher’s** amendment be agreed to.

The Assembly voted—

Ayes 11

Noes 6

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

Question so resolved in the affirmative.

Motion, as amended, agreed to.

## **Mental health—planning**

**MS BRESNAN** (Brindabella) (11.10): I move:

That this Assembly:

(1) notes:

- (a) the progressive mental health policy reform occurring across Australia; and
- (b) the need for the ACT Government's Mental Health Services Plan 2008-13 to reflect and keep pace with this reform; and

(2) calls on the ACT Government to:

- (a) table the KPMG reports relating to consultation on the Draft Mental Health Services Plan 2008-13; and
- (b) ensure that the finalised Mental Health Services Plan 2008-13:
  - (i) reflects the policy directions established by the ACT Greens-ALP Parliamentary Agreement;
  - (ii) provides clear targets for 2013;
  - (iii) outlines how those targets will be achieved; and
  - (iv) presents vision and innovation for mental health policy to 2020.

In late 2005, the Mental Health Council of Australia released *Not for service: experience of injustice and despair in mental health care in Australia*. It was the most significant report on mental health care in Australia for over a decade, and it led to substantial public debate at the time. It demonstrated that, despite government commitment to mental health reforms since the early 1990s, services remained highly inadequate from a consumer perspective and ran the risk of causing further deterioration in a consumer's health and wellbeing.

Key issues identified in public consultations and formal submissions in the ACT included: a great deal of difficulty when accessing services, even when in crisis; an inadequate approach to management of forensic mental health issues; a lack of basic hospital and rehabilitation services; little attention to issues of early intervention; major staff shortages impacting on the quality of services delivered; the large role played by police and emergency services in acute mental health care; a lack of community-based health and housing services; and inadequate responses to serious incidents.

At the time, the ACT government responded positively to the report by acknowledging the depth of the problem and committing to a significant improvement

in mental health services. This is not to say that improvements were not already happening. The ACT government has developed the ACT mental health strategy and action plan for 2003 to 2008 and the ACT mental health promotion, prevention and early intervention plan for 2004 to 2008. These plans demonstrated positive steps forward and showed a clear commitment to mental health policy reform.

ACT government achievements from this period include moving the ACT from the state or territory with the second lowest per capita spending on mental health services to the second highest, funding for the establishment of the mental health community coalition, a review of the Mental Health Act in the light of the Human Rights Act, and the allocation of capital works funding for a new adult inpatient facility.

The point of this motion, however, is that the ACT government is falling behind other jurisdictions in terms of overall mental health system reform. Around three years ago, as I understand it, the ACT government contracted KPMG to conduct consultation with the community on ideas for the 2008 to 2013 mental health services plan. Community organisations were engaged and excited about the way forward for mental health policy reform. They put forward a number of ideas, including goals and targets.

It was with disappointment then that they read the ACT government's draft mental health services plan, which was issued in September 2008 and which claims to provide a vision for 2020. Many people have said that after reading the plan they remain unsure of what the vision is. This draft plan falls short in identifying the manner in which the ACT could better utilise its limited resources while providing improved mental health services, outcomes and innovation.

Take, for instance, the issue of acute care bed numbers. The plan seems to assume that acute inpatient beds will be used at the same rate as they are now. What we should be aiming for, if we are committed to reform, would be a diminished usage of acute inpatient care and a greater usage of supported accommodation places. The draft plan seems to assume that the manner in which we treat mental illness in 2020 should be the same as how we treat it now. For a government that five years ago was so committed to improving the delivery of mental health services, we need to ask where has the vision gone?

This document is particularly vague in commitment. Nowhere in the document is there any stated aim for reducing the burden of mental illness or a prescription of goals and targets for 2013. All too often the document says that something should be addressed or should be provided, but it does not actually say what should be done.

I recognise that the document is a draft, but it is a poor and passive draft. While I note that the government intends to develop an implementation plan once this document is finalised, it is difficult to see how such a plan could be cascaded from the existing draft plan. There are very good mental health programs and services operating in the ACT, but the plan does not identify and build on them. Best practice models are not discussed or even suggested. A good draft plan would do this.

While there is some evidence of more advanced thinking in this draft plan, that thinking is somewhat muddled. The ACT government has included references to



prevention and recovery-focused services provided by the community sector, but it is concerning that the document incorrectly refers to community services as those clinical services provided by the government to the community rather than services provided by the community sector. The definition of community services that the government uses is somewhat misleading and will not result in the much-needed shift in mental health resources to agencies in the community sector.

This document is very much about the service provider being Mental Health ACT or ACT Health. But this is not the only manner in which a person suffering a mental illness engages with the ACT government. The plan does not incorporate ACT Policing, Housing ACT or the education department. Most significantly, the key area of drug and alcohol and comorbidity is not given adequate attention, and there is no connection to the government's drug and alcohol plan. I am disappointed that this is not a whole-of-government strategy for mental health. The plan ought to recognise that consumers not only fall through the gaps in health services, but also fall through those services provided by different departments.

Coming back to the community consultation conducted by KPMG, I can only presume that the government was not in agreement with the report's recommendations provided and that ACT Health was tasked with providing a diminished version of the mental health plan. Members of the mental health community put considerable effort into their submissions and were disappointed not to see their ideas included in the draft plan. This is why this motion requests that the ACT government table the KPMG reports and recommendations.

I am surprised that this draft plan is unimaginative and limited. Recent frameworks developed in New Zealand and Victoria provide strong examples of a mental health policy reform which could easily have been drawn on in developing this draft plan. The New Zealand mental health and addiction plan, for example, places the needs of the consumer first and the service provider only after that. The plan gives prominent recognition to dual diagnosis and addresses issues such as funding models, trust and transparency.

Victoria is currently developing an outcomes-focused system. Its draft plan recognises the increasing complexity of consumer issues and the need for a number of government agencies to respond. The Victorian government has amended its funding models to rebalance its mental health system towards earlier intervention and supporting recovery within an integrated community-based system. Significant announcements have been made for supportive housing models and step-up, step-down facilities.

This draft plan is also out of step with the changed political landscape nationally and locally. The COAG decision of November 2008 to transfer Australian government funding for community health mental services to states and territories in order to minimise the duplication of funding that currently occurs needs to be incorporated into the final version of this plan. In addition, we have recent election commitments made by the ALP here and in Canberra, including enhancement of community-based recovery services, a ministerial council on mental health, a charter of rights for consumers and funding for acute inpatient facilities including assessment and forensic

beds. Finally, we have the ALP-Greens agreement which details three mental health initiatives.

The agreement commits the ACT government to continuing to increase the proportion of the health budget spent on mental health with a goal of reaching 12 per cent of overall health funding. In 2003 it was estimated that mental illness was the third largest cause of disease burden or loss of health through death and illness in Australia, and that accounts for 13 per cent of the total burden of disease. Presently, the ACT government spends 8.9 per cent of its health budget on mental health.

The agreement also commits the ACT government to allocate 30 per cent of mental health funding by 2012 to the community sector for the delivery of services. In contrast, the ALP's election proposal for mental health was for 15 per cent of that funding to the community sector. It may be that COAG funding makes up much of the difference between the current 13 per cent and the new goal of 30 per cent, but we will be watching this closely to ensure that the government community services do not pick up or take funding that is meant for the actual community sector.

The agreement also calls for recurrent funding for mental health training for emergency service workers and teachers commencing in 2009-10 to assist in promotion, prevention and early intervention and possibly to improve the manner in which emergency service workers deal with people suffering from an acute mental health episode. A relevant plan will need to build these agreements in.

More specifically, the mental health plan needs to include clear targets for 2013. Some of the targets should include funding levels as per the agreement and specific outcomes. We need something concrete that can be measured while the plan is being implemented to track whether or not it is working. The draft plan could include targets relating to mortality, morbidity and comorbidity resulting from mental health problems, economic participation and workforce productivity for people with mental health problems, relapse admission rates and consumer perception of services provided. The plan should also provide some commitment to the manner in which these targets would be achieved.

I acknowledge that an implementation plan is still to come and that this is where most of the detail will be expanded upon. I also acknowledge that section 5.2 of the draft plan lists a number of programs and strategies. But the description of those programs and strategies is vague, and I remain concerned that the draft plan provides little commitment or explanation from which an implementation could flow. Take, for example, programs and strategies listed under innovation. All it says is that strategies and actions are required to develop capacity of the research and mental health sector and that we should subject such programs to evaluation. I would have liked to see the plan list the many innovative programs that are already occurring in the ACT and how they could be further supported or developed in the future. This includes headspace and the development of social firms or social enterprise hubs.

I am also concerned that the evaluation is yet to be conducted on the 2003-08 mental health strategy and action plan or the 2006-08 mental health promotion, prevention and early intervention action plan. What successes were achieved under these plans?

What have we learnt from them which we can build on? Why is there still no evaluation built into the current draft plan?

An ALP election commitment was to create a ministerial council on mental health which, amongst other things, will advise on the finalisation and implementation of the draft mental health services plan. I note the council will be enshrined in legislation as part of a new Mental Health Act. I hope, however, this does not mean the council will not start to operate until the new Mental Health Act is enshrined, as already we are half a year into the draft plan and are far from achieving a finalised plan let alone an implementation plan resulting from that. Work needs to happen on this sooner rather than later. The ministerial council must play a lead role in determining and advising on the implementation plan for the mental health plan.

In conclusion, I urge both the government and the opposition to support this motion. What the motion asks for is not radical; it is a bare minimum that we would expect to see in such a plan. There are a lot of creative and innovative responses to the challenge of mental health problems in our society, and we could and ought to pursue this. We need to welcome the leadership being offered by other jurisdictions and work with those people and agencies in our community who have so much to offer. We also need to take on the ALP's own election promises and the commitments it made in the parliamentary agreement with the Greens to deliver a mental health plan that will pursue concrete targets for improved mental health service delivery in and through the community. While the goal of 12 per cent as set out in the agreement might be seen as aspirational, it can be achieved and has been achieved elsewhere.

The mental health needs of the community are far too important to fail to address in a strong, innovative and coordinated way. If the Assembly passes this motion and the government takes it on, we will be moving in the right direction.

**MS GALLAGHER** (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (11:24): I welcome the opportunity that the Greens have provided this morning to talk about mental health policy reform occurring in the ACT. The ALP is very happy to support the motion moved by Ms Bresnan this morning. We certainly are very happy to table the KPMG report, although I would have happily given it to the Greens if they had asked for it. I present the following paper:

ACT Health—Mental Health Services Plan—Draft prepared by KPMG, dated 7 May 2007.

We certainly stand by the policy commitments we have made in the ACT Greens-ALP parliamentary agreement. I think many of the elements which Ms Bresnan spoke to and her concerns on the draft plan build on conversations I have had with community mental health groups over the formulation of this draft plan. And can I say that this draft plan is proving to be the most complex and lengthy consultation process to go through in putting together any document that I have been involved in my time as minister. The reasons behind that are that we have taken quite a lot of time, both ACT Health and I, to ensure that the plan we get to in the end has, if we can, at all—and I am not saying we will be able to achieve this—the full support of all the groups involved in mental health service delivery in the ACT.

I think one of the challenges that I face as minister is getting agreement from consumers, carers, service providers in the community sector and service providers in the public sector about a joint way forward. But having said that, I think when you look at the massive reform that has been undertaken, particularly in Mental Health ACT, over the past four years, everything is achievable and we certainly were on the pathway to having a final plan that, as far as it can, meets everybody's needs.

I will just say that I think we are very lucky in the ACT in terms of our mental health system. In the public sector we are very lucky to have the leadership of Dr Peggy Brown and her team. Certainly Dr Brown is internationally recognised as a leader in the mental health arena. Working closely with Dr Brown, as I have over the past couple of years, I have certainly been very impressed by her ability to reform and continue to look for improvements in delivery of mental health services to the people of the ACT.

Last Friday afternoon I was lucky enough to attend the accreditation feedback session of the Australian Council on Healthcare Standards who for the first time did surveys of the entire ACT Health. Every business unit was seeking a full accreditation from that council. It will take, I imagine, three to four months to get the recommendation from the council and the full report.

One of the surveyors actually made the point of coming up to speak with me directly and said that he felt that Mental Health ACT was leading the country in terms of service provision and consumer-focused service delivery. That is pretty rare. Surveyors are pretty hard taskmasters. That is my experience. He actually made the point of wanting to let me know just how good he thought our service was, how he thought there were elements of the service that should be repeated across the country and how he felt that I, as minister, should feel very well supported by the mental health system in the ACT, particularly the public system which was the subject of the survey.

We will get that report in due time and I am more than happy to provide that to members when it becomes available. But certainly the work that Dr Brown and her team are putting in in responding to consumer concerns and in continuous improvement in practices appears to have been supported by the early indications of the survey work.

We have a draft mental health services plan, I guess, because it has been quite a complex piece of work to put together. I have had lengthy discussions with the community sector about their concerns, particularly on targets, implementation matters and detailing things in the plan that they feel that need to be detailed. In many areas I do not have very strong views on that, but the draft mental health services plan is to set specific strategic agenda for the next five years.

Usually in those documents you do have a whole range of other documents that hang off them that measure progress, that set out clearly implementation timeframes and targets. That is the discussion I have had. There are mixed views about that. Some believe that those targets and implementation details should be in the plan and not sit

off the implementation plan. I think all of those arguments can be worked through over the next few months in terms of finalising this plan.

But the purpose of the plan is to identify current and future service needs in mental health across the ACT, to propose responses for consumer services, to identify workforce planning and development implications and to provide the framework to monitor and implement the plan. I guess that is where we are. We are trying to do two things: we are trying to implement the draft plan and monitor those documents that sit outside it. Again, at the end of the day, if the view is that everything needs to be in together in order to get agreement on this plan, I do not have very strong feelings about that.

In relation to some of the comments, though, on targets, I do have some strong feelings on this target that is being pushed. I know it is part of the Greens' platform and I know from the Mental Health Consumer Network that 30 per cent of funding needs to be spent in the community sector and that, as part of that, you cannot count public services which are provided in the community.

I have some pretty strong views about that because 80 per cent of our funding of mental health services is actually provided in the community. Yes, a big part of that is public health services being provided in the community but I am not convinced that, just because you are a public health provider providing a service to a person in the community, that cannot be counted as part of your allocation of resources to mental health services in the community.

I understand that community organisations believe that you can only count that as being money going directly into community organisations. But considering that the public health provider provides many services in the community, I just do not think that you can say that is not community-based services when a huge part of Mental Health ACT is about community-based services and growing that side of the business. Perhaps "growing that side of the business" is not the right term; it should be "in terms of providing that service". Mental Health ACT is very focused on recovery in the community. But just because they are a public provider does not mean they are any worse or not on par with their non-government partners.

I would welcome the opportunity to talk with you, Amanda, further about that—about definitions and how we can account for money—because, at the end of the day, if a service is being provided to the individual, then I am not sure in my heart that it matters whether it is a public provider or a community-based provider. I am not saying it from the point of trying to reduce allocations to the community sector. In fact, we have made some commitments about ensuring that we continue to grow the community non-government mental health sector. But at the same time, we are going to be growing the community-based recovery side of Mental Health ACT as well because we want to make sure that the focus is not always on the acute end and that the funding is not always going into the hospital. That is a discussion perhaps for another day outside the Assembly.

I stand here saying to you that we do want to continue to increase funding to community mental health services. I guess the bit that we perhaps disagree on is

where that money should go and who is allowed to say they are providing community-based services. At the end of the day, for me, I want the person who needs the support to get that support, whether it be from a public provider or a community-based provider.

If I look at the new adult step up, step down facility, for example, that is being managed and operated by a non-government agency. The public provider is providing significant clinical services into that service as a way of supporting that service to do its job. I do not think, for the people who live in that house from time to time, it is going to matter where the origins of that money come from or who has got it.

I think it is important in this debate about a raw 30 per cent of funding must go to the community sector. I would be much more comfortable if it said all funding should go to the individuals that need it and that it is provided through a range of services, whether it be public or community-based or even private—not for many but for some.

There is a lot of work to continue to do and I think Ms Bresnan has talked about that. There is the legislation review which is ongoing. I think the target we have set ourselves is almost a three-year review, by the time the review is complete, of the Mental Health (Treatment and Care) Act. The range of issues and the sensitivity on many aspects of that legislation is the reason that that legislative review is so long. I would probably put it up there with the review of the Children and Young People Act as being perhaps the most significant legislative reform in my portfolio that is underway at the moment.

We made some very strong commitments on mental health in the election campaign. We stand by those commitments and of course we will start rolling those commitments out in the next budget. The new facilities are underway. There have been delays with those facilities, but it is part of the approach I have taken to mental health.

Having such a strong consumer and carer focus in that sector—it is probably, in the area of health, the strongest area where consumers and carers advocate their needs—I have taken the time to get the planning and the design, particularly of the new 40-bed unit, to this point: all I would say is that there is not agreement on it but I have got it to the point where there is not huge disagreement on it. We have got the new mental health assessment unit which is currently underway at the emergency department at the Canberra Hospital. So there is a focus on facilities.

But we can get this draft plan right. We can get it, I believe, supported across the mental health sector. I think we do need to have some difficult discussions about what goes in an overarching plan and what sits under the plan in terms of monitoring it. But I am certainly having those discussions with mental health groups and I will continue to have them—I think I have got a meeting with them next week—and I will have them with the Greens and Liberals if they are interested in progressing that.

I am more than happy to support the motion today. We welcome the interest in mental health. It is one of those areas which affect so many of us in the community and all of us here in the Assembly, I would imagine. It is nice to have, I guess, a positive motion which we are able to agree to and move forward on today.

**MR HANSON** (Molonglo) (11.38): I rise to speak to the motion. I note that this is a draft services plan and in that light, as the Greens have said, this is a matter of hopefully moving forward together to get this to be the plan that the ACT needs. I would like to also be involved in those discussions, where possible, and to be engaged in debate. The Liberals also take this issue very seriously. The end result is to make sure that we have the mental health services plan that this community deserves.

I share a number of concerns with the plan as it stands and I echo many of the sentiments raised by Ms Bresnan and her comment that this is the bare minimum. There is much more that needs to be put into this plan. The minister acknowledged that by saying that this has been a complex and lengthy process and, as we move through it, we have got to make sure we get the right result.

This is one of the most important areas of need in our community. It is a great challenge faced by this government. We are spending a lot of money already on mental health and there is obviously a need to spend that money wisely. As we increase the funding—and there are calls to increase the funding in the Greens-Labor agreement, and we certainly support the appropriate amount of money being spent—what I would say is: let us make sure that we focus on outcomes.

What we do see all too much, and I think Mr Coe used the words very well, is this government—and Labor governments do tend to do this—focusing on inputs rather than outputs. What we do is make sure that, if we do increase funding for mental health, it is linked to our outputs so that we understand what tangible benefits we are actually achieving for our community.

As we know, the ACT currently spends the second highest amount on health in Australia, behind the Northern Territory, but is achieving some of the lowest outcomes and we have much to do to improve our results.

**Ms Gallagher:** That is not true.

**MR HANSON:** It is true, whether it be GP rates, where we are the lowest per capita in the country, or our emergency departments, which have the longest waiting times for a number of categories. Our elective surgery rates are the lowest in a number of areas. There has been a decline in areas like breast screening, bed occupancy rates and so on. Certainly, according to the AMA's report, we have some problems. It is important to keep in mind this dire state of affairs in the whole health system as we move forward so that we have a holistic view of the entire health system because you cannot just isolate mental health from the entire health system.

As the motion states, there has been progressive mental health policy reform occurring across Australia. However, the majority of this reform has actually come from the federal government and through commonwealth national healthcare agreements, through COAG. I commend the previous Howard government for the leadership it took in this process and for the significant advances it made in the cause of mental health nationally during its term in government.

I question why it is that in the territory we cannot be at the forefront of reform, why we cannot be the leaders in national health policy. I would like to think that the answer to my questions could be found somewhere within this document, which apparently is presenting a long-term vision for 2020.

While there are plenty of aspirational targets in the document and a lot of feel-good sentiments, the document actually lacks the necessary depth to deal with the challenges in this area. In many cases, the draft plan raises more questions than it answers. For example on page 4, it says that the implementation of the plan will involve significant investment and some disinvestment in services. I would be very interested to know what those disinvestments are. What does this actually mean? To my mind, it suggests cuts to programs or cuts to funding and, given the current economic circumstances, I would be very interested to find out what those. Hopefully, the minister can advise us on that.

At face value, the document does suggest some worthy reforms in areas of investments, e-technology, greater consumer access to information, empowering consumers with regard to their assessment and treatment for mental health illness and providing a holistic approach to treatment. These are worthy words and aspirations. They are actually commonly used phrases in the national mental health debate and have been for some time. Although I agree with the sentiment, it is worth noting that this is little more than a cut-and-paste of some of the language that is actually being used in other jurisdictions and nationally and continues on from the mental health debate that was being led by the Howard government.

The question, though, remains, and the real question is: how do we actually get to where we want to go? How do we achieve these aspirations? For example, how many staff do we need? How do we fund them? How do we retain them in the face of a population that is ageing? And so on. They are the questions that are not answered in detail in this document.

Of great concern is the assumption on page 15 that there will be no change to the patient flow from the surrounding region. Maybe I do not quite understand this but my concern is that we have an ageing population in the ACT; we know that we have the health tsunami that is coming out of this; and if we are presuming that the number of people that we look after from New South Wales will remain static whilst we have growing demand in the ACT, I think that that is a false assumption. I would seek clarification on that issue. It just seems odd that we would be growing in demand in the ACT but not in New South Wales at the same time.

These are all questions that need answers and they do require sound leadership to deal with them. We simply cannot cast more taxpayers' money into this problem without those answers, without knowing what the detail is, what the outcomes are and what the solutions will be to some of these problems in more detail. This document really should be populated with targets, with outcomes, with dates, with numbers; instead it merely lists the problems, the areas of need, and then it has some, I guess, fuzzy words on it. But what we need to do is yes, identify the problems but better articulate how we are actually going to deal with those problems.



For example, this does not deal with the problem that we have a shortage of GPs; the document highlights it; but there is no strategy for addressing the shortfall of GPs. GPs certainly are at the front of the mental health crisis that we face. We need to increase the number of GPs in each jurisdiction but how are we actually going to do that? People afflicted by mental health issues certainly find it difficult often to access GPs and see a private psychiatrist; often they do not have the resources to do so. What are the solutions to those problems?

We really need a robust strategy and plan that is going to take us forward to meet these challenges and make sure that we are coordinating with all the stakeholders. I look forward to participating in that process. But as I said before, we must be focusing on service delivery not just the inputs, not just the money we are spending. We do not want more empty words and aspirations; we need tangible outcomes in response to the problems which are actually articulated in this plan.

In part of the response to this plan, the Mental Health Community Coalition of the ACT is saying that ACT Health's vision, in order for it to become an actuality, will require funding for the community health sector to the extent of 30 per cent of the mental health budget to be spent on community sector service provisions. We certainly support this aspiration. I note that that is in the Greens-Labor alliance document. However, the minister in speaking to this motion, appears to be stepping away from that agreement.

**Ms Gallagher:** We are not.

**MR HANSON:** I will continue. But the agreement says that that is a target of 30 per cent but already we see, in the minister's words, that she is stepping away from that. She said that she has concerns with that and she would prefer it to be targeted at the individuals. So I will be very interested to see what the outcome of that debate is, whether there will be an amendment to that agreement, whether there are cracks occurring already in that agreement in terms of its delivery.

The Greens-Labor agreement also calls for 12 per cent of the health budget to be spent on mental health. Yes, we certainly support quantities of money, the right money, and, if necessary, significant increases in money being spent on mental health but we do want to make sure that that is linked to outcome, that we are not just saying it is an arbitrary figure and that we do not need to provide the detail of what 12 per cent funding actually means. I would ask the minister to clarify the point. Is that 12 per cent of new funding or is that the entire health budget? That will be interesting to see.

**Ms Gallagher:** It is the entire health budget. We committed to it about two years ago.

**MR HANSON:** Thank you, minister. As I said, this does not present any outcomes. As Ms Bresnan pointed out, it does not give a whole-of-government action plan. Mental health is not just limited to the health department; there are many issues of capability that affect people afflicted with mental health issues. We would certainly call for a broader view of all of the elements that affect people with mental health issues and for all of the solutions to the problem.

Obviously, homelessness is a significant issue for people afflicted by mental health and we would like to see more information, more service delivery in homelessness and how that can resolve some of these problems. There are many other areas across other departments and portfolios. So in regard to the idea of a more holistic view, an all-of-government action plan, certainly I support that aspiration.

The mental health situation we have here certainly requires a lot of nous, a lot of information, a lot of consultation. And part of that process was the KPMG report relating to the consultation on the draft mental health services plan. We assume that it has been tabled already. That had a lot of information that, I guess, has led to the formulation of the government's strategy and policy; so it is going to be very useful to have a look at that document.

We, on this side, certainly support the release of these important documents because they inform the community about the context of how the government is making decisions—and this is a very important process of accountable governance—so that we can understand why decisions are being made. I just note, in the tabling of this document and the way that this was done, when we asked for a similar document to be tabled, the Costello review, unfortunately the Greens did not support us at that stage.

So I do remain a little confused as to why, in this case, the document that led to the context and why decisions were made by this government on such an important decision was so easily tabled in an agreement that has obviously been made between the Greens and Labor; but when we wanted a similar document tabled immediately, the Costello review, we were not granted it and certainly the Greens then blocked our ability to get that document. I am a little confused how it seems to be that Labor will give the Greens exactly what they ask for immediately but when we ask for a similar document that informed the context we were not provided all of the Costello review or the information provided in it.

In summary, I do have concerns about the draft services mental health plan as it stands at the moment. There are a number of issues that need to be resolved. A lot have been highlighted by Ms Bresnan. I think that as we move forward we want to make sure we include those. I look forward to working with the minister and doing it in a consultative manner. I hope they take our points on board so that as we move forward we get the plan that the ACT community deserves.

**MS BURCH** (Brindabella) (11.50): I rise today to speak on the motion moved by the Greens on mental health in the ACT. As the Minister for Health has outlined, the ACT Labor government are excelling in this area and we are looking forward to implementing the finalised mental health service plan. As members heard from the minister, the verbal feedback from the Australian Council on Healthcare Standards, which undertook an in-depth review last week, was that Mental Health ACT is a superior service and at the forefront of mental health services delivery in Australia. I repeat that their comment was that our service is at the forefront.

Let me just recap a few of the highlights from the survey team's comments in regard to our leading-edge mental health service. The surveyors commented that Mental

Health ACT is providing a very high standard of service, with evidence of substantial improvements over the last four years. The survey team also strongly commended the innovative models of care in Mental Health ACT, such as the step-up, step-down facilities for youths and adults and the programs addressing general health and wellbeing, such as positives steps and the better general health program. The surveyors also went on to comment on the ACT's participation in the national project aimed at reducing the use of seclusion and restraint and noted that this has resulted in substantial improvements in this area.

The integrated risk management approach utilised within Mental Health ACT is the most advanced and innovative approach seen in any mental health service in this country. The recovery focus that Mental Health ACT has adopted represents contemporary practice. The implementation of this within standard operational practices in the service was described as leading edge in Australia. The electronic mental health record system used in Mental Health ACT was described as outstanding and clearly a leader in Australia. The survey team has described Mental Health ACT as leading edge, at the forefront and a leader in the country. I think that is something to be noted.

There is an exceptional level of consumer and carer participation within the service, including on privileged committees. The surveyors also noted that the consumer and carer participation framework is a living document. Madam Assistant Speaker, this is an outstanding report from the Australian Council on Healthcare Standards on our mental health service. The minister and the staff within ACT Health need to be congratulated.

Members would be aware that the ACT is active in the national agenda as well. I would like to advise members on the future national vision and policy directions of mental health of the Rudd Labor government. The national mental health policy, originally published in 1992, sets out key policy principles and directions for mental health services reform and a revised mental health policy will be released in 2009. The national mental health policy contains 10 policy directions. Its focus and future vision include directions such as rights and responsibilities of people with mental health problems and mental illness, mental health promotion, preventing mental health problems and mental illness, reducing suicide risk, early intervention, access to the right care at the right time, inclusion, carers, workforce and quality outcomes using evidence-based and best-based practice.

The underlying principles of the policy are to provide for the mental health and wellbeing of the Australian community and to prevent, where possible, the development of mental illness and mental health problems. Moreover, it is to reduce the impact of mental illness and mental health problems, including the effects of the stigma on individuals, families and community. Finally, this policy recognises the importance of a connective-care system—a consumer and recovery focus—where people are supported to engage with the community and participate to their full potential. It also recognises the importance of physical health to be included in the treatment of mental illness.

Another key document is the fourth national health plan, which is under development. The state and territory directors of mental health are conducting local consultation.

This fourth plan will be developed through the health ministers with a whole-of-government approach. It includes areas such as housing, police and correctional services, education and employment that are important in influencing the impact and outcome of mental illness. The commonwealth released the discussion paper in February 2009 and ACT Health are conducting public local consultations on the fourth national mental health plan in February and March of this year.

The vision and future directions of the fourth national mental health plan and key areas of reform are early intervention strategies, promotion of mental health awareness and stigma reduction interventions. This fourth national mental health plan is indeed a plan of action. It is aimed at capturing priorities and being complemented by a range of activities occurring at the local level.

Then we have the Council of Australian Governments' national action plan for mental health, years 2006 to 2011. This national action plan outlines roles and responsibilities for the Australian government and state and territory governments in identifying common areas of action at all levels of government. The national action plan aims to increase the pace of reform in mental health with new priorities and new funding for mental health from the commonwealth and other jurisdictions.

The main priorities under this action plan are increased activity in mental health promotion, prevention and early intervention; integrating and improving the care system; more stable accommodation and more support available for social integration, rehabilitation, vocational training and employment for these people with recurrent and enduring mental illness; and better coordinated care through program and service coordination and governments working together.

The Australian government is currently undertaking consultations with the community mental health sector in regard to commonwealth funding being transferred to the states and territories as part of an overall health reform of community mental health, aged care and disability. The ACT government provided \$8 million in new funding in 2006-07 with an additional \$12 million in 2007-08 towards the implementation of the national action plan. Most of this additional funding is recurrent for the life of the national action plan.

A white paper entitled *The road home—a national approach to reducing homelessness*, which Mr Hanson made mention of, was released in December 2008. It sets out ambitious targets to halve homelessness by 2020 and to offer supported accommodation to all rough-sleepers who need it. To make sure the government remains on track to meet these important targets, this white paper also sets out interim targets for 2013.

Another important national approach is the national mental health and employment strategy update entitled "Setting the Direction." It was developed after extensive consultation processes. This update sets out the direction for a new national mental health and disability employment strategy to be released in 2009. It outlines strategies to reduce barriers and assist people with disabilities and mental illness to re-enter the workforce.

In her speech on this motion, the minister advised the Assembly that 80.5 per cent of ACT government spending on mental health was expended in the community through both public sector and community sector agencies. This is compared to a national average of 51.1 per cent. The ACT is the leading jurisdiction in Australia. It has the highest percentage of funding to the community mental health sector—7.3 per cent above the national average. That is something to be noted and I think it is a wonderful statistic.

Madam Assistant Speaker, the Stanhope Labor government announced a number of initiatives in the 2007-2008 budget, including the exciting capital asset development program. The initiatives in mental health include a new mental health acute in-patient unit, secure adult mental health in-patient unit, a new mental health assessment unit and the forward design of a mental health young persons unit. The rest of Australia should be following the ACT. Our Mental Health ACT has been noted as leading edge and this is a reputation that this government is proud of.

**MR SMYTH** (Brindabella) (12.00): I welcome the motion that has been brought before us this morning, because it is time to put on the record some of the disparity between what the Labor Party claims to be doing and what their policy says. I heard the minister attempt to interject that the government's health policy was better than our health policy at the last election.

I would just like to concentrate on one line that I will quote from the Labor Party's document "Canberra's best team for the future" where it deals with mental health policy. On page 3 of the policy, reference is made to better community-based mental health services. The important thing here is that the Labor Party policy says "almost":

Almost 30% of new funding will be allocated to supporting community-based services and will be allocated in consultation with consumers, carers and service providers to provide for the best possible integrated mental health services for our community.

So it is only 30 per cent of their new money. That is what they are promising.

**Ms Gallagher:** You are wrong.

**MR SMYTH:** Well, that is what it says. If your policy is wrong, stand up and disavow the policy. I have just read your policy.

**Ms Gallagher:** Well, there are two different commitments, Brendan.

**MR SMYTH:** The minister can seek leave to speak again if she wishes. This is as opposed to our policy, where we said we want to move towards 30 per cent of total mental health funding. We say that 30 per cent of total mental health funding would go to the community sector. I wish the Greens well in the GLA—the Greens-Labor alliance. I note that under the heading of health, there is a commitment that by 2012, 30 per cent of mental health funding should be allocated to the community sector for the delivery of services.

I think what is there is a noble ambition. We both spoke at the mental health forum and I think we said similar things on the day, quite in contrast to what the government said. The government's commitment—have no doubt about this—is about new money. It refers to 30 per cent of new money; so in the context of the Greens-Labor alliance as it goes forward I wish the Greens well in achieving this.

I think it is worth putting on the record what is stated on page 48 of the draft report, because it is interesting:

Community consultation revealed a strong preference for community-based care where possible and a review of in-patient activity data and the community consultation process identified a range of strategies that can better utilise existing in-patient resources and release capacity through the development of more appropriate and cost-effective care options in the community. The development of community-based care options will reduce the required number of in-patient beds.

I think this is what the community has certainly been saying to me for a long time. I know they have said it to Mr Hanson. It is entirely appropriate and it is desirable. It is something we should be working to, because it works in other jurisdictions. Ms Bresnan mentioned that New Zealand has made great steps forward with this. A lot of it is based on the fact that they have gone to the community-based option. They have put the money there to allow the community sector to function properly. This government has not. So as the Greens-Labor alliance goes forward, it will be interesting to see who wins in the tussle on community-based funding. The other point that I would like to back Mr Hanson on—

**Ms Gallagher:** The lowest mental health spending in the country on your watch.

**MR SMYTH:** The minister interjects, “The lowest mental health funding.” But, indeed, at that time it was some of the most effective, because it was actually outputs-based. It seems that the judgement of everything, as the minister continues to interject, is that we are putting more money at it. That is the hallmark of all Labor governments: just throw money at the problem. Judge us by what we throw at the problem, not what we achieve. This is what the community sector is saying. If the minister would listen to the community sector, she would know that they want the money spent wisely.

**Ms Gallagher:** Oh, so they want less money? They want to go back to being the lowest funded in the country. Is that what they want, Brendan?

**MR SMYTH:** It is interesting. You need to be very careful, minister. Minister Corbell got himself censured on this stuff because he claimed that they had increased services and the measure was that they had increased funding. A large amount of the money that you apportioned in your first term in office was simply administration. We hived off Mental Health ACT from the health department and we transferred across admin costs. It bolstered the budget; it made it look good; that is true. But what it did not do is improve services. What it did not do was make money available to community services, and that is the problem.

We are very good at twisting. We get the spin; we hear it from the minister. But the reality is that large amounts of the money that went in early on in the term of this government were simply for administration. It was an accounting treatment. The previous minister got himself into some trouble over this, and you need to be careful, minister.

I just want to finish by again commenting on what Mr Hanson said about the way this report has just magically appeared. We have certainly asked for reports in the past and had hoped for the support of the Greens. We did not get to see things like the Costello review, for instance. It is very important that these things be made available. The Costello review actually had a lot to say about health as well, apparently. But none of us know because none of us have seen it.

The fundamental foundations of this government's reform strategy in 2006 that was meant to bolster the economy and save us from downturns, and apparently has chronically failed, is the Costello functional review. It really is about time that the Costello functional review was made available. We hear it from the Chief Minister every day. He refers to embedded savings, that we have done the hard work, that we are set for the future. Clearly, it has failed.

The problem is that none of us know whether those statements are valid because none of us were allowed to see the review. I wish it would be as easy when the opposition asked for a document to be tabled for it to be just be proffered up, though I guess we are not members of the Greens-Labor alliance, the GLA. Obviously, there will be two standards of treatment in this place for at least the next three—

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

**MR SMYTH:** "Get used to it." There we go; a confirmation. Thank you, minister, for confirmation. If you are in the alliance, you get whatever you want. You get documents early, you get briefings early, you get special treatment. "Get used to it," she says. "Get used to it." So there we are. That is the condition of the Greens-Labor alliance that we had not heard about, that there will be preferential and special treatment.

I guess the Greens, in terms of their social platform about equity and justice for all, will have to address this, Madam Assistant Speaker. They will have to address this. They will have to address this in that there is now preferential treatment in the Assembly, confirmed by the Deputy Chief Minister, that if you are a member of the GLA—sign up to the agreement—you get preferential treatment. So much for more honesty, more openness, more accountability. The community will judge both the Labor Party and the Greens on the GLA as it goes forward over the next couple of years.

In regard to the motion, it is nice to see that the draft report has been released. A question also for the minister—perhaps I missed it and she said it—is when will the final report be received and when will it be made?

**Ms Gallagher:** Well, who knows? There is a lot of work to be done.

**MR SMYTH:** This report is dated 7 May 2007. What we have just had tabled is the ACT Mental Health services plan document, 7 May 2007. This report contains 81 pages. The draft report was May 2007. In three or four months it will be May 2009. When is the final report being received, minister? And will you also table the final report?

Debate interrupted.

## Visitor

**MADAM ASSISTANT SPEAKER (Ms Le Couteur):** Members, I wish to draw your attention to the presence in the gallery of a former member, Ms MacDonald.

## Mental health—planning

Debate resumed.

**MS BRESNAN (Brindabella) (12.08),** in reply: Firstly, I address the issue of the KPMG report, and I fail to see its relevance to the motion I put forward today. It is an entirely different document for a start, because the government obviously did not claim privilege over it, so that is the issue there. I would like the opposition to note, as we stated in the first sitting week last year, that the Costello review will be the first document to be referred to the independent arbiter, the formation of which is noted in the ALP-Greens agreement. I just draw your attention to that once again.

I thank Mr Hanson, Ms Burch and the minister for their support of the motion. I do acknowledge that there is a difficulty in bringing together the many groups involved in or with an interest in mental health, but I think it has been noted elsewhere that this can be achieved, and we should be drawing on this experience and looking at how that has been done. I also acknowledge the lead role that Dr Peggy Brown has played not just in the ACT but in Australia.

It was good to hear that the health minister has had in-depth discussions with community groups. We need to keep listening to community groups, because they are at the coalface of the delivery of mental health services. It is also important to look at having consumer-focused systems and not making the person fit the system. Yes, public-based services are about recovery, and we are not suggesting that these services are worse or otherwise.

I welcome the opportunity also to discuss the definition of community services. Who provides a service is an issue, particularly for consumers and carers. It may not matter how the service is provided. Quite obviously, the absolute focus is on getting services to the people who need them. But it does go very much to the issue of having a consumer-centred approach to mental health delivery. A key way this can be achieved, as has been recognised in Victoria, New Zealand and other parts of the world, is by building the capacity in the community sector and having services provided by that sector.



There will also need to be further discussion about targets, but if we provide strong targets for consumers, carers and other groups to comment on from the outset, we will get much better informed plans and outcomes. I would also be interested in discussing further the consumer-focused survey results which were noted by the health minister, Ms Gallagher, and also by Ms Burch, and, in particular, whether these included other services outside the health system, what parts of the health system they included and how the survey was conducted.

Motion agreed to.

## **Standing and temporary orders—suspension**

**MS GALLAGHER** (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (12.11): I move:

That so much of the standing and temporary orders be suspended as would prevent order of the day No. 2, Executive business, relating to the Freedom of Information Amendment Bill 2008 (No 2), being called on and debated cognately with order of the day No 1, Private Members' business, relating to the Freedom of Information Amendment Bill 2008.

**MR RATTENBURY** (Molonglo) (12.12): I am rising to speak on the question of the appropriateness of debating these two bills together. Given that there is a significant degree of overlap between the two bills, it does not seem unreasonable that members have the opportunity to express views on the issues in the two bills during the debate today. This is why we are supporting a cognate debate.

It is worth noting that it does mean that the Assembly is considering an executive bill on private members' day, which is unfortunate. However, given that it is in the context of debate on Mrs Dunne's bill, which is for a significant reform that the Greens and the opposition have been arguing for over many years now, it does not seem unreasonable to make effective use of the Assembly's time and to consider both sets of views or the range of views on these issues while having this debate. Further, I imagine it will be instructive for other members of the Assembly to understand the position of the government and the Attorney-General in relation to FOI applications and their views on how the act should operate.

At the end of the day, I anticipate that the same outcome will be reached, whether or not we have the cognate debate, and the Assembly will have taken a significant first step along the road of FOI reform and improvement in government transparency. I do hope that the government appreciates the opportunity granted to it by the Assembly and will be prepared to extend the courtesy on future occasions when private members have reasonable arguments for including private members' business during executive business.

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

## **Freedom of Information Amendment Bill 2008**

[Cognate bill:

Freedom of Information Amendment Bill 2008 (No 2)]

Debate resumed from 10 December 2008, on motion by **Mrs Dunne**:

That this bill be agreed to in principle.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (12.15): Given the high level of similarity of issues in relation to freedom of information in both of these bills, I think it is sensible that they are dealt with at the same time.

There are a number of issues that I want to outline and respond to in relation to Mrs Dunne's bill, the Freedom of Information Amendment Bill 2008. Mrs Dunne proposes some reforms which are similar to the reforms proposed by the government. Those include the removal of conclusive certificates in a wide range of circumstances. There are some differences, and these will be matters for discussion during the detail stage in particular. I will just outline what I see as the key differences between Mrs Dunne's bill and the government's bill.

The key differences are that Mrs Dunne's bill would remove the use of conclusive certificates and would not provide for any other exemption for certain types of documents. The government is of the view that a number of executive documents require protection and that that protection is recognised in the freedom of information legislation. Those documents include the cabinet notebook and other documents that contain notes of any discussion or deliberation in cabinet itself. We believe it is a very important principle that the cabinet is able to operate in a full and frank manner. Indeed, it is the only forum within the government where ministers can disagree with each other in a full and frank manner for the purposes of achieving a government decision on a policy approach, a legislative approach, a budget matter and so on.

If the views of respective ministers in a cabinet discussion were made public through, for example, a freedom of information request for a document such as the cabinet notebook, that would strike at the very heart of the freedom that is needed for collective decision-making in cabinet. For that reason, the government believes that protection should be afforded to that type of document—the cabinet notebook or a similar type of document—and I will be proposing amendments to provide protections of those in due course.

Similar arguments are associated with a number of other documents which Mrs Dunne proposes in her legislation should not be afforded any particular protection. These documents include documents such as those provided to newly appointed ministers for the purposes of giving information and advice about the minister's portfolio responsibilities, often known as incoming government or incoming minister's briefs; documents prepared by or for a minister for the purposes of accounting to the Assembly in relation to appropriation, for example, before giving

evidence to an Assembly committee in relation to proposed appropriations or accounting for the expenditure of appropriations through annual reports hearings; and, finally, documents prepared for the purposes of informing the minister to be able to answer questions in the Assembly during question time.

Some people in the community and, indeed, some people in this place may argue about what is the justification for withholding those documents and saying that they warrant protection and should not be subject to a freedom of information regime. This matter was discussed at some length in the most recent and most authoritative review of freedom of information conducted in recent times: the review conducted by Solomon in Queensland for the Queensland government. The Solomon review outlines in quite some detail issues around exemption of cabinet documents and similar exemptions. Solomon talks in some detail about the principles that underpin the need to respect those documents and to make sure that advice is given to ministers in an appropriate way.

Solomon makes it clear that it is an obligation of ministers to make sure that they are able to give full and accurate information to parliament when parliament is holding them to account through question time. That means ministers must be aware of all of the relevant issues affecting their portfolios that may be subject to parliamentary scrutiny. In turn, that means that public servants must be able to give their ministers full and frank advice on the broad range of issues that are occurring within their portfolios so that ministers can properly perform their functions in informing the parliament and understanding the context in which their portfolios are operating.

There would be some serious inhibitions on the ability of ministers to properly account to the parliament if documents that gave them advice on the operations of their portfolios and were designed to inform them of the circumstances of their portfolios for the purposes of accounting to parliament did not contain information which may be considered to be sensitive or confidential in some manner. Indeed, it would impact on the ability of public servants to give frank and fearless advice on those matters if there was the prospect that that information would be made available through a freedom of information request. For that reason, Solomon argues in his review that those types of documents should be exempted because, without them being exempted or protected in some way, it would be difficult for ministers to properly perform their duties in the parliament.

Equally, the Solomon review highlights the fact that the same argument applies for the parliament's committees and that briefings to ministers as they prepare for and present before parliamentary committees equally need to provide the full context of issues so that the ministers can appropriately and confidently answer questions in an accountable way posed by the parliament to them.

Those are the arguments that Solomon raises in his review, and I draw members' attention to his recommendations in that regard. It is important to stress that this review was drawn on very heavily by the commonwealth and other jurisdictions when looking at their own freedom of information acts. At recommendation 36 of his review of Queensland's Freedom of Information Act he states:

To preserve and promote individual ministerial responsibility—

incoming ministerial briefing books (“red/blue books”)—

as they are known in Queensland—

for when a Minister is appointed to the portfolio;

annual parliamentary estimates briefs for when the Minister must account to Parliament for the ministerial portfolio’s past and planned expenditure of parliamentary appropriations; and

parliamentary question time briefs ... for when the Minister must account to Parliament in question time,

... should be exempt from disclosure under FOI.

That is the recommendation of Solomon, and that is the recommendation that the government believes should be adopted here in the Assembly.

I think the Assembly is presented with the very real risk that ministers will become less informed of the circumstances or the operations of their portfolios if FOI provisions apply to these documents. That is backed up by the experience in New Zealand, where it has become clear that departmental officials are less willing to put down in writing advice to their ministers on sensitive or politically contentious matters if there is the prospect that they will be released through FOI. As a consequence, ministers are not always as well advised as they should be on these matters and they are less able to account to the parliament accordingly.

There is a balance between the operation of FOI laws and the ability of the executive to conduct its business in such a way that ministers are well informed on matters. If this Assembly agrees that the cabinet notebook should be exempt, then it is illogical to say that other briefings provided to ministers for the purposes of accounting to parliament should not be exempt. That presents some real challenges.

The government is concerned about proposals that would allow those documents to be made public. There are good public interest reasons why they should not, and I have outlined those in brief today, but I draw members’ attention to the Solomon review in Queensland and the quite rational and detailed discussion that occurred around those matters.

The other provision in Mrs Dunne’s legislation which is of concern relates to a provision which would remove conclusive certificates in relation to section 34 of the Freedom of Information Act dealing with commonwealth-state relations, which can include matters of a security nature which do not meet the threshold requirements of the provisions of section 37A of the Freedom of Information Act. The government is of the view that there will be matters, particularly matters that may be associated with security issues, which are communicated in confidence by the commonwealth, a state or a territory to the territory, that require a higher protection than merely an exemption.

The government believes these matters should be conclusively resolved by giving them protection. Mrs Dunne's bill fails to do that, and the government will be opposing those relevant clauses when we come to the detail stage. Again, we do not want to see a situation where the territory is placed in a position, potentially, of ignorance or is not included in communications between the commonwealth and other states and territories because of our inability to provide an appropriate level of confidentiality to some of those communications.

There are some real and serious issues at play here, but I do not think it is in anyone's interests for the purposes of a reasoned debate for this to be characterised as the government attempting to hide or attempting not to embrace the spirit of a more open FOI regime. What we have attempted to indicate through the bill I introduced in the Assembly late last year is that the government recognises that there is a desire on the part of the community and on the part of the Assembly itself to adopt a more open and more liberal regime when it comes to freedom of information. We have endeavoured to respond to that through the provision of clauses that will remove the potential exercise of conclusive certificates in a broad range of circumstances. But it would be simplistic and unfortunate if this debate were characterised simply as the government trying to backtrack on those options, because that is simply not the case when you look at the detail of the policy issues at play.

Finally, I simply note that this reform is only the first stage of a broader reform, which I think everyone in this Assembly acknowledges needs to occur, through a detailed Assembly inquiry into the operation of freedom of information laws. The government will look forward to discussing that matter in the coming sittings when we discuss issues around the terms of reference for such an Assembly inquiry. We also look forward to subsequently making a submission to it and engaging in that discussion.

It is not simply a case of opening up the freedom of information regime without having regard to the consequences of such decisions. There are a range of matters and debates in play that members should have regard to. I am hopeful that we can proceed in that debate in a reasoned and considered manner, rather than retreat to simplistic assertions about attempts to hide information or refusal to engage in a more open process of government and so on. These matters are more complex and more nuanced than that, and I trust that this debate and future debates will reflect that context.

*Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.*

**Sitting suspended from 12.30 to 2pm.**

## **Alexander Maconochie Centre Statement by Chief Minister**

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage), by leave: Mr Speaker, I received today a letter from the Leader of the Opposition. By one of

those amazing coincidences in life, I also received at the same time in my in-box a letter from the chair of the legal committee asking further very similarly weighted questions in relation to answers I gave to this issue. I am aware of your responsibility, Mr Speaker, in seeking out issues in relation to the privileges of this place and ensuring they are protected. I draw to your attention the coincidence of a letter from the Leader of the Opposition and a letter from the chair of the legal committee arriving in my in-box at the same time on the same subject.

Mr Speaker, the letter from the Leader of the Opposition has asked me, interestingly, if I would correct some important questions. I am not quite sure how one corrects questions. I think, perhaps, the Leader of the Opposition is asking me to answer some additional questions, but I am advised that my statement yesterday raised several important questions which Mr Seselja believes ought to be corrected. We do know, however, of Mr Seselja's forensic background and his admiration for *Boston Legal*, the source, apparently, of his inspiration in relation to forensic issues. I guess we can excuse him in relation to the fact that the letter seeks that I correct questions. It states:

... your admission—

that is that I have misled the Assembly—

raises several other important questions, which ... I believe ought to be corrected ...

He goes on then to ask questions, which I believe he wants answered. I am more than happy to answer those questions, Mr Speaker.

The first question:

Were you informed by officials or Mr Corbell or his office that you had provided a misleading statement to the Assembly? If so, when?

The answer is no.

If you were not informed by Mr Corbell or officials, did you discover your mislead from a media outlet?

No, I was advised about issues with my statement to the Assembly by a member of my staff.

If Mr Corbell did not inform you of the misleading statement, have you asked Mr Corbell to explain why he allowed your misleading statement to stand?

Yes, I have.

If you have asked him, what was his explanation?

Mr Corbell's explanation is quite clearly on the public record. I draw the public record to the attention of Mr Seselja, if he seeks to pursue it.

If Mr Corbell did inform you, is there a reason that you ignored this advice?

As I have just answered, Mr Corbell did inform me.

Was your letter to Members prompted by questioning from the *Canberra Times*?

No, my letter to members was prompted by an earnest desire to correct an honest mistake which I had made on 19 December, for which I apologised yesterday. As the Queen of Hearts proposes, if one says something often enough, perhaps it will be listened to—I apologise again today, Mr Seselja, for a third time.

**MR SPEAKER:** Just before we move on to questions, Chief Minister, if you do want to raise a matter of privilege, standing order 276 requires that you put that in writing if you want it to be formally looked into.

**MR STANHOPE:** Thank you for that advice. We are, I am sure, bemused by such coincidences as occurred today.

### **Questions without notice Economy—stimulus package**

**MR SESELJA:** My question is to the Treasurer and relates to the impact of the Rudd government's stimulus package. In answering a question on the impact of the package on inflation, employment and gross state product yesterday, you said:

... I think some of those questions that Mr Seselja asked are very difficult to answer. I do not think I am in a position to be able to answer that question today.

Treasurer, when exactly will you be in a position to answer the question?

**MS GALLAGHER:** I thank Mr Seselja for the question. We normally report twice a year on a comprehensive range of indicators. That is usually done in the midyear review and in the ACT budget. If there are ways for me to provide the information that you sought, across a range of questions yesterday, earlier than that, I will provide it to the Assembly.

I have to say again that there seems to be a misunderstanding of the aims of the stimulus package. Whilst I understand your desire to see economic modelling done, correct and ready to go within two working days of the announcement of the package, the idea behind the stimulus package is for the government to invest when the national economy is slowing and to do it quickly, target the investment and support jobs. That is what the package is about.

You might not understand that or agree with that or you might want more information about that. I think this will be genuinely quite difficult to measure, because it is about maintaining employment, supporting jobs that might be lost if no action is taken. There is already a prediction that unemployment will rise. This is trying to offset some of the pretty catastrophic projections that could possibly emerge if the federal government's stimulus package does not go through.

I genuinely think—and I think you understand this even though you are trying to score political points on it—that to measure the overall success—or failure, as you would hope—of this package will be quite difficult. But what information we can provide to you, we will provide to the Assembly, because we would genuinely like to see unanimous support for additional investment in the territory in what are going to be some pretty difficult times.

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

**MR SESELJA:** Thank you, Mr Speaker, and thank you, Treasurer. In relation to that, when you provide that advice will that include any updated modelling which comes to you as a result of Treasury analysis?

**MS GALLAGHER:** When it is available, I will be happy to provide the Assembly with Treasury's advice on the economic impact of the stimulus package—once it is finalised.

### **Waste—management**

**MS HUNTER:** My question is for the Minister for Territory and Municipal Services and is in regard to recycling bins. As the city currently boasts recycling bins to accompany the multicultural and fringe festivals, will the government leave a portion of these in the city to ensure that city goes continue to have the opportunity to recycle their drink containers and divert them from landfill?

**MR STANHOPE:** I thank Ms Hunter for her question, an important question in relation to waste, a subject that has received some attention just recently. Indeed, I was asked questions today about a response I provided to Mrs Burke, a recent member of this place, in relation to another waste issue that I have corresponding with her on in relation to bulk waste.

I will have to take some advice. I would be more than happy to respond to you on the basis of that advice. From visiting the city over this last week, I am very aware of, became very conscious of and know of the provision of multiple bins to actually encourage recycling. In fact, it is a feature always of the multicultural festival and it is a feature of some places within the city area that we would all probably like to see replicated.

I will need to take some advice from Territory and Municipal Services in relation to some of the practical issues, the resource issues, but I am not at all adverse to seeing the extent to which we can maintain that facility within the city and, indeed, within other areas. There are some practical issues and some resourcing issues and I would want to take some advice on that, with a view to seeing whether or not we cannot achieve the outcome that you raise in your question.

### **Economy—stimulus package**

**MR SMYTH:** My question is to the Treasurer. Treasurer, my question relates to the impact of the Rudd government's stimulus package. In answering a question on the



impact of the package on recurrent expenditure relating to new school buildings, you said yesterday: “That detail has not yet been worked through.” Treasurer, when exactly will the detail be worked through and what is the current rate of recurrent expenditure applied to the basic school building asset?

**MS GALLAGHER:** I have asked for the answer to the second part of your question, so I will provide that to the Assembly when I get it. With respect to the first part of the question, I imagine that detail will be a lot easier to work out when the bill passes.

**MR SPEAKER:** Is there a supplementary question, Mr Smyth?

**MR SMYTH:** Thank you, Mr Speaker. Treasurer, will you provide the Assembly with a briefing on the potential impacts of the recurrent expenditure on the outyears for the ACT budget?

**MS GALLAGHER:** Provide the Assembly with a briefing or yourself with a briefing?

**Mr Smyth:** Well, I’d love a briefing but the Assembly in general.

**MS GALLAGHER:** I am a bit wary about providing briefings after the sort of ungracious way that briefings which we had offered before have now been used to damage public servants’ reputations, as you all involved yourselves in yesterday. It certainly makes my naturally cooperative and collaborative approach to politics seem a little too generous, I have to say.

I have already answered Mr Seselja’s question, and I look forward to everyone else’s questions regarding wanting further briefings. We are happy to provide as much information as is useful to the Assembly on the Rudd government’s stimulus package. The bill has not passed. Details have not been finalised. But when they are, I am sure we will be able to assist the Assembly with any further questions they may have.

### **Economy—stimulus package**

**MS BURCH:** My question is to the Chief Minister. Following the announcement from the Prime Minister about his \$42 billion stimulus package, how has the community reacted to this package as it relates to the ACT? How strong has support for the package been from business?

**Mrs Dunne:** I raise a point of order, Mr Speaker. I seek your ruling on whether community reaction to a federal government package is within the remit of the Chief Minister or any other minister.

**Mr Corbell:** On the point of order, I make two points: the first is that Mrs Dunne has done this with every question asked by a government member in question time this week so far. It would appear to be a deliberate tactic on her part to try to discount government questions at question time and I draw your attention to that.

On the specific point of order, Mr Speaker, if the Chief Minister of the ACT is not able to answer a question about the reaction he has received from the community

relevant to matters that affect the whole community and his role as Chief Minister of the territory, I think it will be pretty hard for him to answer any questions in this place.

**MR SPEAKER:** There is no point of order. I call the Chief Minister.

**MR STANHOPE:** Thank you, Mr Speaker. I thank Ms Burch for the question. Indeed, it is a very important question in terms of policy facing the nation. In the face of the global financial crisis, there is no more important issue at the moment. The question goes to the intent and intention of the commonwealth's \$42 billion stimulus package, which is, after all, to stimulate all areas of the economy so that the benefits, as I mentioned yesterday—benefits that the Liberal Party particularly seems to wish to ignore—filter down to those most in need. I refer to the local communities around Australia, to our government and non-government schools, to those in social housing, to small businesses and to individuals, to the men and women of Australia, to working families, young families and families on lower incomes. These are issues, all of which the Liberal Party seems intent on ignoring. It is all about jobs and it is all about families.

There has been broad support, it has to be said, for the stimulus package in response to the community reaction across the community and the business sector—indeed, across the full spectrum of the Australian community. Greg Evans, chief economist of the Australian Chamber of Commerce and Industry, says:

We think it goes a long way towards alleviating the worst aspects of the economic downturn and actually put us in a better position than most, if not all, advanced economies.

That is advanced economies in the world. The Business Council of Australia chief executive, Katie Lahey, says:

The \$42 billion package should be strongly supported.

She goes further on behalf of the Business Council of Australia, saying that the Australian government “has acted quickly and responsibly to limit the impact of the global recession on Australia” and that “in the face of a rapidly deteriorating global downturn that the Australian government stands ready to act”.

The Australian Chamber of Commerce and Industry are in favour. The Business Council of Australia are in favour. The Canberra Liberals are against. Of course, there is a lot more. Chris Peters, chief executive of our local Chamber of Commerce and Industry, echoes the sentiments of the national chamber. Chris Peters—the raging red ragger that we all know him to be; the soft socialist lefty, red ragger—says that the package will bolster confidence and entice business to spend on the replacement of small items of capital expenditure. Mr Peters goes on to say:

It will flow quickly because it is retail expenditure and stock is on the floor ready to go.

Chris Faulks from the Canberra Business Council supports the tax breaks for business, and he says that small businesses will too. David Flannery, President of the ACT

branch of the Australian Institute of Architects, speaking about the insulation initiative, describes it as “firing up the economy” and “doing the right thing by the environment”.

Heather Ridout of the Australian Industry Group describes the package as a “much-needed short in the arm”. She says, “Together with interest rates cuts, it has been a big day out for monetary and fiscal policy.”

What about the housing industry, Mr Speaker? Ron Silverberg from the Housing Industry Association believes that the package will create 35,000 jobs. The Housing Industry Association believes the package will create 35,000 jobs. The HIA says:

The Government’s recovery plan appropriately spends for jobs in the short term and invests for future prosperity.

Harley Dale, the HIA’s chief economist, says:

Without this package, prospects in the home building sector in 2009 were looking pretty dire.

Wilhelm Harnisch, chief executive of the MBA, describes the package as being “carefully targeted to maximise economic and employment outcomes in what will be a difficult economic period”.

The direct benefit of the stimulus package for the ACT is in the order of \$350 million in capital. This includes \$229.3 million for schools and \$102 million for social housing. These are incredibly substantial figures for an economy the size of ours. Workers in the construction industry will benefit from these initiatives, as they represent a significant investment in the local housing sector. The \$252 million—

*Members interjecting—*

**MR SPEAKER:** Order! Members on both sides of the chamber are making too much noise for the Chief Minister to be heard. I call the Chief Minister.

**MR STANHOPE:** Thank you, Mr Speaker. A tax bonus of up to \$950 for eligible working Australians will also provide a boost to consumption in the ACT—

**Mrs Dunne:** Even if they live overseas?

**MR STANHOPE:** which will have positive flow on effects. Mrs Dunne says she does not support the \$950. Further bonuses that will impact positively on consumption include the \$950 single income family bonus—we know what the Liberal Party thinks about single families—for eligible families and a \$950 back-to-school bonus for eligible school age children. The works proposed through the nation building and jobs plan will be delivered locally by a range of trades—builders, plumbers, roofers, painters, electricians, plasterers; the list goes on.

**MR SPEAKER:** Order! The Chief Minister’s time has expired. Ms Burch, a supplementary question?

**MS BURCH:** Does the Chief Minister know of any community groups or organisations that do not support the package? How does this affect this investment by the commonwealth into the ACT?

**MR STANHOPE:** Mr Speaker, it is almost impossible to find critics or community based critics, unless, of course, you regard the Liberal Party as a community based organisation. It is just a rump and probably does not fit the definition in any event.

*Opposition members interjecting—*

**MR STANHOPE:** Actually, I think the Liberal Party has just passed 200 members in the ACT. I do not know whether that actually fills the definition of “community organisation” or not.

In fact, there has been broad support throughout the community for the \$42 billion stimulus package from not just the business community but also the community sector. The Australian Council of Social Service supports calls for government investment in social infrastructure to create jobs and provide an economic stimulus, recognising the multiplier effects these activities will have through the community.

ACOSS’s Clare Martin says the package will create jobs and additional public housing. Frank Quinlan from Catholic Social Services welcomes the fact that the package targets the most vulnerable. Kasy Chambers of Anglicare Australia calls the package well timed and targeted. Lin Hatfield Dodds from Uniting Care says:

The energy efficient stuff is fantastic. It involves local business, jobs and moves us towards a lower carbon future.

Steve Kyburz, principal of Narrabundah College, says:

This new money from the commonwealth would really be welcomed by us and the community.

Carl Palmer, principal of the Trinity Christian School, says:

The money will assist with a very much needed library upgrade and science laboratory and the maintenance of existing buildings. As a low-fee-paying school Trinity find it very difficult to find the monetary resources needed to develop new buildings as well as maintain existing ones.

This is the package that Zed Seselja and the Liberal Party oppose. I wonder if he has had a discussion yet with the principal of the Trinity Christian School about his opposition. Penny Gilmour from the AEU says:

It’s not just the schools that will benefit from it. It will be the people working to deliver the upgrades. It’s about employment.

It is about jobs. Even the farmers like the package—and I could go on and on—but not the Canberra Liberals. David Crombie from the National Farmers Federation

described it as a much needed fillip to families and rural communities. Jock Laurie from the New South Wales Farmers Federation welcomed the relief the package would provide to farming families.

There is broad support, Mr Speaker—almost everywhere one turns—except when one turns to those sulking on the opposition benches looking for relevance. They are too busy turning question time into an undergraduate university review to actually listen to what their own community is telling them. They are too self-interested to care what their own community thinks. They are too lazy to find out, too self-obsessed to care what their own business sector is saying, too oblivious to the hardship of others, particularly young working families, too determined to play politics—and oppositional politics at that—and too bent on talking down the capacity of this town and the private sector in this town to deliver capital works.

There is strong support within the community for this package. Everywhere I go all I receive is praise and support for this package. The only concern is that the Liberal Party will not allow the package to proceed, that it will be thwarted in the Senate and that it will not achieve the outcomes and the results that every single one of those community representatives that I have just quoted believes will be delivered by this package. It is why every single one of them from across the spectrum, from school principals in both the public and private sector, community groups, church representatives, farmers groups and industry representatives—every single one of them—supports this package, as delivered by the Prime Minister and as proposed by the federal government.

There is strong support throughout the entire community except within the ACT branch of the Liberal Party. It has decided that its role is to oppose irrespective of the merits of the issue or the seriousness of the situation. It is an absolute disgrace!

### **Health—expenditure**

**MR HANSON:** My question is to the Minister for Health. Minister, can you advise the Assembly how the ACT government's revised economic outlook will impact on your capacity to fund the billion-dollar health infrastructure upgrade program and recurrent expenditure in the outyears?

**MS GALLAGHER:** I thank the shadow minister for health for the question. As everyone in this place would or should know, this government's prudent economic management has ensured that the growth funds for health are built into our forward estimates. Unlike any other government, I think, in Australia, we have provided \$550 million over the next four years in growth funding for health. That means we are not going to have to look anywhere else for money for health; it is already factored in. So with respect to the recurrent services that we are planning on growing, and that we have committed to in the election campaign, that money is already located in the forward estimates.

In relation to the capital plan, the billion-dollar plan to rebuild our health facilities, the comprehensive plan that we outlined before the election and that we are already delivering on, \$300 million of that has already been provided in last year's budget.

Additional capital expenditure will be made in this budget. These health facilities need to be built and we will build them, and they will be ready on time, so that, for our community in 2016, when we expect to reach the peak of demand for health services in the ACT, our system will be ready. We took that decision two years ago. We have done the planning. We have put aside the money. It will feature as a big part of our capital works budget over the next few years as we appropriate the money in every budget to provide the additional capital money that we will need. We have to do it, we do not have a choice about it, and we will deliver it.

**MR SPEAKER:** Supplementary question, Mr Hanson.

**MR HANSON:** Minister, will you be cutting any health services to stay within the ACT budget?

**MS GALLAGHER:** No, there are no plans to cut any health service. I do not think that any government anywhere across the world would be planning on cutting health services. You cannot. Demands for health services are growing. The demand for health services grew by 14 per cent last year. We have seen activity grow by four per cent. These are the challenges that governments face right across the world. There will be no reduction in health services. The money that we provide in the budget, in stark contrast to the approach that you took in the election for your own health policy—that money is there.

Health services are predicted to grow. Some of them will remain solid, like women's and children's. Women's health services, in particular, are not expected to grow at the speed that cancer is growing, for example. They are all the decisions that we take based on demographic data and our ability to deliver those services. If we are not delivering services here in the ACT, we make arrangements for those services to be delivered in another jurisdiction.

That is the way we plan for health services. The people of the ACT are well placed to meet the challenges in their health system ahead. That is pretty much because we have provided the money in the budget over the next four years. If it were not there, we would really be struggling.

### **Waste—management**

**MS LE COUTEUR:** My question is to the Minister for Territory and Municipal Services and concerns the NOWaste by 2010 strategy. Given that the NOWaste by 2010 strategy plan expired in 2007 and was subsequently reviewed, can the minister tell the Assembly when the government will release the review to the ACT public and what it is using for its current strategy?

**MR STANHOPE:** I thank Ms Le Couteur for the question. It is a very important question and I am more than happy to respond to issues on the NOWaste by 2010 target and the ACT's strategy. Having said that, I will actually have a discussion today with my colleague the minister for environment in relation to the separation of responsibilities between me and the minister for environment in relation to waste. For the information of members, there is some little overlap which we perhaps have not described or articulated as well as we might.

We are still actively pursuing and are committed to a no waste strategy. We have, over the last 10 years, made significant gains in the ACT. In 1996, 22 per cent of ACT waste—I think it was 22 per cent—was recycled. Today, on our latest assessment, we believe in the order of 73 per cent or 74 per cent of waste is recycled. That is 75 per cent or 74 per cent of around 76,000 tonnes of waste that is produced in the ACT annually. As I say, I think it is around three-quarters but I think it is 73 per cent of all waste that is currently recycled. Ninety per cent, we believe, of green waste is recycled.

In any discussion on waste, waste disposal and recycling, it is relevant for that discussion to be informed by an acknowledgement that these are the best rates or levels of recycling in the country, by a country mile. There is no room for complacency; we accept that. But it should be acknowledged that we have made, as a community, very significant gains in relation to recycling. This last 25 per cent is the most difficult. It also goes without saying that it is the most expensive. The next 25 per cent, in terms of its achievement, is the really hard end of the equation and the very expensive end of the equation. We have a number of initiatives which we are currently assessing—initiatives that were the subject of the question which Ms Hunter asked.

I have also today done media on scoping work that we are doing in relation to bulk waste. It is a service that we believe that there is very strong support within the community for but it does have some implications in relation to recycling, of course. One of the downsides to bulk waste collections or a bulk waste collection service is the capacity for us then, in relation to the bulk waste that is collected from residents, to ensure that it is appropriately recycled. It is one of the real issues that we will have to deal with in relation to that.

We have a number of initiatives that we are pursuing in order to take the next step in relation to an incremental move to a no waste policy. At this stage, there will be—and I am more than happy to talk about these in greater detail—a number of waste initiatives put to the cabinet, and I have no doubt we will be discussing these with you, in terms of prioritisation.

In the context of our own budget position, we cannot do everything that we would like. I am sure everybody is aware that we do not have a capacity in this first budget in this cycle to pursue all the initiatives that we would have liked and that we, even just six months ago, had proposed or intended to pursue. But we would prioritise those next steps in relation to recycling. It is our determination to take that next step, the move from 73 per cent progressively to no waste.

**MR SPEAKER:** Is there a supplementary question?

**MS LE COUTEUR:** Can the minister tell the Assembly what kind of consultation the government is undertaking with the public on the future of the NOWaste by 2010 strategy?

**MR STANHOPE:** It is not an issue, I have to say, other than through the election campaign, which is, of course, a consultation process of itself, or at least an

engagement process, through which we put to the people of Canberra a number of initiatives which we in government would pursue. To that extent, we have sought to engage with this community, and the community has responded—rather ambiguously, perhaps—through the ballot box in relation to initiatives which might be pursued.

In that context, we are, of course, committed to arrangements which we have made with the Greens party in relation to a number of initiatives, one of those being waste. There are, obviously and appropriately, commitments which we as a government or as a party have made in an agreement with the Greens. We have a number of other commitments that we have made to the electorate through an election campaign. An issue for the government now is the prioritisation of those. We will do that in consultation with the Assembly and would be more than happy to pursue a broader conversation or consultation with the community in relation to those particular initiatives that might be pursued and that would best suit the immediate need or would actually attract the strongest support from the people of Canberra.

I think we need to be pragmatic at some level, too, but we should engage and consult in relation to these things. It has been identified to me by Waste ACT that one of the most immediate impacts that could be made on recycling or on waste or the reduction of waste to landfill, to the tune of reducing waste to landfill by 20,000 tonnes per year, or 10 per cent of waste that is currently sent to landfill—and I must say this is the favourite next step of Waste ACT—is to separate waste dropped off at Canberra's transfer stations into different waste streams for recycling. We did, in the election campaign, commit \$4.7 million to that particular initiative. This is one of the waste initiatives that we would certainly wish to discuss with our partners, the Greens, and discuss more broadly—

**Mr Seselja:** Partners?

**Mr Smyth:** Oh, partners!

**MR STANHOPE:** We have a partnership agreement. Eat your heart out. That is in the context of professional advice which I receive as minister. A preferred next initiative of Waste ACT is that an immediate 10 per cent increase in recycling, a 20,000 tonnes per annum reduction in waste to landfill, could be achieved by actually separating waste into streams at the tip face. An initiative which we put front and centre of election commitments that we have made is that we will consult, certainly with the Assembly and more broadly, on each of those issues.

There is the initiative which Ms Hunter has just raised, which is very attractive and which I think serves a purpose other than just the percentage of waste to landfill. It has a cost; it costs about \$1 million a year. To provide 400 street-level recycling bins would cost in the order of \$1 million, and it will not have nearly the impact that a \$4.7 million investment at the tip face would have. Street-level bins at \$1 million will not have the same impact as a \$4.7 million investment at the tip face. I am advised that it just will not keep the same amount of waste out of landfill. These are issues which we need to talk about and discuss, and they are decisions which we need to make, having regard to the nature of our budget and our capacity. But we are committed to a no waste policy and we will pursue new strategic initiatives to achieve



it in as timely a way as we can and as efficiently as we can, taking those incrementally more difficult and more expensive steps.

### **Economy—stimulus package**

**MRS DUNNE:** Mr Speaker, my question is to the Treasurer and relates to the impact of the Rudd government's stimulus package in the ACT. Treasurer, yesterday in answering questions on the impact of the insulation package you said:

I have some of the federal government's media releases...

Minister, when will you be able to provide the Assembly and the community with more information about this package rather than just copies of federal Labor's media releases?

**MS GALLAGHER:** This relates to the home insulation package, which is not a project that is administered by the ACT government.

**Mrs Dunne:** Are you sure?

**MS GALLAGHER:** Yes, and I have checked, Mrs Dunne.

**Mrs Dunne:** Have you?

**MS GALLAGHER:** Yes, I have checked, and I have read all of the material that I do have, including the communique, which, again, is a public document as far as I understand and which goes to these points. I have checked and rechecked, because I wanted to. In fact, in my answer to your question yesterday, I said I will check this and will correct it if it is wrong.

In terms of home insulation, that is not a project for which the ACT government will have responsibility of implementing in the ACT. We have some responsibilities—we have signed up for some around other areas of energy efficiency and agreement with the commonwealth to refocus our effort—but in terms of us having any responsibility or any ability to provide you with information about the home insulation package, really, the responsibility is on you to contact the relevant federal minister.

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

**MRS DUNNE:** Thank you, Mr Speaker. Minister, when you did your clarifying and checking; did you definitively clarify the role that the ACT government might have in insulating ACT government housing properties?

**MS GALLAGHER:** Yes, Mrs Dunne, I did.

### **Economy—stimulus package**

**MR DOSZPOT:** My question is to the Treasurer and relates to the impact of the Rudd government's stimulus package. In answering a question on potential gains of GST and other revenue for the ACT government, you said:

As the detail of this is worked through, Treasury will provide me with advice, but I am not sure it is the best use of Treasury's time today, without all the information available to them, to do modelling on a package for which they do not have all the details.

Treasurer, when exactly will you be able to provide the Assembly and the community with more information on an issue that will have an acute impact on the bottom line of the ACT?

**MS GALLAGHER:** It appears that the question time tactical group of the Liberal Party really struggled this week. After a break since December we have the first sitting week, and this is the quality of the questions. I mean, honestly, Mr Doszpot, I think somebody else has already asked me that question.

When the bill passes the Senate, I imagine that would be the best point from which we should start. That bill has not passed the Senate yet; there may be changes to it. Treasury are working on the details we currently have. I have already committed to provide as much information as I can to the Assembly when it becomes available, and I will do so. With all the public comments, it does appear that there may be some changes to the package, and I really think that it is not unreasonable that we wait until the bill passes before Treasury does any advanced modelling of the package. In fact, I imagine if we had done the modelling work and I was releasing it today, the criticism might be that we had not waited until the final details were known. Come on, guys!

### **Economy—stimulus package**

**MR COE:** My question is to the Treasurer and relates to the impact of the Rudd government's stimulus package. In answering a question on the potential increases of residential construction costs as a by-product of an increased capital works program, you said:

... it is not expected that this stimulus package would raise the cost of capital infrastructure for householders or businesses.

Treasurer, I have been informed that the senior officials who provided the briefing stated that there had been no analysis at all done on potential increases in residential construction costs and therefore were not able to answer the question. Treasurer, what is the basis of your claim that there will not be an impact on residential construction costs?

**MS GALLAGHER:** I guess I am looking around—

**Mr Hanson:** It's the vibe.

**MR SPEAKER:** Order! Let's hear from the Treasurer.

**MS GALLAGHER:** It is not. If you look at some of the macroeconomic indicators, you will see that wage prices are falling, CPI is falling and the prices of some building

materials are falling. It should be no surprise, because the entire economy is slowing. Okay? That is where I am getting the answer to that question—from the macroeconomic indicators which are being published and which were most recently published last week.

It is not expected that the government's stimulus package—again, it has not been passed yet, but the package that was announced last week—will have an inflationary effect. Mrs Dunne finds that funny, but the opposition have found all the discussions around this funny.

**Mrs Dunne:** I know an awful lot of Labor people who think it will have an inflationary effect.

**MS GALLAGHER:** Good on you, Mrs Dunne. Whilst the unemployment lines continue to grow and while families struggle, you can sit here on your comfortable income and laugh while other people try to put together a solution to what is perhaps the gravest economic climate that this country has seen for decades. You guys sit and laugh.

**Mr Seselja:** It is your performance.

**MS GALLAGHER:** Righto, Mr Seselja, if it makes you feel better to say that it is my performance as Treasurer that has caused the global financial crisis, good on you. I do not think that anyone in Canberra will believe you. If it makes you guys feel relevant and comfortable to tell everybody that it is my fault that the national economy and in fact the global economy are facing the challenges they are facing at the moment, continue to do it, Mr Seselja. No-one is listening to you.

What people want is answers. They want support from their government. They want investment. They want the government to take decisions, to act quickly in a timely, targeted fashion. That is what the stimulus package provides the opportunity for. Whilst you guys sit there and harp and laugh, and think it is funny, all of those struggling Canberrans—and there are Canberrans struggling right now, and there are going to be more of them—

**Mrs Dunne:** And you do not know how it will affect them.

**MS GALLAGHER:** There will be more of them. Mrs Dunne, you just sit there and laugh at them. We will get on with working out how to deliver the final package when it comes to the ACT.

**Mr Seselja:** What a ridiculous thing to say.

**MS GALLAGHER:** This is the way you conduct yourselves. You should be ashamed.

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

**MR COE:** Treasurer, given your personal economic analysis that the package will not have an impact on prices, will you provide the Assembly and community with a

guarantee that the residential construction costs will not increase as a result of the new capital works program?

**MS GALLAGHER:** My answer to the question is that all the indicators at the moment are that prices are decreasing, wages are decreasing, CPI is decreasing—

**Mr Coe:** But what is the effect of the stimulus package on it?

**MS GALLAGHER:** No, Mr Coe, I will not be giving that undertaking. I am not in a position to do it. I have answered your question as honestly as I can at this point in time.

### **Economy—stimulus package**

**MS PORTER:** My question, through you, Mr Speaker, is to the minister for education. Would the minister advise the Assembly of the steps he is taking to ensure that ACT students will benefit from the federal Labor government's stimulus package?

**MR BARR:** I thank Ms Porter for her question and for her interest in education matters. I note immediately—

**Mrs Dunne:** And her improved capacity in drafting questions.

**MR BARR:** I have been on my feet for less than 10 seconds and our armchair cynic is already in action.

**Ms Gallagher:** She is a very hard task master.

**MR BARR:** She is a very hard task master, as you say.

**Mr Hargreaves:** All the way from the Muppets, did you say?

**MR BARR:** She is not sitting up the back, Statler and Waldorf style. She has progressed forward as others have fallen away.

Importantly, the implementation of the stimulus package in the ACT will fall, in the largest part, in the education sector. As we have discussed already in this place today, there will be a considerable amount of capital works that will be undertaken within the ACT school system should this package pass the Senate. It is important that we are able to progress that work effectively.

Some support from the ACT Liberals in this matter would be useful. Again, I take the opportunity to invite the Leader of the Opposition to pick up the phone to Mr Turnbull. The package could be passed today and we could get on with the work of providing the information.

**Mr Hargreaves:** Does Brendan know Julie Bishop?

**MR BARR:** Perhaps Mr Smyth, who is familiar with being in federal opposition, could give Mr Seselja the phone number of the Leader of the Opposition and help him make that contact. While the federal Liberals are delaying the package, ACT Labor is getting on with ensuring that every ACT school can benefit from this record investment in education.

Yesterday I wrote to every government school principal to tell them about the package and to ask them to immediately identify priority projects so that the territory can prepare bids in this commonwealth process. Today every government school principal is meeting with the executive team in the Department of Education and Training to discuss how they can gain the best advantage from this commonwealth package.

I have met this morning with Sandra Lambert, the coordinator-general, to discuss how all schools in the territory can benefit from this package. I will soon make contact with non-government school bloc grant authorities, the peak groups, to advise them that agencies such as ACTPLA and the Department of Education and Training stand ready to help them to ensure that their projects receive commonwealth funding.

There is no doubt that, if this package is passed by the Senate, it will deliver for every ACT student. It will deliver new libraries, new classrooms, new gymnasiums, better places for students to learn and also, importantly, better places for teachers to teach.

This commonwealth investment builds on the ACT government's record investment in our school system. ACT Labor has invested \$350 million in upgrading every ACT public school. I think I got from A to M of public school upgrades just in the first year of the government's four-year program. This government has delivered 270 capital works projects across more than 70 schools in the first 18 months of that four-year program.

We intend to continue to deliver that program, and this additional commonwealth money will make that program go further—much more investment in areas of importance to school communities and across, of course, both sectors. It means all ACT schools will share in \$230 million worth of additional commonwealth investment.

I think this needs to be looked at in contrast to the record of investment of the previous federal Liberal government where we saw, if we were lucky, somewhere between \$4 million and \$5 million a year coming into the public system from the commonwealth. Compare that with the \$140 million or thereabouts under this package.

We continue to work cooperatively with the federal government. We have seen more than 8,000 students across 23 ACT secondary schools have access to new computers as a result of our investments in broadband and ICT and, of course, the commonwealth government's secondary school computer fund. We look forward to continuing to work with the federal government in other areas of national partnership in education reform. There is a huge agenda of reform in education in Australia.

We have got capital funds, we have got IT funds and we have got some significant investments going into improving teacher quality, which is clearly the No 1 issue that we confront in education in Australia at this time. The ACT has an opportunity, with an EBA coming up in the very near future, to take a leadership role in putting in place a new structure to reward quality teachers, to reward merit and to say goodbye to the systems of the past that were all about seniority. This should be about merit. And that is the direction the government is taking.

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

**MS PORTER:** Thank you, Mr Speaker. Can the minister advise the Assembly of the reaction of education experts and other community leaders to the Rudd government's proposed stimulus package as it relates to the ACT?

**MR BARR:** Thank you, Mr Speaker, and I again thank Ms Porter. It is very clear from the debates in this place in the last 48 hours that this side of the chamber welcomes this package because it is an historic investment in the future of young Canberrans. But I am very pleased to advise the Assembly that we are not alone. This package has been warmly welcomed by Mr Jeremy Irvine of the Association of Independent Schools here in the ACT and Elizabeth Singer of the ACT Council of P&C Associations. These ACT bodies have been joined by national voices as diverse as Angelo Gavrielatos from the AEU and Heather Ridout of the Australian Industry Group.

But while it is clear that the overwhelming majority of expert opinion backs both territory and federal government investment in schools, once again we fail to have any substantive statement from the shadow minister for education on the position of the ACT Liberals on this. In fact, depending on which day of the week it is and whether it is an odd or an even day, we are seeing flip-flopping by the Leader of the Opposition. One moment he is endorsing it as the Prime Minister taking Liberal Party policy, but then yesterday afternoon in the MPI Mr Smyth delivered a long tirade where essentially he indicated that the ACT Liberals do not support all aspects of the package, other than the insulation.

Even at the bare minimum Mr Seselja could pick up the phone to Mr Turnbull and say, "We support the insulation. Do that." That would be the bare minimum. That is something he could do. It is remarkable that we have had absolute silence from the shadow minister for education on this matter. This is the most significant investment in schools in the territory and the shadow minister—

**Mr Smyth:** He is too busy getting barbed wire down from around our schools.

**MR BARR:** I do note that he has been inspecting barbed wire. I am very pleased that the barbed wire did serve one particular purpose, and that was keeping strangers off the school sites. It was very effective in doing that.

I suppose we could have taken the easy Liberal Party option in relation to that oval. Perhaps we could have painted it green. But, no, we thought we would get the

synthetic surface right. We would not want to do an overnight job. Again I remind the Assembly of the irony of the Liberal Party raising concerns about children and barbed wire. We know their record in relation to those matters. It is all silent now, isn't it? That is right. It is hitting home, isn't it? It took a little while to sink in.

The importance of this package is further enhanced by the strong level of community support and the strong level of support by education stakeholders, both at the territory level and the national level. The question that those opposite finally, at some point in this debate, once they finish that extensive internal discussion and every shadow minister and the Leader of the Opposition come to a different position on different days, they will have to declare a position one way or the other.

We look forward to that day and I think the people of Canberra look forward to that day. If ultimately they do end up opposing the package, then I certainly hope not to hear from the shadow minister for education asking for invitations to morning teas for the launches of all of these school projects.

### **Waste—management**

**MS BRESNAN:** My question is to the Minister for Territory and Municipal Services and is in regard to organic waste. Given that numerous jurisdictions in Australia and around the world are now running successful organic recycling programs and that the Chifley organic waste recycling trial was completed eight years ago, can the minister explain why the government has not taken steps to implement organic recycling in Canberra?

**MR STANHOPE:** I thank Ms Bresnan for the question. As I indicated earlier—and I will just repeat it quickly—as a jurisdiction, the ACT has moved in the last 10 years, and most particularly over the last seven, from a position where 22 per cent of waste in the ACT was recycled to a position where somewhere between 73 and 74 per cent of waste is recycled. I am advised by my officials that that is the best rate of recycling by any city in Australia and, indeed, equal to the best in the world. That is the level which we are at in relation to our achievements and our effort in relation to recycling. That effort, of course, comes at significant expense.

At the end of the day, governments make difficult decisions in relation to the prioritising of funding and expenditure. To the extent that a simple or blunt question is asked, seeking a black and white answer on issues in relation to achievements to date and particular policy issues to date, at the end of the day it probably comes down to issues around resourcing as much as anything else. I think we do need to understand the resource environment in relation to any government policy.

This ACT government, the Labor Party, has expressed our support—and we have expressed this support to you, quite correctly—for pursuing a current trial in relation to organic waste recycling. I do not want to labour the point, but in relation to this issue of waste we have, in the context of our commitment to no waste, a commitment which we have pursued vigorously in our time in government, to the point where we have increased recycling from, as I understand it, around 22 per cent to 73 or 74 per cent. That is a fantastic achievement and it has come as a result of significant investment by this government in waste.

There is, however, that last 25 per cent. As with most positive issues, initiatives or projects such as this—no waste—it is always the easier picked fruit that is picked first. The more difficult issues sometimes are just in relation to the technology that is available and the capacity to recycle some substances, such as the fairly blatant but easy example of asbestos. Over the last 10 years we have taken enormous tonnages of asbestos to landfill, and substances such as asbestos contribute to the amount of waste going to landfill. There is no technology known in the world, I am advised, to render asbestos safe. There is apparently no jurisdiction in the world that recycles asbestos or has the capacity to recycle asbestos. There are a number of other substances of such toxicity in regard to which in the first place there is no appetite to seek to recycle and there is no known technology to recycle some substances and some materials.

When we get to the point of a no waste environment, we cannot claim to have achieved that until we deal with substances such as asbestos. In the context of remarks that I have made recently, and for which I have been erroneously and egregiously misrepresented and misquoted, I had in mind issues such as that. We will be taking waste to landfill for quite a while yet, having regard to technology, capacity and the market. There is no market in the world for recycled asbestos. There is no technology, there is no market, there is no capacity—just by way of a simple and, of course, stark example of some of the issues we face.

I might go back to the answer I gave to both Ms Hunter and Ms Le Couteur. I am advised that the next immediate initiative we might best pursue is that of achieving separate streams for recycling at the tip face. I am advised, however, that to achieve a 10 per cent reduction in waste being sent to landfill through that particular initiative, at a cost of \$4.7 million a year, we would at best achieve a two per cent increase in the overall level of waste that we are recycling. So there would be a cost of \$4.7 million for a two per cent increase. What I am advised is the next easiest measure—in other words, perhaps easiest in a physical sense and also easiest perhaps in not being the most expensive—will cost \$4.7 million. I am advised that it will cost at least \$4.7 million to go from 74 per cent to 76 per cent. These are at the heart, Ms Bresnan, of some of the issues which together we need to discuss.

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

**MS BRESNAN:** Thank you, Mr Speaker. Can the minister explain how the government has used the experiences from trials and programs conducted in other jurisdictions on organic waste recycling?

**MR STANHOPE:** I am aware of the earlier trial. I will have to take some advice on that, Ms Bresnan, but I will take that advice and I will be more than happy to share it with you for the sake of a continuing discussion around the hierarchy and the prioritising of additional waste initiatives which the government is determined to take.

There is a budget implication, as I have just sought to explain. In the decisions we make there is an attitude that the government adopts to these things. There are some initiatives that one might pursue that one imagines will have broad public appeal but which will not produce at the end of the day the same reduction in waste to landfill or the same level or increase in recycling as other initiatives.



Recycling more waste at the tip face is not very sexy. The \$4.7 million is about employing people to stand at the tip face to manually separate wood from metal, from paper and from cloth. The \$4.7 million is essentially all wages. It is not a particularly attractive job or pursuit. It is not particularly sexy. It is not something that one can actually utilise the same way, perhaps, as street-level recycling bins in terms of “yes, this is our commitment”, but it is probably more effective in terms of the next step than street-level recycling bins.

So what have we taken from previous trials? I think some of the messages we have taken from previous trials in relation to organic waste is, yes, it can be made to work and, yes, it is a next and important step. But this is the cost, and this is the overall reduction that one achieves. I do not doubt or dispute for one second that the next major investment by the ACT government will almost certainly have to be in relation to organic waste and a third bin, but we do need to work towards it, and we need to make some other decisions around capacity and resourcing on the way.

These are all initiatives which we will have to pursue in order to reach our no-waste target or aspiration. We are committed to doing that, but we will have to sequence the steps and we will have to look at the overall budget position in order to determine how and where to sequence these different initiatives.

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

### **Supplementary answer to question without notice Schools—Telopea Park**

**MR BARR:** Madam Assistant Speaker Le Couteur, yesterday in question time you asked me a question in relation to the Doma Group development of apartments and other buildings in Barton. Further to my answer yesterday, I would note that height limits on this site in Barton were the subject of considerable community consultation through the section 27 Barton section master plan, October 2006 planning process.

I am advised that, under the old territory plan, the section 27 Barton section master plan of October 2006 only had the status of a guideline on the Register of Planning Guidelines. However, under the new territory plan, the Barton master plan is incorporated into the CZ5 mixed use zone development code. This gives it greater status. The current territory plan, that was agreed to, I believe, unanimously in this place, requires that development on that site be consistent with the master plan.

### **Freedom of Information Amendment Bill 2008**

[Cognate bill:

Freedom of Information Amendment Bill 2008 (No 2)]

Debate resumed.

**MR RATTENBURY** (Molonglo) (3.03): When she was shadow attorney-general in the federal parliament, Nicola Roxon described conclusive certificates as “get out of jail free when we’ve stuffed up again” cards. She was absolutely right. Conclusive

certificates were introduced primarily in order to circumvent the objectives of the Freedom of Information Act. Those objects are still contained in the Freedom of Information Act. They are:

... to extend as far as possible the right of the Australian community and, in particular, the citizens of the Territory, to access to information in the possession of the Territory.

When they have a majority, governments seem invariably to imagine that they both own and control public information as one of the spoils of office, but it is not their property. They are custodians of public information and they should withhold information only where there is a clear public interest in doing so.

It is impossible for voters to accurately assess the competence and character of their elected representatives if they do not have access to most of the same raw data, reports and other information on which the ministers and their delegated decision makers base their decisions. In the land of the blind, a one-eyed man is king. In the political environment, information really does translate into power. The relevant facts, rationales and alternatives on which government policy is based should be available for public scrutiny. When that happens, it becomes that much harder for governments and public servants to manage the media by the selective release of information and possible misinformation.

Most FOI requests are made in order to obtain personal information about the applicant, and these requests are generally handled promptly and relevant information is released in full, as it should be. Governments hide behind these fine-sounding statistics to disguise their tendency to hide those documents which reveal the true nature of their administrative competence. The real test of the effectiveness of FOI legislation is how well it facilitates the release of what I would call substantive political information. Conclusive certificates are aimed squarely at restricting access to this kind of politically high-value, potentially embarrassing information.

I am yet to see a convincing argument that existing exemption provisions and review mechanisms are not adequate to protect legitimately confidential information. Does anyone doubt whether, on appeal from ACAT, a Supreme Court judge would not be able to identify information that is truly a cabinet document, commercial-in-confidence or damaging to national security? No, conclusive certificates are intended to stymie requests that seek information about government decision-making processes, such as why, when, who, how much and, critically, what may have been left out of publicly available position papers and policy proposals. Sunlight is the best disinfectant and appropriate transparency in decision making is the best defence against lazy, incompetent or corrupt practices.

When the Western Australia Inc royal commission, the Fitzgerald report on corruption in Queensland and the international corruption watchdog, Transparency International, commend FOI legislation as an efficient and relatively cheap mechanism for encouraging excellent procedural standards, as well as serving as an important safeguard against corruption, they are referring to the ability to obtain what I have called substantive political information from government agencies.

I do not dispute that there are occasions when public servants should be able to give frank and fearless advice—on paper, as opposed to over the phone or in face-to-face briefings—with a reasonable assurance that their exact words will be kept confidential. But I do not accept the government’s proposition that we should create new classes of documents that cannot ever be provided under the FOI Act. The ground has shifted and the government must catch up.

If the laudable reforms promised by Senator Faulkner and Prime Minister Rudd ever see the light of day, the ACT will stand out as having not only one of the most secretive and restrictive release of public information regimes in this country or in the rest of the Western democratic world, but also we would compare poorly with many countries that we are not used to comparing ourselves with. In numerous reports, the regression towards state secrecy and the increased surveillance and coercive powers brought in under the pretext of the so-called “war on terror” by President George Bush and Prime Minister John Howard has ranked us amongst non-democratic and highly autocratic countries in terms of openness of government decision-making processes. This is a trend we should be working against as diligently as we can.

Public servants are encouraged to be more professional and objective in undertaking their roles if they know that affected parties, independent experts or journalists may one day subject their work to scrutiny. Transparency in decision making removes the temptation to cut corners or advance cynical or fallacious arguments rather than a well-reasoned case for particular policy positions. If a government decision has been made well, there is no reason to fear the public seeing those documents.

I am not saying that these practices exist in the ACT public service. We are fortunate that most public servants, and most FOI officers, perform their duties with diligence, competence and care. But it would be folly to deny that undesirable practices thrive under the cloak of secrecy.

As we take these first steps to consigning conclusive certificates to the dustbin of history in this jurisdiction, I would like to take a moment to reflect on how low this jurisdiction was dragged under their influence. The 2006 High Court decision in *McKinnon* effectively destroyed all grounds of review or oversight over the issuance of conclusive certificates. After *McKinnon*, a minister could withhold documents, safe in the knowledge that their grounds for doing so would never be subjected to an independent objective assessment.

Such powers strike at the heart of representative democracy, where the judiciary has the constitutional responsibility to oversee the probity of the executive. Accordingly, when this Assembly reviews FOI legislation, it should include in its upcoming inquiry into freedom of information whether the ACT should pass specific legislation overturning the effects of *McKinnon* in the ACT to the fullest possible extent.

Chief Justice Gleeson and Justice Kirby were on the bench in *McKinnon*, and they were both outraged by the reasoning of the majority. In a combined dissenting judgement they said:

Logically, the view of the majority in the Full Court appears to mean that, so long as there is anything relevant to be said in support of the view that disclosure would be contrary to the public interest, an applicant for review under s. 58(5) must fail. We cannot accept that ... How, then, could an applicant ever succeed?

I think this is the important question that the judges were referring to. They continued:

If it were enough for the Minister to point to one facet of the public interest that is served by non-disclosure, then it would be enough to say that non-disclosure preserves confidentiality. Of course it does. By definition, a facet is one side of something that has many sides. Looking only at a facet of an object is a necessarily incomplete way of looking at the object. Looking only at a facet of the public interest is a necessarily incomplete way of looking at the public interest.

I think those were very powerful words stated by those two judges of the High Court. Assessing applications under the Freedom of Information Act is always a balancing act between public interest reasons for and against releasing a document. The McKinnon case removed any semblance of proportionality to the balancing process.

If this government here in the ACT is in any doubt as to why the Liberals and the Greens are somewhat sceptical about the need for the total exclusion provisions suggested by the Attorney-General, it might pause to consider the fact that when it had a majority in the last Assembly it actually cited with approval the reasoning in McKinnon and used the federal government's secretive practices as a justification for copying them in the ACT.

After this bill takes effect, a conclusive certificate provision will remain in place for documents that may affect national security or international relations. I have been told that the commonwealth intelligence and security organisations will refuse to share sensitive intelligence information if we do not have a conclusive certificate provision to ensure that such documents will never be made public.

I do not have a problem with measures designed to protect information which is honestly defined as national security information. Of course, that is in the national interest. But I do not accept that ministers should have the last word as to whether documents can accurately be described as falling into any particular class of exempt document. We have seen too many instances where even national security information has been misused and twisted to suit the interests of the government of the day. Subjects such as the Solicitor-General's legal advice regarding the *MV Tampa* and Australia's obligations under international maritime law, the truth about so-called "children overboard", the fictitious case against Dr Haneef, the existence of weapons of mass destruction in Iraq and issues of al-Qaeda's links with Saddam Hussein, and the rendition or illegal kidnapping and torture of Australian citizens by US proxies are all subjects that could be claimed to be exempt, because exposing the lies and incompetence of our allies may damage our international relations with them.

If these issues and the related information on which Western governments were basing both their policies and their propaganda were made publicly available, it is

questionable whether the Howard government would have won the last two elections or whether the disastrous invasion of Iraq would have occurred. The price of freedom is eternal vigilance, and we must learn from history that people in the highest offices of the land will do their all to prevent us from being vigilant by covering up the true facts and policy directions with which they seek to steer us.

I am not arguing that national security information should be made publicly available, as I have already stated. The case I am making is that governments and public servants develop vested interests in withholding information which are at odds with the interests of the community. They should not be able to hide behind the cloak of national security or any other grounds for secrecy that can be abused. This being the case, the basis and veracity of their claims for exempting information should always be subject to scrutiny and final review by appropriately qualified and trustworthy individuals, such as Supreme Court judges. Conclusive certificates remove this essential element of oversight, and I am extremely pleased that the Liberal Party will join with the Greens in voting them out of existence.

A 2006 report by the commonwealth Ombudsman recommended that agency heads issue a clear statement to staff expressing a commitment to sound FOI practice and the goals of the Freedom of Information Act. This was not done in the last term of government in the ACT. Even after the ACT Auditor-General subsequently issued a highly critical report into FOI practices in the ACT, the government still has not issued a whole-of-government directive that the objects of the Freedom of Information Act are to be strictly adhered to, that agencies should err on the side of releasing documents, that political embarrassment is not grounds for exemption and that FOI officers will be supported and not penalised if they approach their tasks in this spirit.

On his very first day in the oval office, President Barack Obama issued a directive to all departments and agencies within the executive branch to administer the Freedom of Information Act with a clear presumption, with respect to the release of government records, that in the face of doubt, openness prevails. After an Ombudsman's report, a critical Auditor-General's report and a newly professed belief in openness and transparency, why are we still waiting for the ACT government to issue such a simple and unambiguous directive here in this jurisdiction? It is a question that remains open and is one that is well worth exploring.

Clause 5.3 of the current Greens-Labor agreement commits the parties to the completion of an inquiry within 12 months into the reform of freedom of information legislation, including the appointment of an independent information commissioner. There is now consensus amongst the Australian Law Reform Commission, the Administrative Review Council, the commonwealth Ombudsman and the Senate legal and constitutional affairs committee that many of the shortcomings in the current operation and effectiveness of freedom of information acts could be addressed with the establishment of a constant, independent monitor.

In the spirit of cooperative and collaborative politics that the Greens hope to engender in this Assembly, we will be working with Mrs Dunne to develop suitable terms of reference for a comprehensive inquiry into the freedom of information regime. I think

it is important that all three parties in this chamber contribute to those terms of reference so that we come up with the best possible terms so that all the necessary issues are canvassed and so that this inquiry is effective in making the ACT's freedom of information legislation the best and most modern in the country, one that takes advantage of new practices and new expectations of the community.

In speaking today, I have covered a lot of what I want to say about the government's proposed amendments, which I believe Mr Corbell will bring forward. He has recently circulated those amendments. I will, however, be making a few specific comments on those proposals as they come up, to indicate our support or otherwise for them. I think the important thing to take out of this discussion today is that the ACT should be striving to be the best in the country. We have already heard, in light of the murder legislation last night, that all the other states are doing this and we should join them. I think that, here in the ACT, we should not be joining in the race to the bottom. We should be striving to be the territory, the jurisdiction, that is leading the pack with these sorts of pieces of legislation. That is the spirit in which I hope we will approach the freedom of information legislation.

**MR SESELJA** (Molonglo—Leader of the Opposition) (3.19): I am pleased to have the opportunity to speak to this legislation today. I commend my colleague Vicki Dunne for her efforts over a long time in seeking to drive through freedom of information law reform. She has been a consistent advocate of more open and accountable government. She has put that ideal into practice through legislation—legislation which has previously been rejected by the Labor Party. They refused to support it previously; we are looking forward to, hopefully, this going through today.

We believe this is a step forward, although only one step forward. There is a lot more work to do in terms of freedom of information law reform so that we can genuinely have openness and accountability from our government. Openness and accountability need to be forced on a government. They are something that they rarely sign up to voluntarily. We have seen that over the past few years. We are pleased to be able to push them along and try and open it up just that little bit more. We look forward to the inquiry that has been mooted. We look forward to that going ahead and seeing the possibility of more significant and more wide ranging reform to freedom of information.

But we need to look at the cynical way that this government has treated freedom of information law over the past few years. The Labor Party in opposition said a lot about freedom of information law reform. They came to office promising to be open and accountable; they came with a commitment to undertake reform of the FOI Act. If you look at what they have done over the past seven years, you will see that they have done some reform, but it was to make it harder to get documents. That was what Mr Corbell voted for. Our policy document *A new way of listening* quotes the Attorney-General, Simon Corbell; it is worth reading that into *Hansard*. It says:

... Attorney-General Simon Corbell pointed out that Labor had expanded on the excuses which officials could use for denying information from the public.

“I draw members' attention to those clauses, in particular clause 7 (1A), whereby the agency or the minister must have regard to the number and

volume of documents and resources that would have been used in identifying, locating and collating the documents, examining the documents and consulting on them, copying the documents, preparing an itemised schedule of the documents, and notifying the applicant of any interim or final decision. So the provision makes more explicit the grounds for considering whether a request is unreasonable and that gives guidance to both officers and the AAT in the event of a review.”

That is taken from *Hansard* of 8 March 2007. That is the Attorney-General, Simon Corbell.

The commitment when they came in was to make it more difficult. Of course, there are a lot of words there, but we can summarise what that was about. That was about making it harder for ordinary Canberrans and members of the Legislative Assembly to get access to documents. The Attorney-General wanted to expand the ability of the government to hide behind freedom of information law.

I think it is fair to say that some of the worst abuses of freedom of information law occurred during the school closures program and the attempts by the community to get to the bottom of the rationale for some of this. There is the still suppressed Costello review, which has been sought in various ways, but a whole range of other documents which went to the rationale of this government closing so many schools were suppressed. With many of those documents, we saw conclusive certificates used.

Mrs Dunne chased this, and chased it all the way to the AAT. Quite embarrassingly and quite instructively, it demonstrated that the minister for education, Andrew Barr, had misused conclusive certificates. I do not know how many documents he used it for, but eventually, when some of these documents were released, we saw that they were amongst the most innocuous documents that one could see.

It seems that the minister believed that the conclusive certificates were—in very much the way that Nicola Roxon described, as Mr Rattenbury quoted—“get out of jail free” cards. He figured “I can just sign a conclusive certificate and I will not have to give any of these documents.” It seems, certainly from the documents that we eventually got, that he did not even bother to look at the detail. He just applied it to a lump of documents so that he would not have to release this information. That was a clear misuse of the idea behind conclusive certificates, and the minister stands condemned for that. I think he was quite embarrassed—he certainly should be embarrassed—about the way that he used that and the way that that eventually came out in the AAT.

We also saw what happened with the Chief Minister with the issue of the Tuggeranong power station, and the debacle that that was, and the attempts by the opposition and the community to get to the bottom of the government’s handling of that. We saw thousands of pages of documents suppressed. This was from a government that said they were not going to hide behind the cloak of commercial in confidence. They were going to be open and accountable. They were going to reform the FOI Act. The only way they reformed the FOI Act was to make it harder.

In the application, we see the instruction from the top. We see the instruction from the Chief Minister about the way he sees that freedom of information laws should be applied by public servants, in the policy document. It said:

“The Freedom of Information Act, *requires* for a full range of exemptions of material that won’t be provided pursuant to the Freedom of Information Act whether it’s commercially in confidence, relates to third parties, is an internal working document. Every time documents are released under the FOI Act the FOI officer goes through them and deletes and blacks out all the information which is exempt under the Act.”

What the Chief Minister is saying there to officials is this: “If there is an exemption, you should claim it. Claim every possible exemption you can.” There is no requirement for officials not to provide information. These are exemptions that should be applied in the spirit of the freedom of information law, which says that the community has a right to know. The Freedom of Information Act is about providing information to the public with limited exemptions rather than about trying to exempt as many documents as is possible. We saw the attitude of the Chief Minister in his own words on 2CC on 18 June 2008, saying that these are required exemptions.

These exemptions should be used in a reasonable way. We have seen that the conclusive certificates have not been used in a reasonable way, certainly by the minister for education in this city. In both the debacle that was the Tuggeranong power station issue and the debacle that was the handling of the school closures program, we have seen that this government will use whatever method it can to stop people from getting information.

In relation to the Tuggeranong power station, we found—when we were forced to go to the AAT, having had thousands of pages of documents suppressed—that, when we eventually agreed to terms in terms of getting access to some information in mediation in the AAT, we received something which had been amended after the agreement was made. We were trying to get to the bottom of a document, a deed of agreement, that went to the heart of the government’s involvement in this debacle. We wanted to know what they were trying to impose on ActewAGL in relation to this site. What we got was an altered document. We got absolutely no information as to where the government had been, because all we got was a document that was altered after it was agreed that it would be provided to us.

That is this government’s record on freedom of information. That is the way they have cynically used it for their own purposes. That is why we need some reform. This is the first step, the first important step. Conclusive certificates have been used as a “Get out of jail free” card by ministers in this government and no doubt by ministers in other governments. As an assembly, we are saying today that we are going to make that more difficult, that we are not going to provide them with as many opportunities to use this “Get out of jail free” card.

We hope that it will be the first step in some more and more extensive reforms to the Freedom of Information Act. It should be viewed in this way. There are circumstances where it is reasonable for governments not to release information. But that is a case they need to make. In the ordinary course, the principle behind freedom of information law—which has been with us for many years now, in all jurisdictions—is that this is the public’s information. There are some circumstances where it is inappropriate that things are put into the public domain, but they are limited. We



should not be looking to constantly expand the realm of secrecy. We should keep it to what genuinely needs to be protected—things such as national security documentation, to use one example. It should not be used as a way to suppress documents unreasonably; it should not be used as a way to deny information to the public.

I am very pleased to support Mrs Dunne's legislation. We believe that the legislation put forward by Simon Corbell simply seeks to muddy the waters further and provide exemptions that are not reasonable or necessary. We will be voting for Mrs Dunne's legislation. I commend her for it. I commend her for the work that she has done over a long period of time—not just in legislative reform in this area but also in tenaciously seeking information from the government. From that tenacity, during that school closure process, along with the community, we were able to get a bit of an insight into the way this government treats information, the way this government treats documentation and the way this government and this minister for education have cynically manipulated the Freedom of Information Act for their own political purposes. I commend Mrs Dunne for the bill. I commend her for her work. We look forward to the passage of this legislation.

**MRS DUNNE** (Ginninderra) (3.30), in reply: I thank members for their contribution. I particularly want to thank the Leader of the Opposition for his kind words. The Freedom of Information Amendment Bill begins the much-needed process of reform in the ACT. It opens the way for a level of transparency to be restored to the people of the ACT and it honours an election commitment of the Canberra Liberals.

When I presented this bill to the Assembly in December last year, I acknowledged the Greens and their support. I take this opportunity to thank the Greens once again for their support and to acknowledge that there was a very similar bill drafted by Mr Rattenbury. He gave way graciously, and without my asking, to the Canberra Liberals in recognition of our prior commitment in this area. I take the opportunity to acknowledge that graciousness again. I am glad that the Greens have joined with the longstanding battle taken up by the Canberra Liberals and have so wholeheartedly supported the Canberra Liberals in their pursuit of this reform.

Earlier today, the Attorney-General made comments about the two bills that we are debating today, the Canberra Liberals' bill and the government's bill, saying that they were similar. That is definitely not the case. The opposition's bill goes to making public access to government information more available and to opening the way for FOI reform. The government's bill—while mirroring some of my reforms, but not all of them—also goes to tightening up the restrictions to public access. It goes to the trouble of creating whole new classes of documents to which the public would be denied access on a regular basis. These classes of documents would not even be subject to consideration under the act, and an FOI officer would not be able to give a member of the public access to these documents. They could not even be considered as part of the FOI request. These are Simon Corbell's reforms.

It is interesting to note—it was touched on by Mr Seselja in his comments—that the previous attempt at reforms by Mr Corbell as Attorney-General also resulted in the tightening up of provisions in the FOI Act to make it harder for members of the public to gain access to the community. Not only were there changes to section 7, as pointed

out by Mr Seselja, but there were a range of provisions that made it easier for officials and ministers to issue conclusive certificates. Until today, or until last December, the only reforms that we have seen from the Stanhope government in seven years in government were the reforms of Simon Corbell in 2007 which made it harder for members of the public to get access to information.

I recall quite distinctly the day in the run-up to the election campaign when I was approached by a journalist to say that the government had said that after the election it would abolish conclusive certificates. I laughed out loud. It was a laugh-out-loud moment, after years of fighting the Stanhope government, to suddenly find that in the eleventh hour in the run-up to the election—things were not looking as rosy as they thought they were; they knew that they were on the nose—suddenly they had become FOI reformers.

We saw the colour of Mr Corbell's FOI reforms when he tabled his Freedom of Information Amendment Bill 2008 (No 2), and we see that he has created a whole series of classes of documents which it was previously possible to ask for under the Freedom of Information Act. They may have become exempted through the operation of the act, but at least you could ask for them. Suddenly you cannot even ask for those documents under the Freedom of Information Act. This is reform in the words of Simon Corbell—

**Mr Corbell:** Do you think you should be allowed to ask for the cabinet notebook?

**MRS DUNNE:** In response to Mr Corbell's interjection—and he asked this rhetorically in his speech—I think that it is reasonable that a member of the public may ask for a note from cabinet. I have done it myself.

**Mr Corbell:** The cabinet notebook?

It is reasonable —the minister said it is the cabinet notebook, and anything else that might be a bit like that—to ask for it. It is also reasonable for a decision maker to look at the decision, to look at the document and see whether it is in the public interest to release it.

It is in the spirit of the Freedom of Information Act and the spirit of the objects to work in favour of releasing documents. It is my experience that from time to time documents that have been prepared for cabinet have been released in freedom of information requests. In relation to the closure of west Belconnen district high school, I received documents which were prepared for cabinet. So it is not unimaginable that cabinet-type documents might be released under the Freedom of Information Act or in any other way.

The comments made by Mr Seselja are important. The exemptions in this legislation do not make it the case that if something fits within the exemption they may not be released. There are many paths to go down. You can take the Jon Stanhope and Simon Corbell approach. You can take the approach signalled by the Chief Minister when he essentially gave riding instructions to FOI officers: "You look at these documents and you see if there is an exemption. And if there is an exemption, do not release them."

This is counter to the spirit of the objects of the legislation. This is why the Canberra Liberals have been fighting for a very long time for FOI reform. This is why today is a very great day for the people of the ACT, because this is the opening up, the beginning of the process of reforming FOI. It is not the end; there is a long way to go.

This is now a very old piece of legislation. It was passed for the ACT in 1989. I was an FOI officer in the commonwealth in 1984. After 25 years or so, it is time for comprehensive review of the legislation, both in the commonwealth and in the states and territories. I concur with the sentiments of Mr Rattenbury when he says that the ACT should be at the forefront, leading that reform.

It is interesting that Mr Corbell's reform package does not go as far as the reform package proposed by the commonwealth. Mr Corbell's reform package is a Clayton's reform package.

The opposition's bill will finally, once and for all, remove conclusive certificates in three of the four categories where conclusive certificates already exist. This is the same initiative initiated by Senator Faulkner in the commonwealth, except that Senator Faulkner's provisions go further. Senator Faulkner's provisions will also do away with conclusive certificates on national security documents.

When I introduced this bill and when I introduced its forerunner in 2007, I said that, while I was favourably disposed to that radical step, I thought it was a step that should not be taken without consultation with the commonwealth and other states and territories. It is interesting to see that the commonwealth is prepared to sanction and contemplate such a move whereas Mr Corbell is not. Mr Corbell is not prepared to sanction such a move in relation to commonwealth-state relations.

Conclusive certificates are an easy way out for governments, ministers and bureaucrats. It allows them to make arbitrary decisions and cover them up from public access. It allows ministers and bureaucrats to transact their business in cellars in the dark. They are a means by which government, ministers and bureaucrats can avoid being accountable to the community. The prime example of that is the shield of conclusive certificates that this Labor government issued to deny public access to its functional review of 2006. Clearly, public release of the functional review would have been highly embarrassing for the government, a government which simply did not have the guts to face up to the public scrutiny of actions that closed schools, libraries and shopfronts, that gutted government services and agencies, that reached deeply into the pockets of the people of Canberra and that denied the people of Canberra any involvement in determining their own destiny.

Conclusive certificates are a blot on our statute books; this opposition bill expunges most of that blot. Importantly, the opposition bill is simple. It does not carry the complications or the shortcomings of the government's bill. The government's bill is complicated. It is the animal farm bill. It says that all government documents are public, but some are less public than others. As I have said before, it creates a whole new class of documents that would be exempt from consideration for public release. The government's bill has a number of shortcomings. It does not eliminate as many classes of conclusive certificates as does the opposition bill, because, as I have said

before, it fails to eliminate the conclusive certificates relating to commonwealth-state relations.

Neither the government bill nor the opposition bill goes as far as the federal government's proposed provisions in relation to national security, but I flag that I would expect that an inquiry into the operation of freedom of information which has been touched on by all members speaking should look at those issues, should consult widely and should involve the commonwealth in a process of coming to terms with how we should deal with our national security documents.

On the subject of further FOI reform, all members have spoken about the need for more comprehensive review. As a result, and as a part of kicking off that process, I have today given notice—it will be on the notice paper tomorrow—of terms of reference for reference to the justice and community safety committee for inquiry.

I put that motion on the notice paper essentially as consultation. I will be writing to a range of stakeholders to seek their views on those terms of reference. I will welcome contributions from members of the Assembly as to whether these are an appropriate set of terms of reference or whether they need to be expanded. I have had discussions with some staff in Mr Rattenbury's office, who have suggested amendments and things that might be added to that.

I see the placing of this notice of motion on the notice paper as a beginning of the discussion about how we should proceed with an inquiry. I do not consider that everything that can be said about the inquiry is said in these terms of reference. I am open—as I think all members should be—to discussion about how we should go forward from here. I hope that over the next few weeks we can come to an agreement about what the terms of reference should be and that we can start the process—it will not be an easy process—of addressing further FOI reform.

There are issues that I will touch on in the detail stage. As an assembly, we should be proud of the fact that today we do embark upon real FOI reform for the first time. But we need to place on the record who is responsible for that reform. It is clearly not the government. The government has been dragged kicking and screaming to this place. The mere fact that the attorney, in his alternative bill, proposed such a draconian departure from current practice in the ACT, by creating whole new classes of documents that are not even subject to the act, shows just what reluctant a reformer it is.

The only thing that this government is interested in—the only reform that this government is really interested in, in its heart of hearts—is making life more difficult for people who want access to information. That stops today. The work of the Canberra Liberals and the crossbench makes sure that that stops today. Today we start the much overdue reform of freedom of information in this territory.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail stage**

Clauses 1 to 3, by leave, taken together and agreed to.

Proposed new clause 3A.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (3.46): I move amendment No 1, circulated in my name, which inserts a new Clause 3A [*see schedule 1 at page 707*].

Proposed new clause 3A puts in place an exemption which the Liberal Party does not seem to believe is relevant in this place. It was disappointing to note that Mrs Dunne, in her closing speech, made absolutely no reference at all to the other very important principle that is at play in relation to the Freedom of Information Act, which is the provision of frank, fearless and open advice between ministers and public servants so that they can account to the parliament in accordance with their responsibilities under the Westminster system.

We heard not a jot, not a jot of an argument from Mrs Dunne about those issues that are at play. Instead, all we heard was the assertion that Mrs Dunne's bill is good and Mr Corbell's bill is bad. All we heard was the assertion, which I foreshadowed indeed in my own comments, that the Liberals and the Greens are on the side of open and accountable government and the Labor Party has some sinister and nasty agenda at play. This is the sort of simplistic and, I would argue, quite blatantly false representation of the position that we have come to expect from Mrs Dunne in this place.

As I pointed out in my speech, and which she failed to counter at all in her comments, this is a more nuanced debate when it comes to the issues of ministers receiving advice in a full and frank manner from their officials so they can properly account to the parliament. Indeed, we heard no argument from Mrs Dunne as to why she believed that the workings of cabinet itself and the cabinet notebook, which records the actual discussions of cabinet, not the decisions of cabinet, but the actual comments made by individual ministers in cabinet meetings, should be available under an FOI request. We heard no discussion from Mrs Dunne about what such a reform might mean for the cabinet and the principles of cabinet solidarity and the free and frank exchange of matters within cabinet. We heard no discussion at all.

I say to you, Madam Assistant Speaker, that if we were to apply the Freedom of Information Act to the cabinet notebook itself, ministers would not be able to sit in the cabinet room, openly disagree or debate each other's ideas and then walk out of cabinet and feel confident that cabinet solidarity would be protected and maintained and that the government could present a clear and coherent view and position in relation to policy and legislative matters. That is what is at stake as a result of Mrs Dunne's reckless view of the way the discussions of cabinet should be subject to freedom of information requests. That is the position she is putting in this place today.

Mrs Dunne may—I hope she does not, personally—live to regret such statements if she ever finds herself in the cabinet room. I hope that she does not, personally. I hope that scenario never comes to pass. But if it does I think she will live to regret it. Imagine going into a cabinet room where there are different views between portfolios and between ministers—and that is common and healthy in the Westminster system—knowing that what we say and what other ministers say about our proposals or ideas, as recorded in the cabinet notebook, are subject to FOI release, according to Mrs Dunne’s provisions, and could be made public.

How would that strike at the heart of maintaining cabinet solidarity? How would that strike at the heart of government, having reached a collective decision through cabinet, putting that position to the broader community, to the parliament and to everybody else outside of cabinet? How would that strike at the operation of cabinet? It would strike in a fundamental way, a devastating way. It is a reckless proposal by Mrs Dunne. Contrary to Mrs Dunne’s assertions, my understanding is that the commonwealth government is not proposing in any way that the cabinet notebook should be subject to the FOI act.

For Mrs Dunne to say that what I am proposing is not even something that Senator Faulkner—

**Mrs Dunne:** I was speaking about conclusive certificates.

**MR CORBELL:** is clearly false. Maybe she needs to clarify her comments because she made the sweeping suggestion that what I was doing was contrary to what the commonwealth review was proposing. In this respect she was absolutely wrong. We have heard no argument from her today as to why she believes the cabinet notebook itself, the record of cabinet discussion, should be made available through the FOI act.

What I am proposing today is a sensible and entirely reasonable change to her bill—to protect the cabinet notebook and to protect the discussions that occur in cabinet as being confidential and vital to the effective operations of cabinet government in the Westminster system. It is that fundamental, members. You need, I think, to test Mrs Dunne on why she believes it is reasonable for the FOI act to apply.

Mrs Dunne, may say, “The FOI act should apply, but we all know that tribunals and Supreme Court judges will deem these matters to be executive-in-confidence and take the view that they should not be released.” That is a bit of a circular argument from Mrs Dunne because if even she acknowledges that there is no way a tribunal or court will permit such documents to be released, why does she believe that the FOI act should apply in the first place? It is just a silly circular argument from Mrs Dunne.

This is an important amendment. It protects preserves and maintains the operation of cabinet government here in the ACT. It is fundamental in that regard. I commend the amendment to members.

**MRS DUNNE** (Ginninderra) (3.54): The opposition will be opposing this amendment, for the simple reason that what we have agreed is that our initial foray into electoral

FOI reform should be in the form of the removal of conclusive certificates and the rest, the bulk of the legislation, should be referred for thorough investigation and inquiry. That is the consistent approach that we have taken since the election and that is the approach that we will take with this amendment.

My bill puts into effect the Liberal Party's legislative program, and I have foreshadowed the terms of reference for an inquiry. While we are in the process of reviewing the effectiveness and the operations of the Freedom of Information Act, Mr Corbell wants to slip in a new class of documents which, for the past 20 years of the operation of freedom of information in the ACT, has not been considered necessary. For 20 years the Freedom of Information Act has operated in the ACT and it has not been considered necessary to exempt simpliciter, completely, without any contemplation as to the appropriateness of it—

**Mr Corbell:** That is because there have been conclusive certificates, Mrs Dunne.

**MRS DUNNE:** You can interrupt all you like. I will use my full 20 minutes to address the issue.

**Mr Corbell:** I am not worried about how much time you take, Mrs Dunne. The point is there have been conclusive certificates.

**MRS DUNNE:** Madam Assistant Speaker, if Mr Corbell wants to run a critique of my comments, he is free to take his extra 10 minutes, actually his unlimited time, his extra 10 minutes and do that.

The point that the opposition makes is that it is not appropriate at a time when we are embarking upon reform to create a class of documents that is not even subject to the act. By virtue of it having on the front of it "cabinet notebook" we cannot even consider the contents. Mr Corbell tries to paint a picture. He does not say it directly, but he paints a picture that he and his colleagues are going to go into cabinet and make a decision and, almost automatically, something that I have done or something that people in here will have done will require the publication of that cabinet notebook as a matter of course. He did not say it quite like that but that was the clear implication.

What has happened in the past is that people have been able to make requests under the Freedom of Information Act for certain classes of documents. It may be that from time to time a page or two pages of the cabinet notebook may come within the ambit of an FOI request. Then a decision maker has to make a decision about whether or not it should be released, and that decision has to be made in the public interest.

Mr Corbell's proposed amendment would prevent a decision maker from making a decision, exercising his professional judgment about the public interest. It would prevent a tribunal or a court from exercising their professional and learned judgment about the public interest by saying, "You cannot even think about it. Simon says." That is the difference in our approach. That is why we, at this stage, are not prepared to go down that path of exempting the cabinet notebook.

However, we are about to embark upon a broad-scale inquiry into the administration of the Freedom of Information Act and it may be that there is a body of evidence that comes forward that says that this is an appropriate course of action. If there is a body of evidence that says that this is an appropriate course of action, then the Liberal opposition, the Canberra Liberals, will reconsider their position. But at the moment there is no evidence that we need to go down this path. This is not closing the door as far as we are concerned. This is looking at it the right way, considering the options, considering the experience of 20 years here and 25 years in the commonwealth and seeing whether this course of action is necessary. That is why we are opposing this amendment.

It is interesting, because I understand the Greens are taking a slightly different approach. I gather from the conversations that I have had that they are proposing to support this amendment and then, if the recommendations of the inquiry say that it is unnecessary, they are prepared to un-exempt it. It is a different way of skinning a cat, I suppose. I think that our approach is principled and is consistent with the approach that we have taken. We are going to listen to the community and the experienced practitioners and look at the law and the practice and see whether this is necessary.

Over the past 20 years, the sky has not fallen because the cabinet notebook is not an exempt class of document. I do not think the sky will fall in the next year or so during the course of this inquiry. This is why we are not prepared to support this amendment.

**MR RATTENBURY** (Molonglo) (4.00): I would like to speak briefly to this proposed amendment from the Attorney-General. It is a challenging amendment. Certainly my office and I have spent some time considering it. The analysis that we have taken has brought us to the conclusion that the government's proposed amendment will create a new class of FOI documents. I do not know if the Attorney appreciates that he is creating a new FOI provision that I am not aware of existing anywhere else. It goes beyond the scope of a conclusive certificate and actually makes this class of document unable to be provided under the FOI act, if we are reading his provision correctly.

A minister will no longer have the discretion to argue or certify that the document falls within one of the exemption provisions. Under this amendment the documents are simply not even assessed under the act; they are simply not available. Whether the documents even belong in the category of cabinet notebooks is unable to be tested, and it is this aspect of the amendment that I have serious concerns with.

The existing exemption provision for cabinet documents is already extremely strict and there is ample case law to demonstrate that such documents would only be released under the most extreme of circumstances. However, there are circumstances where even cabinet documents should be made publicly available, and I think it is interesting to cite one particular one that has come to light in recent times.

The example is the British Information Tribunal, which recently ordered the British cabinet office to release details of ministerial discussions about the legality of the invasion of Iraq. It appears to be the case that members of cabinet were actively



misled by the machinations of other cabinet members who had control over the flow of information in the cabinet and who presented misleading or incomplete factual information regarding the legality and the risks involved in launching a non-UN sanctioned invasion of Iraq.

I will quote the tribunal because I think it is important to hear this language. It said:

We have decided that the public interest in maintaining the confidentiality of the formal minutes of two Cabinet meetings at which ministers decided to commit forces to military action in Iraq did not ... outweigh the public interest in disclosure.

That is a really interesting case study, and I think that as we go on to examine this in greater detail over the next 12 months through a process of review of the act that is the kind of example we need to be very mindful of.

Having said all that, I guess I am making the point that these amendments are a radical departure from the objects of the Freedom of Information Act, which I spoke about last time I stood up, and I doubt the Attorney-General has received adequate advice on the implications of creating this new species of secret document. Fortunately, the definition of cabinet documents in the Attorney-General's amendment is sufficiently well defined and I am not really concerned that it will create much scope for mischief in improperly classifying documents.

Consequently, as Mrs Dunne has foreshadowed, the Greens will, for the time being, accept the Attorney-General's arguments for the protection of the cabinet notebook and we are willing to support this amendment. But I would like to take this opportunity to foreshadow that we can expect a new method of striking an appropriate balance for the protection of cabinet documents to come out of the inquiry conducted by this Assembly. I am sure there will be recommendations on this, and we will be looking to find a better more clear-cut way, a way that enables appropriate transparency so that this provision will exist only until such time as those recommendations find their way into law.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.03): I will make a few points, if I may, to respond to some of the points made in relation to this amendment.

Mrs Dunne asserts that I am introducing a whole new class of documents that are exempt and asks why this needs to be done, given that the system has worked well for 20 years? Well, it needs to be done because for 20 years conclusive certificates have been able to be issued in relation to the cabinet notebook. Mrs Dunne is proposing to remove that. That is why this is being done.

Mrs Dunne is proposing that the mechanism that has been used for the past 20 years to provide appropriate protection to these documents because of their sensitivity and because of the importance of maintaining their confidentiality for the good workings of cabinet government is removed. She is proposing to say that conclusive certificates

will no longer be available to be exercised in those circumstances. That is why the amendment is being introduced.

It is also worth making the point that the commonwealth's cabinet notebook is explicitly exempt from the commonwealth's FOI laws as well. So any suggestion that this is radical or that this is an introduction, as Mr Rattenbury claimed, of something that does not exist in any other legislation is just false. It is just false. For that reason we believe it is important to provide this exemption.

This exemption does not apply to all cabinet documents. I note in Mr Rattenbury's comments there was some suggestion, or some implication that I read into his comments anyway, that this was going to apply to all cabinet documents. It does not. It applies—and I think Mr Rattenbury acknowledged this in his statement later on in his speech—to the cabinet notebook itself. It is a minute book—the minutes of cabinet, not the decisions of cabinet, per se. It is the minutes of discussion in cabinet.

As I have previously outlined to members in speaking earlier to this amendment, there are good reasons why the minutes, which reflect the discussions of cabinet, are protected—for the purpose of ensuring that the collective decision making role of cabinet can be maintained. In keeping with the notion of cabinet solidarity which underpins other in-principle documents such as the ministerial code of responsibility ministers are bound to support the decisions of cabinet once decisions have been made even though in cabinet they are free to argue against certain policy positions. Once cabinet makes its decision all ministers are bound to accept and support that decision.

If the cabinet notebook which records those discussions and the legitimate and reasonable disagreements that may occur on policy matters within cabinet is to be made available through freedom of information, the ability of ministers to freely and openly argue their positions in cabinet will be compromised because it will immediately be used to highlight for political ends what political opponents of the government will see as division within the government. That is a destructive use of FOI in a way that undermines the notions of cabinet government and collective responsibility.

That is why the amendment is being moved. It is not a radical change. As I say, this principle is well understood at the commonwealth level and there are no proposals to change it. So for these reasons we believe this is an appropriate reform and I commend the amendment to the Assembly. I thank Mr Rattenbury and the Greens for their support of it. We will continue to argue the importance of maintaining appropriate protections for this cabinet document in the forthcoming inquiry.

**MRS DUNNE** (Ginninderra) (4.08): I will be brief. There was another matter that I intended to address in my previous comments, and that was the interjection that the attorney made during my closing statement and then his expansion on that in his comments. When I said that the Stanhope government was not prepared to go down the same path as the commonwealth, I was referring to the commonwealth's decision to do away with conclusive certificates. I was not in fact referring to the attorney's proposals to create new classes of documents. The commonwealth is proposing, in its reforms, to create classes of documents that will not be subject to the act. I was not

referring to that; I was referring specifically to the proposals in the bill that relate to conclusive certificates and the government's reluctance to embrace the same level of reform as Senator Faulkner and his commonwealth colleagues.

Question put:

That proposed new clause 3A be agreed to.

The Assembly voted—

Ayes 11

Noes 6

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

Question so resolved in the affirmative.

Proposed new clause 3A agreed to.

Proposed new clause 3B.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.13): I move amendment No 2 circulated in my name, which inserts a new clause 3B [*see schedule 1 at page 707*].

This amendment proposes to also ensure exemption of a limited range of documents, being a document prepared for a minister newly appointed to a portfolio, often known as the incoming government brief or incoming minister brief; a document prepared for a minister for the purposes of accounting to the Assembly for appropriation, for the annual reports hearings or for estimates hearings; and, finally, documents prepared for a minister for the purpose of assisting the minister to answer questions in the Assembly, often known as question time papers. This limited range of exemptions is in the interest of improving communication between officials and the responsible minister. It provides for the application of the act consistent with the doctrine of ministerial responsibility.

Again, I need to reiterate my comments at the time of the bill's introduction that there is good reason why governments under the Westminster system routinely exempt and exclude documents which could be covered by this amendment. The amendment recognises the paramount importance of the relationship between a minister and his or her public sector advisers. The doctrine of ministerial responsibility dictates that ministers, individually, and cabinet, collectively, are responsible and accountable.

Ministers need to be briefed about what their departments are doing. They need to know if problems exist and how those problems might be dealt with. Democratic

accountability and open discussion between agencies and ministers, particularly in relation to documents covered by the proposed section 11(1A) is a concept which must be accepted at some level by all members of the Assembly.

The rationale for the exclusion of these documents, on the basis of ministerial responsibility, has been explored in a comprehensive study of freedom of information legislation undertaken in Queensland by an independent review panel last year, and I referred to that review panel, the Solomon review, in my earlier comments in this debate. That study has been well received by jurisdictions throughout Australia. The government in the ACT has adopted the recommendation that, to preserve and promote individual ministerial responsibility, question time briefs, incoming government briefs, annual estimates briefs and the cabinet notebook, which we have just discussed, should be exempt from disclosure under the freedom of information legislation.

I would challenge the view that the current exemptions are sufficient to clearly single out the information in these documents as falling under an existing exemption in the act. Some information contained in these documents will but other information will not. Principally, exemptions rely on the executive document and working document exemptions.

Factual information is not covered by an exemption and, although there is no disagreement that factual information should be released, it is often inextricable from the advice and analysis provided and would inadvertently disclose the deliberations being undertaken. Factual information will undoubtedly also be available through other source documents and therefore will be accessible under FOI requests, which do not specifically target such items as an incoming government brief. Jurisdictions which comply with this system include in their FOI regimes exemptions and exclusions to protect these essential documents which are mechanisms to ensure and reinforce the personal individual responsibility of ministers and their ability to govern.

The proposed new section 11(1A), this amendment, properly intends to ensure frank advice between government and public service advisers. So this is an important change. The principle is the same as the one I have advocated in relation to the cabinet notebook but I extend it to make the point that ministers must be able to properly account to parliaments for decisions and actions of their portfolios and to do so they need to be properly informed on it.

I would draw to the attention of members, in particular, issues on incoming government briefs. Incoming government briefs are comprehensive documents, particularly when there has been a change of political party in government; less so, but still important, when there are changes of minister within the same political party that is in government. But on a change of government, particularly between political parties, it is often the first comprehensive opportunity available to public servants to brief their incoming minister on all the issues at play in their new portfolio responsibilities. It is a particularly important opportunity where the public service believes it needs to outline to the incoming minister issues of concern or problems that perhaps were familiar to the previous minister in government but had not been acted on or had been addressed in a particular way where the public service believe that other options should be considered.

The incoming government brief provides that opportunity to highlight those issues. It should be done in a forum and context where there is confidentiality so that all the options, even ones that are politically difficult, are politically unacceptable or contentious, are open to consideration. Good decision making requires that all information is on the table. If such information is made available, particularly before a decision is even made—for example, if the incoming government briefs are requested under FOI immediately following a change of government—then the ability to make the decisions is itself compromised.

Imagine the circumstance where there is a change of government; an incoming government brief is provided to a minister; at the same time the outgoing government, the new opposition, requests an incoming government brief, gets that and uses that to highlight politically unacceptable options open to the new government before a decision has even been able to be made on a difficult issue. That really does compromise effective governance and good decision making.

These are the types of issues that are at play, and that is only one example of many I could cite as to why it is important to provide appropriate confidentiality to this limited form of documents. Again, these are limited in their scope. We are basically talking about three folders that are made available to a minister over their time as a minister: the incoming government brief, question time brief, the brief for an estimates or annual reports hearing. Those are the three at play.

This is not a wide exemption; this is not a sweeping exemption; but it is an important one to ensure effective governance and to ensure that ministers are in a position to properly consider all issues and account to parliament through the Assembly and its committees for their actions. For those reasons, the government believes this change is an important one and moves the amendment accordingly.

**MRS DUNNE** (Ginninderra) (4.22): The opposition will be opposing these even more vehemently than the previous proposals. This is a fairly outrageous closing of the doors in relation to practice and form in this territory. It is interesting that the attorney, in his presentation comments, admitted that even his party had at times participated in the requesting of these documents and I think he did admit, albeit grudgingly, that so far the sky had not fallen in.

But suddenly things are important. This is so important that, without consultation in the community, without broader discussion in the community and I suspect without much advice from his department—I would like to see that advice, actually—the minister wants to go down this path and wants to insert it into the Canberra Liberals' bill, to somehow get some ownership of the reforms around the place.

This is not reform. This has been proposed without consultation, hung on the fact that in the very large Solomon inquiry there is a page or so that refers to this. The Solomon inquiry is, generally speaking, a fairly comprehensive piece of work which addresses its terms of reference, which were terms of reference commissioned by the Queensland government, not by the Queensland parliament. They were to go along and make some FOI reforms but at the same time protect the government.

It is very interesting that the Queensland inquiry, the Solomon inquiry, suggests that estimates briefings should be an exempt class of documents. We have to remember that it is only very recently that the Queensland parliament actually had an estimates committee. So they are probably not used to being inquired into in the same way as people in the commonwealth parliament or people in this parliament have had their budget inquired into. I am not surprised that ministers in Queensland may find it inconvenient to have their estimates briefs inquired into.

But we are of a different sort here. This is not Queensland; this is not Joh territory; this is the ACT, one of the most progressive jurisdictions—as we keep being told, the most progressive jurisdiction—in the country. So I am not entirely sure why, on one recommendation from one inquiry, which has not even been taken up by the Queensland government—it is still a recommendation from an inquiry—we should go down this path.

Again, if the body of evidence as a result of the inquiry in this jurisdiction about the application of the FOI Act in this jurisdiction points to this as a necessary course of action, I commit that the Canberra Liberals will reconsider their position. But at the moment the minister has not given us one reason, except that it would be more convenient.

This issue is actually addressed in the Moss inquiry, the right-to-know inquiry. These issues were addressed there. The whole issue of frank and fearless advice is a bit of a furphy here. It was interesting, in his comments previously, the attorney implied that the principles of the FOI Act upheld the notion of frank and fearless advice from officials. There is a lot of convention and understanding about the need for frank and fearless advice in the Westminster system.

I submit to you, Madam Assistant Speaker, that you will not see it referred to in the objects of the Freedom of Information Act. The Freedom of Information Act is about giving access, the widest possible access, to information that is in the public interest. And what Mr Corbell is proposing to do today is contrary to the public interest and is contrary to the objects of the act.

If we as a community go down a path after we have had lengthy discussions, that would be the time to create classes of documents that we cannot even consider as part of the FOI Act. The idea that because something becomes attached to a blue book—and I have prepared incoming government briefs and incoming minister briefs, I have received them as a staffer in a minister's office and seen them, I have received them under the Freedom of Information Act and I know that in preparing incoming government briefs and incoming minister briefs there are attachments which are often everyday pieces of information—and the mere fact that attaching that to an incoming government brief may exempt it forever from the application of the Freedom of Information Act is a path that I am not prepared to go down on the assurance of Simon Corbell that that is a good thing to do.

This man, who says that he is suddenly in favour of reform, has just opened a Pandora's box with this. Every time you put on an attachment, you stick something

on the back of it as an appendix, you will create a situation where you may never be able to even consider the release of that document because it is in a blue book or because it is in a question time brief or an estimates brief. This is not the time for making these decisions. As I have said before, the Canberra Liberals will be prepared to discuss these issues openly and forthrightly in an inquiry and we will take the advice of the inquiry about where we should proceed on this.

**MR RATTENBURY** (Molonglo) (4.29): I say up front that the Greens will not be supporting this proposed amendment by the Attorney-General. I have great trouble accepting the proposition that public servants cannot be expected to be sufficiently professional in their advice, such that their briefings need to be protected from public scrutiny. We all know that particularly defamatory, embarrassing and sensitive information gets transmitted over the telephone or in face-to-face briefings. I would have thought that existing exemption provisions cover anything in these documents that would legitimately be described as being in the public interest to be kept secret.

Incoming briefs which give a snapshot of the state of a ministerial portfolio are exactly the kind of factual information that should be publicly available. I imagine that these briefs would be full of facts and figures, and that is exactly the type of consolidated information that would enable a member of the public to get a good insight into the state of the territory or a particular portfolio and therefore enable them to judge government decisions in light of that more complete and more useful information.

Many of my following comments are relevant to all of the government's proposed amendments which will come up through the course of this debate, and I will make them in one broad statement now. The need for so many conclusive certificate provisions did not occur to the original drafters of freedom of information acts, including those in Australian jurisdictions. That is because they had faith in the many exemption categories and the capacity of the courts and tribunals to review government decisions and identify the public interest and other legitimate grounds for withholding documents. The government has argued strenuously that there are all manner of public documents that should never be released under the Freedom of Information Act and that the Freedom of Information Act cannot be relied upon to ensure that they will not be released.

For the information of members, and members of the public, I am now going to read into *Hansard* the breadth of the existing exemption categories that are available to the government and its agencies when they feel that the public interest would be served by withholding the release of a document. They are numerous, and I cannot accept that they do not provide an adequate balance between the public interest in having access to public information and the public interest in ensuring that public servants in governments feel that they can comment professionally and honestly.

The Attorney-General's in-principle speech gives the impression that, without his amendments, all documents will be released under the FOI Act, without any consideration being given to whether there are legitimate reasons for not releasing them. Given the number and range of exemption provisions, this is a hard argument to accept. The exemption provisions start at section 32 of the FOI Act and, as the list I

am about to go through demonstrates, there is plenty of scope to ensure that, with respect to those documents that perhaps are best kept from public eyes, either for a period of time or forever, there is plenty of scope there already.

Section 32 states that the various exemptions do not limit each other. This means that numerous exemption provisions can, and are, claimed for individual documents. You will see multiple reasons being stacked up there. Section 33 relates to documents exempt under a commonwealth act. Section 34—documents affecting relations with the commonwealth and the states. Section 35—executive documents, and I note this is the principal provision that would be relied upon to withhold cabinet documents. Section 36—internal working documents. Section 37—documents affecting enforcement of the law and protection of public safety. Section 37A—documents affecting national security, defence or international relations. Section 38—documents to which secrecy provisions of enactments apply. Section 39—documents affecting financial or property interests of the territory. Section 40—documents concerning certain operations of agencies. Section 41—documents affecting personal privacy. Section 42—documents subject to legal professional privilege. Section 43—documents relating to business affairs. Section 44—documents affecting the economy. Section 45—documents containing material obtained in confidence. Section 46—documents the disclosure of which would be in contempt of the Legislative Assembly or a court. Section 47—certain documents arising out of companies and securities legislation. And, finally, section 47A—electoral rolls and related documents.

I think members will agree that that is a lot of exemptions. Forgive me for reading them out at such great length, but I think it is important in the context of this debate, where there is some suggestion that, in taking the position that we have, the Greens and the Liberals are creating uncertainty or that they are creating fear in the public service that people cannot be forthright in their advice to government.

Other jurisdictions have far broader release of information provisions than exist even in Australia. Norway and Sweden are amongst the most open societies on earth, and I have not seen any evidence that those societies' governments are unable to operate efficiently. In fact, that part of the world is renowned for its efficiency.

I suspect the Labor government's attempts to be allowed to operate in secrecy are based on a lack of confidence in the professionalism of their own public servants. I can only speculate that that is the reason, because I have not heard a better one. And they are possibly even a hangover of the last term of government, where they were able to do whatever they pleased.

It is for those reasons that I will not be supporting this amendment. If the minister has better arguments than those contained in portions of a single Queensland FOI review paper—and I think Mrs Dunne's comments just now were also very useful in enlightening us in the context of that review paper—then he will be free to present those arguments to the justice and community safety committee, where I believe the inquiry will take place, when we look at the necessary review of the territory's freedom of information laws.

I will now refer to proposed section 11(1B)(b). Appropriation decisions are arguably one of the most important decisions the government makes. How public money is



spent is central to the operation of the government. The basis on which spending decisions are made is something the public has every right to be made aware of. The reasons for government spending decisions, and the actions of their agencies, is something that the government should want everyone to be aware of. Debating the merits of such decisions is a central function of the Assembly and its members.

If there was a situation where it was not appropriate, it would already be covered by the existing exemptions. It is undeniable that there are serious problems with the way FOI has been managed in the ACT, and it is disturbing that we have not heard any acknowledgement of these problems by the government in the debate today. The Auditor-General's FOI report into the administration of the FOI Act last September confirmed that various agencies failed to provide adequate reasons statements, failed to find and release all relevant documents, failed to adequately record their decisions and failed to comply with the requirement to keep their registers up-to-date under section 8 of the FOI Act. That is a very disturbing set of findings from the Auditor-General.

TAMS in particular was exposed for having seriously substandard FOI processes. It is disturbing that all the agencies audited appeared to use high-level managers or senior executives to process any FOI requests that have political implications. Presumably, they are chosen for their political skills. While the government may try to justify this practice by saying that senior officers should make these kinds of decisions, there is sufficient evidence that FOI decisions have become improperly politicised. Under majority government, some FOI requests seem to have become exercises in political damage control. It may be that more training needs to be given to help FOI officers to understand the intricacies of the exemption provisions of the act.

The FOI decision letters that accompanied the documents released in response to Mr Seselja's request for information about the data centre last year revealed that some agencies at least elevated their duty to protect their minister or the Chief Minister above their responsibility to ensure the fullest possible release of relevant information. Despite the government's denials, it certainly looked as though FOI officers were responding to political pressure or were at least very inconsistent and failed to make their case when it came to making decisions about not releasing documents.

The Greens went into the election promising to review the FOI regime in the territory and committing to enhancing the quality of governance in the ACT. I cannot accept that the attorney's proposed amendments would not be contrary to this stated aim; therefore the Greens will not be supporting the proposed amendments.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.39): I am disappointed that Mr Rattenbury chooses to shoot the messenger when it comes to opinions that he does not agree with. We heard that where he and Mrs Dunne effectively sought to discount the very substantive and authoritative review undertaken by Mr Solomon, on behalf of the Queensland government. That review has been acknowledged as the most contemporary, relevant, up-to-date and considered review of the operation of FOI law by academics, policy makers and right across a range of stakeholders, governments and other entities in Australia.

To suggest that this is some sort of knocked-together, nobbled review, as suggested by Mrs Dunne and Mr Rattenbury, really does them a great disservice. This is recognised as the most authoritative and contemporary review to date. I would draw to the attention of Mrs Dunne and Mr Rattenbury the comments made by Mr Solomon in the review when it came to these types of documents that we are talking about. I want to read some of the review for the information of members. Mr Solomon said:

There would be a real governance problem if the FOI law was to inhibit the free and frank provision of *information* by officials to Ministers.

He goes on to say:

In New Zealand, where the disclosure of such information is apparently quite common—

through the Official Information Act—

a recent study by Nicola White suggests, nevertheless, that some negative effects have emerged.

He goes on to quote Nicola White, who wrote *Free and frank—making the Official Information Act 1982 work better*, Institute of Policy Studies in New Zealand. She said:

It is also evident, however, that the openness has come at a price. Papers are written differently; if it is obvious that a paper will become public, it will inevitably be written with an eye to a public audience. The processes adjust to reflect the new reality. A Cabinet paper that will be released within hours or days of the decision being made is unlikely to be a vehicle for a full and free advice. Rather, it is likely to be an exposition of the reasoning behind the decisions the government is making. Similarly, now that it is customary for post-election briefs—

incoming government briefs—

or briefings to incoming ministers, to be published fairly quickly, their content has become largely anodyne. It is not conducive to building effective working relationships to greet a new minister with a document that is about to [be] published that contains political bombshells.

That is the end of the quote from White. Solomon goes on to say:

Nor, it must be said, is the building of effective relationships between Ministers and officials likely to be encouraged if a minister decides to release or leak political bombshells that their officials have documented, even where they reflect on a previous administration. Again, they may make officials less likely to give Ministers the full benefit of their departmental experience.

Nicola White interviewed many public servants in preparing her review of the Official Information Act in New Zealand, where provisions exist for these documents that the

government is seeking to protect to be made available. Of her interviews with her interviewees, she said that many of her interviewees:

Encountered reluctance to write down “wild ideas” before testing them at the political level, because the political cost of defending them if they turned out to be flawed was too high. The reason why this defensive behaviour is now widespread is simple: people do not perceive the protection provided by the relevant grounds in the Act as reliable or effective. Time and again, people comment informally that a good public servant will not write anything down that could not be released under the OIA (at least in terms of these withholding grounds). While it is possible that the withholding grounds might apply (and some argue that in general they do eventually protect what needs to be protected), most people consider the arguments too difficult and time-consuming to make.

Solomon goes on to say:

“Anodyne” information, as White describes it, is not the kind of information that Ministers want or need from their officials. If Ministers are to be “accountable to the Crown, the Parliament, and ultimately the electorate”, they must know what is happening within their particular areas of ministerial responsibility. This is not just about accountability: it is about better government that comes through accountability. It is also important that Ministers be briefed to the point where they will not, through ignorance, give misleading information to Parliament, particularly during question time or during the conduct of its estimates committees.

In conclusion, here is another quote from Solomon which I think is particularly relevant in this debate:

... a Minister cannot be responsible for his portfolio if he or she does not know what is happening within his or her department. Ministers need to be briefed about what their departments are doing, what problems exist and how they are being dealt with. Unless they know, democratic accountability is a sham. Ignorance should not be an option if government is to operate responsibly.

That is what this debate is about. I think Solomon and White outline the arguments strongly and coherently as to what is at play in permitting the Freedom of Information Act to apply to this very limited number of documents.

I am disappointed that the Greens and the Liberals have chosen to ignore these quite considered and reasoned arguments. Indeed, they have not put up any compelling argument as to why those assertions, as outlined in the Solomon review, do not apply here in the ACT.

The changes that are proposed are to a very limited range of documents—incoming government briefs, briefs for estimates and annual reports hearings, and briefs for question time. And those three classes of documents are fundamental if ministers are to properly account to the parliament and its committees for their actions and the work that they are entrusted to do. Equally, they are fundamentally important if the ministers are to properly do their job as ministers and ensure that their portfolios are

run in an appropriate and proper manner, and in a manner that advances the public interest.

Those are the issues that are at play. That is why the government is proposing these changes. Again, this is not a radical change. This is not a provision that will inhibit people's ability to obtain information, but it will ensure that ministers are able to do their job properly, account to parliament properly and account to parliament's committees properly. That is why the government is proposing these amendments.

Question put:

That proposed new clause 3B be agreed to.

The Assembly voted—

Ayes 6

Noes 9

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

Question so resolved in the negative.

Proposed new clause 3B negatived.

Clause 4.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (4.50): The government will be opposing this clause [*see schedule 1 at page 707*].

I would like to add some discussion as to why the government will be opposing this clause. This clause removes section 34 conclusive certificates at this time. Section 35 protects the commonwealth-state relations. There is an existing protection in the FOI act to protect security of information, and I note that Mrs Dunne does not propose to remove that. But this section deals with communications between the territory and other state and territory governments and the commonwealth government. These communications may include matters of a security nature which do not meet the threshold requirements of the provisions of section 37A.

An exemption under section 37A relates to documents the disclosure of which would or could reasonably be expected to cause damage to security or defence of the commonwealth, territory or state or the international relations of the commonwealth. Some security matters may not meet the threshold of this test but, nevertheless, may be information about security which communicated in confidence by the commonwealth, a state or a territory to the territory. The removal of conclusive

certificates in these circumstances also poses a significant risk to the free flow of communication if the commonwealth and other states cannot pursue it on protection.

I think that is the fundamental issue at play here. The Assembly, in supporting Mrs Dunne's amendment—if that is what occurs, and I understand that that is the position of the minor party and the opposition—puts at jeopardy the ability for the territory to receive communications from the commonwealth and other states and territories. It is not in the territory's interest to damage good relations with other jurisdictions.

At this time, given the state of flux of FOI legislation across Australia, particularly the commonwealth, it would not be prudent to change the protections of this provision at this time. I note that the commonwealth bill and the reforms proposed by Senator Faulkner in relation to the removal of conclusive certificates proposes the exclusion from coverage under the commonwealth FOI legislation of documents produced by a range of organisations involved in security matters. Those communications from those organisations to states and territories such as the ACT would otherwise be captured by the provisions that Mrs Dunne proposes to remove.

The commonwealth itself proposes in its reforms—the reforms Mrs Dunne accuses us of not mirroring—protections for communications from those types of commonwealth agencies which are most likely to communicate with us and provide us with information and communications which would be protected under the provisions that Mrs Dunne is proposing to abolish. That is of concern to the territory; it is a concern to the government, and we would argue that it is not in the public interest.

As I have outlined, there is a high threshold test in relation to matters of a security nature which would cause damage, but then there are other communications which would also potentially be put at risk if they are not appropriately protected. We would argue that in those circumstances there should be protections in relation to those types of communications. Mrs Dunne's amendments go too far, and they are not in accord even with the reforms proposed by the commonwealth.

It is for those reasons that we believe this clause should be opposed. Protection should remain in place for communications between the states and the territories and the commonwealth and the ACT. This provision needs to be retained for that purpose.

**MRS DUNNE** (Ginninderra) (4.55): The Liberal opposition will be opposing this amendment because it is contrary to the spirit of the FOI reform that we have embarked on. After the Stanhope government put at risk the relationship between the ACT and the commonwealth during the last Assembly, it is priceless that they could come in here and say we must do everything we can to maintain our relationship with the commonwealth. If we have a bad relationship with the commonwealth, the blame for that lies fairly and squarely at the feet of the Chief Minister, who betrayed the trust of the people who communicated with him in confidence. He put a confidential document on a webpage for all to see, and in so doing he diminished himself. No other action carried out by any other member of the ACT Legislative Assembly could do more to diminish our status and diminish the reputation of the ACT in the eyes of federal public servants.

As a result of the Chief Minister's actions, we now have the high irony of the Attorney-General coming in here saying that we must be mindful of our relationship with the commonwealth. Well, they should have thought about that back when the Chief Minister betrayed the trust that he did. The Canberra Liberals will maintain the trust with the community by proceeding with our legislative reform. As a result of that, we will not be supporting this amendment.

**MR STANHOPE** (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Indigenous Affairs and Minister for the Arts and Heritage) (4.57): I must respond to this notion of me betraying trust and doing outrageous things. I am stunned.

**Mrs Dunne**: Are you debating the amendment?

**MR STANHOPE**: Well, I am responding to the debating points made in terms of the government's position and the government's position actually being pilloried on the basis of the decision I took some years ago to make publicly available a template draft of anti-terrorism legislation to which we were a party and for which the commonwealth was seeking our approval.

**Mrs Dunne**: On a point of order, Madam Deputy Speaker, the issue at debate is whether or not we should accept the Attorney-General's amendment. The comments I made obviously got under the Chief Minister's skin, but he cannot actually go back and address the issues about what he did, unless he is prepared to do it in the context of the amendment that we are debating. At the moment he is not being relevant; he is just going on about his track record.

**MR STANHOPE**: On the point of order, Madam Deputy Speaker, I am actually responding to points made in debate by Mrs Dunne. If Mrs Dunne's justification for the Liberal Party's position in relation to an amendment is my behaviour in relation to a piece of terrorism legislation which I publicly released, she cannot stand up now and say that I cannot refer to the issue which has driven her position of principle in relation to this particular amendment. You cannot say, "I am going to argue my case on the basis of this point, but you can't argue your case on the basis of exactly the same point." The point of order is absolutely spurious, as are most of Mrs Dunne's points of order.

**MADAM DEPUTY SPEAKER**: Mrs Dunne, what we are discussing is the documents affecting relationships with the commonwealth and states. Mr Stanhope can proceed; there is no point of order.

**MR STANHOPE**: Mrs Dunne displays the most appalling double-standard hypocrisy in suggesting that she can argue a point around relationships on this particular issue but I cannot.

It is quite interesting to see what has happened as the onion layers peel off, particularly with regard to Mr Hanson and his presentation on his first day here as the new progressive. The onion layers are unravelling. We get to the issue of terrorism

and the right of people to know the nature of legislation that is being brought to bear across the nation, in a cooperative, consultative way, amongst all the members of the nine governments. You need to understand the process.

Draft legislation was prepared as a template and presented to each of the states and territories as legislation which they might wish to adopt as part of the process of referring power to the commonwealth. You need to understand what the legislation was. It was not commonwealth legislation; it was template legislation prepared as a model by which the states and territories would refer power in relation to certain judicial issues and certain responses to terrorism to the commonwealth. It was our legislation; it was not the commonwealth's legislation.

You are under a misapprehension. The legislation was state and territory legislation. The legislation was prepared as a template, a model which the states and territories might wish to pursue in their transferral of power to the commonwealth. I, as the Chief Minister and head of this government, said, "Well, I'm not prepared to agree to this regime in relation to terrorism without the people of the ACT having some opportunity to review the nature of the powers that I might refer or agree to refer." Here we have today the new progressive, Mr Hanson, standing up and saying, "Well, this is outrageous. This is a betrayal of faith and of trust."

There is apparently no way Mr Hanson would take into his trust the people of the ACT in relation to something as benign, according to Mr Hanson, as anti-terrorism legislation which, in the way it was drafted, breached just about civil liberty and human right known to man. As a result of its release by me, the commonwealth and every other government in Australia wound back the extent to which their legislation or their response breached civil liberties and human rights. I am enormously pleased with the result of the release of that particular legislation by me.

Nonsense is now being perpetrated that I in some way put at risk the territory's relationship with the commonwealth. How dare I consult with the people of the ACT and let them see a piece of legislation? I am stunned that, in the context of an argument in relation to a more progressive approach to freedom of information, I am being pilloried for releasing information. My release of information is being used by the Liberal Party in this place as an argument against the government in relation to the release of information.

Despite the nonsense of double standards and the pure ignorance of the Liberal Party's position in relation to this, it is interesting that the onion layers actually peel. We have seen in the last week or so sexist comments by Mr Hanson, and today we have seen, as the layers unravel, his embracing of John Howard's attitude to civil liberties and human rights as expressed through his approach to the territory legislation. Rubber stamped and endorsed by Mr Hanson today is this: "I support the John Howard way in relation to civil liberties, human rights and anti-terrorism legislation."

**Mr Hanson:** Talk about FOI, not about security legislation.

**MR STANHOPE:** Actually, you raised this subject. The issue of the release of the terrorism legislation was raised by you. This was a piece of draft legislation provided

to the states and territories for consideration as to whether or not it would be supported and embraced and used for the purpose of referral of powers. To that extent, it was my legislation to do with as I chose, and I chose to take the people of Canberra into my confidence. I am really pleased that I did.

**MR RATTENBURY** (Molonglo) (5:05) Madam Deputy Speaker, can I just clarify the question? I believe the Attorney-General is moving to delete clause 4 proposed by Mrs Dunne.

**MADAM DEPUTY SPEAKER:** The question is that clause 4 be agreed to.

Clause 4 negatived.

Proposed new clause 4A.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (5:05): I move amendment No 4 circulated in my name which inserts a new clause 4A [*see schedule 1 at page 708*].

For the information of members, this is a consequential amendment which is required following the passage of amendment No 1 just circulated in my name. This amendment simply inserts a title to the appropriate section of the act recognising that the cabinet notebook is excluded.

**MRS DUNNE** (Ginninderra) (5:06): I was not going to oppose this because it is consequential. It is not necessary that this note go in, but it does not worry me one way or the other. However, I just draw to the attention of members that there is an inconsistency, because new clause 3A that has been agreed to refers to:

... a notebook or similar document (the *Cabinet notebook*)—

Here the note refers to a “cabinet handbook”. I do not know what the implication of that difference in terminology is. I was not going to oppose this new clause, but unless someone can give me a good reason why there is a difference in the terminology, I will be opposing it.

**MR CORBELL** (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (5:07): I apologise, Madam Deputy Speaker, for that inconsistency. Unless you are able to give me a moment to consult with my officials, I am not in a position to give an answer.

**MADAM DEPUTY SPEAKER:** We will just take a moment and stop the clock so the Attorney-General can get some clarification.

**MR CORBELL:** I am advised that it is a typographical error; it should be “notebook”, and I would seek the leave of the Assembly to omit the word “handbook” and replace it.



Leave granted.

**MR CORBELL:** I move:

Omit “handbook”, substitute “notebook”.

Amendment to amendment agreed to.

Proposed new clause 4A, as amended, agreed to.

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

**MRS DUNNE (5.08):** I wish to thank members for this important reform and to congratulate my colleagues and the members of the crossbench for their persistence in this reform. I commend to members of this place and the members of the public the forthcoming inquiry so that we can pursue this reform further. This is a great day for the territory. I am proud of my association with it, and I commend the bill to the house.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

## **Freedom of Information Amendment Bill 2008 (No 2)**

Debate resumed from 11 December 2008, on motion by **Mr Corbell:**

That this bill be agreed to in principle.

Question resolved in the negative.

## **Education—language**

**MS PORTER (Ginninderra) (5:12):** I move:

That this Assembly:

- (1) notes that the ACT Government recognises the importance of language education and supports diversity in our community; and
- (2) recognises the importance of the United Nations International Mother Language Day on 21 February 2009.

I am pleased to move this motion today in support of the United Nations International Mother Language Day to be celebrated on 21 February. Recently I had great pleasure launching the National Multicultural Festival on 30 January on behalf of the Minister for Multicultural Affairs, Mr John Hargreaves. I have enjoyed attending this year’s festival so far. As we know, the festival is a great example of the way we value our diversity in the ACT. Importantly, as we approach 21 February, we must recognise the importance of language education in supporting that diversity.

The latest curriculum framework for ACT schools identifies the value in cultural and linguistic diversity in society as an important element of intercultural attitudes and values. I note that 60 per cent of primary schools in the ACT have a language program, with a focus on eight languages. As part of the multicultural strategy, all public schools will be required to implement a language program in years 3 to 8 by the end of 2010.

Language programs in the ACT public schools focus on the teaching of four European languages—French, German, Italian and Spanish—and four Asian languages, Indonesian, Japanese, Korean and modern Chinese. “Leading 21st century schools: engage with Asia” was an initiative introduced in 2008 which provides professional learning opportunities for principals as part of a national program coordinated by the Asia Education Foundation. Many ACT teachers attended the ACT Studies of Asia Annual Conference, further developing their understanding of teaching Asian languages.

It is important that our young people grow up with a knowledge and appreciation of other languages and cultures. This not only helps them in their understanding of the world they live in and gives them an invaluable skill; it also enhances their future work opportunities.

The government is implementing an internationalisation strategy that assists local businesses to respond to market opportunities. Having access to a broad base of bilingual locals in our workforce would, I believe, positively impact on such a strategy. However, there is merit in learning languages that goes beyond that. There is obvious merit in committing resources to European and Indigenous languages as well as Asian languages.

The holy Roman emperor Charlemagne, believed to be responsible for founding the first university, once said, “To have another language is to possess a second soul.” Despite his infamously clumsy handwriting and his minimal level of literacy, he was a talented linguist. Not satisfied with speaking his native language with unparalleled eloquence, he was also conversant in Latin and possessed a deep understanding of Greek in an age when kings and rulers were famously unable to read or write even in their mother tongues.

While English is the working language of our country, there is no reason why those coming from a background whose mother tongue is not English should not develop their proficiency in more than one language. It has been proven that literacy in one’s mother tongue facilitates becoming literate in a second language. For those Canberrans who speak a language other than English but are not literate in their mother tongue, reaching a strong level of literacy in English can be problematic. Greek Australians are one of the top five culturally diverse groups residing in the ACT, so it is significant that Greek is taught at Lyneham primary school.

Language is not static but in a constant state of gradual change, highly susceptible to both internal dynamics and external influences. In 1994, legislation was implemented in France to protect the national language. The law was the modification of an act that

had been in place since the 1970s aiming at protecting their beautiful language by mandating the use of French language in governmental publications, advertisements and a variety of other contexts.

The Czech Republic, Poland and Hungary followed suit and implemented similar laws, conscious of the threat to their respective cultures and a dilution of their language. In a period of ongoing regional, economic and political integration, language is a layer of cultural independence well worth protecting. Mahatma Gandhi once said:

I do not want my house to be walled in on all sides and my windows to be stuffed. I want the cultures of all of the lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any.

Here in the ACT we are part of a young, dynamic culture, but we should not overlook the importance that language plays in culture.

Languages generally are dying out at a rapid rate. A reduction in the number of living languages seldom generates much passion outside the culture whose own language is under threat. One language is lost every couple of weeks and there is much evidence to suggest that over half of the 6,000-odd existing languages will not survive the 21st century. Aboriginal Australia has a rich linguistic heritage. The ability to speak the language of a particular place makes you known and familiar to the local peoples. I have been told that members of some small societies in Arnhem Land speak six or seven languages by the time they reach adulthood. Sadly, the number of living Indigenous languages has been reduced from between 350 and 700 languages in the 18th century to fewer than 150 languages now. And all but 20 of those are endangered.

Across Australia, the Department of Education, Employment and Workplace Relations recently identified over 16,000 Indigenous students and 13,000 non-Indigenous students located in 260 Australia schools who are involved in Indigenous language programs. Most of these students are located in government schools in the Northern Territory, Western Australia, New South Wales and South Australia. About 28 per cent of the programs are first language maintenance programs. They include bilingual programs undertaken by students in the early years of schooling.

The ACT government has ensured that facilities are available to community groups for language teaching and that schools are supported in their endeavours to provide students with an understanding of an Indigenous cultural heritage across all curriculum subject areas.

On 4 December last year, I attended the 30th anniversary celebrations of the Kaleen high school. With the minister for education, Mr Andrew Barr, I saw the acknowledgement of a new cluster that had been formed. The cluster is an attempt to acknowledge the status of the Australian Indigenous people as the traditional custodians of this land as well as the contribution that they make to modern Australian society. Kaleen high school and other schools in the cluster officially recognise the impact of history on Indigenous Australia. Ongoing support for teaching Aboriginal languages will further strengthen the culture of the traditional custodians of these lands and inspire greater cross-cultural understanding in our community.

Late last year I also attended the graduation of the Giralang primary school year 6 class and witnessed first hand the result of the language and cultural education the students of this school are now experiencing. This is expressed through dance, song, music, art and storytelling.

When a language dies out, more than a means of communication is lost. A central feature of a culture is lost with it. In turn, that threatens the existence of that particular culture and, by consequence, humanity's cultural complexity, diversity and variety. It also means that a source of human experience and knowledge is forever lost.

Those cultures at greater risk are often those who were slowest to adapt to a different way of life such as our so-called modern civilised society. Those same cultures that were cultivated over many centuries have a deep attachment to their environment and carry with them a unique understanding of nature. Perceptions and observations are richly interwoven through centuries of knowledge passed on from one generation to the next, often through speech alone. Each plays its part in broadening an understanding of nature.

I have mentioned before in this place how the Indigenous people that I lived with over 12 years interpreted their world through dance, music, art and speech. There was no written language when I was at that place. As each language dies, a chapter in human history goes with it, and knowledge that is so desperately needed to placate and then reverse modern society's destructive impact on our shared environment quietly makes its exit.

Retaining proficiency in one's mother language does not compromise the position of English as our official working language. As I have highlighted, there are sound economic and social arguments which support the teaching of a second language as well as the retention of mother languages in our community.

There are sound economic and social reasons to support language teaching in the ACT. Increasing the level of language proficiency in our workforce will allow local businesses to respond to market opportunities irrespective of their source. Knowledge of foreign and Indigenous languages will also increase our collective understanding of and appreciation for the cultural diversity of our city. At the moment we are seeing one example of the cultural diversity of our city through our multicultural festival, as I mentioned before.

In recognition of the desirability of language proficiency in the territory, the curriculum framework for ACT schools offers a path to bilingualism for young Canberrans. For Indigenous persons in the ACT, retaining a level of proficiency in an Indigenous mother language is to retain a link with past generations while keeping the culture strong for future ones. This is extremely important and I am sure that you would all agree about that.

I am happy to support the United Nations international day of mother languages and I encourage the government to continue to support the teaching of foreign and Indigenous languages in schools and, of course, the teaching of foreign and

Indigenous cultures throughout our schools. I encourage our members to continue to participate in the multicultural festival, where we experience many cultures and many languages.

**MADAM ASSISTANT SPEAKER** (Mrs Dunne): Mr Hargreaves, I gather that there is agreement that you should speak next because of your commitments.

**MR HARGREAVES** (Brindabella—Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections) (5.23): Thank you. It is, I believe, a convention that the minister would normally follow anyway, but I thank members for their indulgence and also, in anticipation, for their support for the spirit of International Mother Language Day. I also thank Ms Porter for bringing the subject to the attention of the Assembly.

Celebrating and acknowledging International Mother Language Day on 21 February is important for the ACT. I have often thought that it is a shame when we hear stories about children being unable to communicate with their grandparents because they do not speak the language. It is sad that, due to the absence of linguistic diversity, cultural, historical and family stories, ideas, thoughts, reflections and experiences can be lost to present and future generations.

A number of factors have contributed to the slow death of many mother languages. These include population movement and migration, local political situations, colonialism, economic necessity and the passing away of elders in communities.

Some of the statistics are quite sobering. Facts compiled by UNESCO show the following statistics. Eighty per cent of African languages have no formal written form. For the less prevalent dialects, this means that, when the last speakers of these dialects die out, that language is silenced forever. Seventy-five per cent of Brazil's languages, 540 of them in all, have died out since Portuguese colonisation—silenced forever. Fifty per cent of the world's languages are found in just eight countries: Papua New Guinea, Indonesia, Nigeria, India, Mexico, Cameroon, Brazil and Australia. Australia is in the eight.

UNESCO says that 90 per cent of Australia's Indigenous languages, and there are about 250 of them, have died out since European colonisation—silenced forever. My office asked Kerry Arabena, who is the Acting Deputy Principal, Collections, in the Australian Institute of Aboriginal and Torres Strait Islander Studies, about this. She said:

The situation of Australia's languages is very grave and requires urgent action.

Of an original number of over 250 known Australian Indigenous languages, only about 145 Indigenous languages are still spoken and the vast majority of these, about 110, are in the severely and critically endangered categories.

The 1961 census in India recognised 1,652—this number staggered me—different mother languages in that country. The census of 1991 showed that it was down to 1,576, a loss of 76 languages over 30 years or approximately one every five months. I

would like to mention some stats from that 1991 census in India. In the three languages Godwari, Khamyang and Great Andamanese, there were respectively only 61, 50 and 24 persons in the census who identified as being speakers of that language. Imagine that: 24 people are the only people on earth left speaking a particular language. It saddens me to think that these languages will probably disappear, along with the 105 indigenous languages that will disappear forever—silenced forever.

This day is celebrated to promote the value of mother tongues and encourage linguistic diversity and multilingual education. In acknowledging the value of International Mother Language Day, I would like to reflect on the fortunate situation we have in the ACT, where languages and the teaching of languages is a key priority. Section 27 of the Human Rights Act 2004 recognises that anyone who belongs to a linguistic minority must not be denied the right, with other members of the minority, to use his or her language.

The need and value of this legislation is reflected in the fact that, according to the 2006 census, approximately 100 different languages are spoken in the ACT region. People have settled in the ACT from all over the world. Again according to the 2006 census—this is also a bit of a surprise—the top three non-English-speaking countries of origin for Canberrans born overseas are India, Germany and China. I note from the 2006 census, though, that Italian, Mandarin and Vietnamese are the three most spoken languages in the ACT after English. The two do not match. It is new year, so I might say “Gong xi fa cai”, the Mandarin version; “Chuc mung nam moi”, the Vietnamese version; and “Buon anno”, the Italian version. Maybe Madam Assistant Speaker Dunne would like to say “happy new year” in Italian, because she is a better Italian speaker than I will ever be.

In recognition of 2008 being the International Year of Languages and in response to community consultation, there was a focus on languages and language policy at the multicultural summit held in August last year. The language policy workshop provided a forum for many members of the multicultural community to raise issues with me as Minister for Multicultural Affairs and with my colleague the minister for education, Mr Barr. The overarching message that came through loud and clear from the community consultation was that, following the International Year of Languages slogan, languages matter in the ACT. Indeed, the 2008 multicultural summit reflected that second and multiple languages are of concern and value to both multicultural community groups and this government.

International Mother Language Day aims to increase awareness about the linguistic and cultural traditions throughout the world and to inspire solidarity based on understanding, respect and dialogue. The ACT government recognises that having people with the ability to speak more than one language is an asset for the ACT. Such language skills contribute to the maintenance of culture and identity and foster diversity and a vibrant community.

At this special time of the year, with the annual National Multicultural Festival, it is clear that a diverse and vibrant community is one that Canberrans desire to be nurtured. Despite the trying circumstances of the heat, a record estimated 75,000 people attended on the opening day of the festival. As I wandered around, I

wanted to acknowledge the presence of Mr Doszpot and Mr Coe, who I saw sweating profusely at various spots—as indeed I was myself. I would like to put on the record that I acknowledge their presence.

This suggests that there is a widespread appreciation of cultural and linguistic diversity in our community. The ACT government is dedicated to promoting this throughout the community. The multicultural strategy has proven to be a solid mechanism for this over the years. I am sure that the 2009-12 multicultural strategy will steer cultural and linguistic affairs over the coming years.

It is with pride that I mention that the invaluable community consultation at the 2008 multicultural summit formed the basis of the language policy section of the draft ACT multicultural strategy 2009-12, which is currently out for further community consultation until 20 March. The ACT government's commitment to the teaching of a second language is reflected in the draft multicultural strategy, as I have just mentioned. It is our commitment reflected there.

I would like to emphasise this commitment today. The ACT government considers language education to be an essential part of preparing students for life in the 21st century. The ACT maintains that all children in the ACT have access to quality language programs to enable them to further develop the language skills they bring to school from their homes. Accordingly, the ACT government will continue to strongly support the learning of other languages through mainstream and ethnic schools.

I could speak for many more minutes, given an opportunity, but I would like to make a final point—and I think I can speak on behalf of the Assembly here, not just the government. We are about preserving the language of the family, the language of the kitchen, while ensuring proficiency in the language of commerce and international competition. I urge members to support the motion.

**MR DOSZPOT** (Brindabella) (5.33): Madam Assistant Speaker, with your indulgence and in the spirit of United Nations International Mother Language Day, I would like to speak to Ms Porter's motion partly in my mother language. A magyar nyelv Magyarország hivatalos nyelve és az Európai Unió hivatalos nyelveinek egyike. Ezenkívül a magyar az egyik hivatalos nyelv a Vajdaságban, valamint Szlovénia három közsegeben—Dobronak, Orihodós és Lendva. A magyar nyelvet a világ nyelveinek sorában a 62. helyre teszik az anyanyelvi beszélők száma szerint. Európában a 14. legnagyobb nyelv.

For those of you who cannot speak Hungarian, what I spoke about was: basically, the Hungarian language is the official language of Hungary and one of the official languages of the European Union. It has long been of great interest to linguists as one of the small number of modern European languages that do not belong to the Indo-European language family.

On a serious note, I do welcome the opportunity to speak to Ms Porter's motion today. The opposition shares the government's recognition of the importance of United Nations International Mother Language Day, as, hopefully, my opening statement about Hungarian language indicates. We cannot underestimate the significance of preserving our linguistic heritage and diversity.

In 1999, UNESCO proclaimed 21 February International Mother Language Day, a day to celebrate and promote mother tongues and multilingual education, a day to celebrate the world's nearly 6,000 languages as shared heritage of humanity and a day to preserve the linguistic traditions throughout the world that may be in danger of dying out. Linguists in fact have been alerting the international community that at least 40 per cent of these languages are expected to die out during this century. Our own Indigenous languages are not immune to this threat.

I also note that, as part of International Mother Language Day, on 21 February 2008, there was a national Indigenous languages forum held in Canberra by the Federation of Aboriginal and Torres Strait Islander Languages, FATSIL. The forum concluded in Canberra on Friday, 22 February 2008. I commend their website—[www.fatsil.org.au](http://www.fatsil.org.au)—for further information.

In the wording of her motion, Ms Porter notes that the ACT government recognises the importance of language education. Indeed, I understand that the importance of language education was a major concern of those attending the multicultural summit held in August last year and it is encouraging to see that this issue is at the forefront of the recently released draft multicultural strategy 2009-2012.

By celebrating International Mother Language Day, we are also striving to contribute to the protection of the world's cultural diversity. I quote from David Crystal, one of the world's foremost authorities on language, about the importance of language diversity and the need to preserve languages that are in danger:

Language diversity is the equivalent of human diversity. The human race has been so successful on the planet because of its ability to adapt to an enormous range of circumstances. I think language is the intellectual equivalent of our biological capabilities. It's so important, first to be able to keep our minds busy, as it were, and one of the ways in which we can do this is by seeing how each language captures a vision of the world in a different way. Every time we lose a language, we lose one vision of the world.

On the local front, here in Canberra, I am also aware that there are many small community groups who consistently fail in their attempts to secure funding through the grants process. Language programs are vitally important for the smaller groups, particularly in the case of the smaller African and Pacific Island communities, in order to maintain their cultural heritage and identity. This is even more important in the case of our younger members of the community who are in danger of losing some of this cultural identity.

The issue of language education was at the forefront of the opposition's multicultural policy in the lead-up to last year's election. We do recognise that an additional \$50,000 per year at least is needed to double the funding for the ACT community languages grant program and we do recognise that broader criteria are needed to improve the community grants distribution process to ensure that these smaller community groups do not miss out on crucial funding.

I do hope that this is another of the opposition's policies that will be copied by the government and I do urge the government to act to ensure there is a significant



improvement in the way we assist our communities to preserve their linguistic and cultural heritage.

**MS HUNTER** (Ginninderra—Parliamentary Convenor, ACT Greens) (5.38): I would like to thank Ms Porter for bringing this issue to the attention of the Assembly. Language education provides necessary skills for the 21st century, promotes understanding of ourselves and others, opens the mind and our imagination and improves literacy, cultural understanding and our ability to communicate.

The ACT Greens are committed to encouraging and supporting culturally and linguistically diverse communities. During this sitting week we have put questions on notice to the minister for education regarding the schools languages program. Past ACT Greens members, most recently Dr Foskey, have been vocal in calling for increased commitment to comprehensive and dynamic language education.

I would like to acknowledge that the ACT government is taking steps towards improving language education, primarily through the draft multicultural strategy 2009-2012 and increasing funds to the grants programs, which are welcome.

Having had preliminary discussions with some of the relevant community groups, such as the University of Canberra and the Canberra Multicultural Community Forum, my office and Ms Bresnan's office have been advised that discussions between the government and the community continue. That said, I have also been advised that there are still some things that could be improved.

The government's position on the language policy and the multicultural strategy, while encouraging, does not facilitate coordination of current language education programs within the ACT. Representatives from the community have informed me that, with greater synchronisation, the resources we currently have in ACT schools and in the community could be better utilised to offer more comprehensive and engaging language education programs.

Greater cooperation and recognition between ACT schools and the community-based, ethnic, Saturday-type schools could result in the mutual recognition of course programs and lessen the pressure on the ACT school system. Greater coordination would also serve the departments of education, Disability, Housing and Community Services and Territory and Municipal Services, as they have key roles to play in this matter and a centralised, coordinating instrument would be beneficial to ensure that programs are implemented and monitored.

I would like to reiterate past Greens MLAs' calls for a stronger commitment to interactive and comprehensive language teaching. Our language teachers need the flexibility and conditions to develop their skills and to indulge their students. Australia, including the ACT, has a decreasing number of students studying languages; yet it is well established that being able to speak two languages has positive effects on an individual's overall learning ability and their capacity to gain additional language skills in the future. More generally, both the commonwealth and the ACT government have acknowledged that possessing the ability to speak more than one language is an invaluable skill for the 21st century; yet our multilingual

community is not always highly valued and language teaching is not sufficiently supported.

Our community school teachers need opportunities to develop their skills, to train in new teaching methods and ways to engage their students. Our education systems need school principals and decision makers to give a focus to languages and cultural development as key curriculum areas. It is particularly unfortunate that the ACT curriculum framework does not encourage the learning of an additional language as a desired outcome for our students. We need quality, sustainable programs which increase student participation and retention.

The ACT government's current commitment for students to have languages classes for 60 minutes a week is an insufficient time allocation to effectively engage students and is a disincentive to language teachers. I ask the ministers for education and for multicultural affairs to continue discussion with the community and to progress programs and policy with the expectation that all students will learn more than just a few words of another language.

United Nations International Mother Language Day on 21 February gives us the opportunity to highlight the diversity in the Canberra community and to recognise the benefits of bilingual and multilingualism. Remaining fluent and literate in your mother tongue can increase literacy in English and of course has benefits beyond pure language retention.

The multicultural community in Canberra is vibrant and dynamic, as we have seen at the recent National Multicultural Festival. We have many native speakers and people interested in educating others about their culture and language. We need to utilise this strength and enthusiasm to ensure that our non-English-speaking and English as a second language speakers feel involved in all aspects of ACT community life. We must also ensure that the English as a second language programs currently offered by the ACT government are accessible to all, including those from low socioeconomic households and those in outer suburbs.

The draft multicultural strategy mentions that the ACT government will also explore the viability of establishing language learning centres, to enhance the efficient use of resources for the face-to-face learning of community languages. I would be interested in seeing the plans for these centres, how they will work, whether they will include adult education and who will be involved.

Ms Porter has introduced an important topic today by moving this motion, during a week in which thousands of Canberrans have enjoyed celebrating so many different cultures and the richness that that brings to our community. The ACT Greens recognise the importance of language education and cultural diversity and will continue to encourage the ACT government to further enhance language education, whether it is delivered to school children or adults.

**MR BARR** (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (5.44): I firstly thank Ms Porter for raising this important matter. I also

thank other colleagues for expressing their support for the motion and for raising a number of issues that I think it is appropriate I respond to in part and in full where I can.

In the first instance, I think it is worth acknowledging the significant effort that both the Department of Education and Training and Minister Hargreaves's department have put into developing and enhancing language education in the territory. The work with the community sector in this area has been impressive to date. Most particularly, the level of consultation and the opportunity both at Minister Hargreaves's multicultural forum last year and at the ACT Ethnic Schools Association's open days to engage with community members in relation to this matter have been encouraging and I think set a good pathway forward for further expansion of language education, particularly in our schools, noting also that there are tremendous opportunities to engage better with the Ethnic Schools Association and, I might add, with embassies as we are very fortunate to have embassies located in this city. There is a great opportunity to partner with foreign governments to improve language education.

I would like to advise the Assembly that I think it is very pleasing that this year more ACT primary schools are able to offer language programs. I know we have had an extensive debate. Madam Assistant Speaker, you are one who has contributed to the amount of time that is available and dedicated to language programs within our school system.

So it is interesting to note, of course, that people always focus on mandatory minimums in this instance. It is not to say that, because there is a minimum amount of time that we mandate within the school curriculum, that is the only time that is devoted to language education or that is the maximum amount of time within the school curriculum that will be devoted to language study.

But I do note, as minister for education, that I often have discussions with school principals and teachers who say yes, they acknowledge the importance of language education but they are constantly being asked to crowd more and more into the school curriculum. Unless we are going to extend the number of hours in the school day or extend the number of weeks in the school year, there will always be intense competition, within the available time in a school term and within a school day, to fit many competing priorities.

I note, for example, that there are a number of matters within the parliamentary agreement with the Greens that require the school system to respond in an additional way, with either more resources or more time to be devoted to a particular activity. Learning to swim is an example. All of these matters compete for the available time within the school system.

That said, though, it is pleasing that more of our schools—and the public system, in particular—are able to offer a language other than English. We have seen, I think, 11 new language programs on offer in primary schools in the territory this year. I would note that the capacity to deliver such programs and to have specialist language teachers is also related to the size of primary schools. It is not possible for very small primary schools—for example, one that might have fewer than

50 enrolments—to have a specialist language teacher or, indeed, a specialist arts, PE or music teacher. So the advantages of being able to deliver a diverse curriculum are there in primary schools of sufficient size and it is very pleasing to see that this year 11 primary schools are offering language programs.

I take on board the observations of Ms Hunter in relation to closer working relationships between agencies and between those community groups, most particularly the Ethnic Schools Association, and our school system in order to get some economies of scale, for example, on language delivery. One of the areas of reform that we have been looking at is that a significant proportion of government funding that was made available to the Ethnic Schools Association for the individual languages was being spent on accommodation, on rental costs or hire costs for teaching facilities—classroom space.

A concern that my department had was that, rather than going to the provision of teaching, so much of that money was going in rent or, as I say, hiring of classroom facilities. So we have been working with the Ethnic Schools Association on a consolidation of the teaching locations and making space available within ACT public schools to deliver programs rather than having other facilities being rented out. And I think that will go some way to better directing resources within the sector.

I will always argue that we need to look at how effectively we are spending our existing resources before we go cap in hand seeking more. I believe that is an appropriate way to administer any program within the territory government. It has always been my position. I know I have received a huge amount of criticism from some members opposite, including your good self, Madam Assistant Speaker, for adopting that approach. However, I think that is the way that we should approach resource allocation.

When you are a minister for six or seven different portfolio areas, there are always competing demands on available resources within the territory budget. If we are not using the resources we have at the moment effectively, I think it is appropriate that we do take steps to use those resources more effectively before we start asking for more.

In this instance, I think that work is progressing well. I note Mr Hargreaves and his agencies have been involved in that process. It was certainly a cause of some angst a couple of years ago but we are working through those issues and the consolidation of particularly the ethnic schools to a smaller number of sites across the territory has meant that less money is being spent on rent and more on teaching, which, I think, is a good outcome for all.

Having said that, I commend Ms Porter for the motion. I thank other members for their contribution and acknowledge the need for further work in this area. We will, of course, respond in more detail in both the education and multicultural affairs portfolios over this term of government.

**MS PORTER** (Ginninderra) (5.52), in reply: I would like to thank members for their contributions to this debate. It is very pleasing—I think it is the first time this year—that we seem to all be on the same page. It appears to me that we seem to be in agreement and speaking the same language, if you excuse the pun.

I did appreciate your other language, Mr Doszpot, your mother language. Thank you for that contribution. It made the debate very interesting, I think. I am sorry that I did not add a few Indigenous words to my address before but I say, in response to all of your contributions, “Maynmak, bilunyich, fatju,” which means good, good and good. I think it is very interesting that the people that I lived with had three words for “good” and “thank you”, which are interchangeable. So maynmak, bilunyich, fatju for your contributions.

I thank Mr Barr for his reminder of the importance of our diplomatic corps. The ACT is fortunate to have such an active diplomatic corps and we will be expanding our links, as the minister said, between the schools and diplomatic corps for the delivery of languages and cultural education. They are an extremely important link with contemporary languages of their countries and we are very fortunate to have such a growing number of embassies in the ACT.

Members, I know, will be pleased to have heard from Mr Barr how we are going to be increasingly investing in our Ethnic Schools Association in the form of the rental subsidy that he mentioned and the use of the public schools after hours and on weekends. I think that is an extremely good way of using our public money, as Mr Barr was saying.

I know that Ms Hunter would also be pleased to hear about the fact that, in response to community consultation on the 2008 multicultural summit, the ACT government will be exploring the viability of establishing language learning centres to enhance the efficient use of resources for face-to-face learning for community languages. This has proven to be a successful way to assist community language schools with programs that aid multicultural groups to maintain their cultural identity, language and heritage. I am sure that you are pleased also to hear that we will continue to be investing in our community in the way that this government is.

I am really pleased that we are all speaking the same language on this particular topic. I would like to commend members for their contribution to this debate this afternoon and for their support for this motion.

Motion agreed to.

## **Health—performance indicators**

**MR HANSON** (Molonglo) (5.55): I move:

That this Assembly:

- (1) notes that the Stanhope-Gallagher Government has failed to improve on key health performance indicators as measured in the Australian Medical Association Public Hospital Report Card 2008, specifically of concern to the Opposition is the ACT’s poor performances in key areas of:

- (a) Emergency Department waiting times;

- (b) Category One and Category Two elective surgery waiting times; and
  - (c) bed occupancy rates;
- (2) recognises that the Stanhope-Gallagher Government:
- (a) spends the second highest amount in health funding per capita yet consistently achieves poor performance outcomes;
  - (b) has now received a base rate increase in Commonwealth public hospital funding and that it can no longer relinquish responsibility for poor performances as it has done consistently over the previous seven and a half years; and
  - (c) has over seven and a half years in government, failed to attract and retain appropriate numbers of general practitioners (GPs) to the ACT and that this failure has placed immense stress on our public hospital system; and
- (3) calls on the Stanhope-Gallagher Government to outline when it will improve:
- (a) the ACT's performance in Emergency Department waiting times from the worst in Australia to be the best in Australia;
  - (b) the ACT's performance in Category One and Category Two elective surgery waiting times from the worst in Australia to be the best in Australia;
  - (c) the ACT's performance in bed occupancy rates from the worst in Australia to be the best in Australia; and
  - (d) the number of GPs per capita to bring the ACT in line with the national average.

Madam Assistant Speaker, I tabled this motion in December after the ACT got a shocking report from the AMA in its public hospital report card 2008. I seek leave to table that document.

Leave granted.

**MR HANSON:** I table the following document:

Public Hospital Report Card 2008—An AMA analysis of Australia's public hospital system.

The report essentially says that in many areas of our public hospital system and our health system in general we are actually getting some of the worst performance indicators in the nation. The performance of our public health system is either at the lowest level or close to the lowest level in a significant number of areas. I refer members to page 20 of the document I have just tabled. It has a summation of those performance indicators from the AMA.

Since giving notice of my motion in December, there have been a number of other reports on the ACT's health system, including the Productivity Commission's report on government services 2009, the health department's own quarterly report and research that has been released by the Primary Health Care Research and Information Service.

Unfortunately, these reports present an equally damning review of our health system and are in most areas within a percentage or two entirely consistent with the AMA's own findings. My intent in moving this motion is to outline the numerous problems facing our health system here in the ACT and to seek some answers from the minister on when we will see some positive outcomes. I also call on her to make improvements to our own ailing health system. We are the wealthiest jurisdiction in Australia and it is my contention that we should also be the healthiest.

I will firstly outline some of the problems that we face drawn on evidence presented in the reports I have mentioned. Firstly, I raise the issue of bed occupancy. Our bed occupancy rates are at dangerous levels. I believe that this has been acknowledged by the government. Our rate sits at about 88 per cent to 89 per cent when 85 per cent and above is considered dangerous by the Australasian College of Emergency Medicine. Occupancy rates above this level place patients at considerable and unnecessary risk. I quote from the AMA's report:

They risk systemic failure and compromise patient safety. The 85 per cent rule should apply in every hospital.

As we see in the ACT, that is not the case. The second issue I have is that of elective surgery rates, which are amongst the worst in the nation. The ACT has experienced an increase in the median wait for category 2 patients—that is, category 2 patients with surgery desirable within 90 days—up to September 2008. This has increased to a median wait time of 99 days which, according to the AMA, is the worst in Australia.

The third issue is that of our emergency departments. Waiting times through a number of categories there are the worst in the nation. The ACT continues to fail to meet its targets for triage category 3, which is treatment within 30 minutes and category 4, which is treatment within 60 minutes. Approximately 45 per cent and 41 per cent of patients respectively in those categories are seen within the required times. This, again, is the worst in Australia.

The fourth issue that I raise is the worsening waiting time for cancer patients waiting for radiotherapy treatments. Unfortunately, we saw recently that the Capital Region Cancer Service has been unable to meet an increased demand for its services from January to September, with 77 per cent of radiography patients being seen. That is down from a previous mark of 82 per cent.

*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 HANSON:** The fifth issue I raise is that of GP numbers in the ACT, which are the lowest per capita in the nation. The ACT has experienced a steady decline in the number of GPs per capita whilst the rest of the nation has actually been increasing at about a level of eight per cent. The net result is that we now are about 60 GPs short in the ACT community.

The sixth issue I raise is that of the mental health sector. We have heard much about the draft plan today, but it is clearly a sector that is struggling to meet increased demand. As we have seen, there is a lack of investment in our community sector. That means that we have been unable to meet the target of 75 per cent of clients receiving services within seven days of discharge.

The seventh issue is the important one of staffing, in particular that of nurses. With an ageing workforce, we have a nursing population on average of 45.4 years; 44 per cent of this workforce is part time. So with all this increase in demand that is expected in the coming years—the healthcare tsunami, as I have heard it referred to—we are already in a perilous state in the ACT in many areas of our healthcare system. I ask the question: how does the government expect to meet the increased demand of 50 per cent or 60 per cent as has been highlighted in the next 10 to 15 years, if we are already in such a deep hole now?

The performance indicators did not simply deteriorate overnight. This has not happened in the last six months. Certainly, I am not pointing the direct responsibility at the current health minister, although if you look at the deterioration over the course of the Stanhope-Gallagher government, it does illustrate that this government has failed in regard to management of the health system.

We are now in so many areas the worst performing jurisdiction in Australia. We know, for example, that in 2001, 80 per cent of emergency department patients in triage 3 presentations were assessed and treated within the recommended time. Now that figure rests at 52 per cent. We have seen a significant decline in performance for the treatment of emergency department triage category 3 patients and category 4 is resting currently at 51 per cent, which is down as well. Those two figures, and there are others, are indicative of a health system that is in decline in terms of its ability to meet key performance targets.

There are lots of numbers and statistics in all these reports, and I have raised some of them. But these are actually real people represented behind those statistics. I regularly hear, as the shadow minister, of cases of people waiting in the emergency department—we probably all hear of those—for unacceptable periods of time. These are people who are in pain and in discomfort.

I hear of people who cannot find a GP. They are looking for a GP and they find it very difficult to find a local GP. I guess that in some cases they have to present to the emergency department, they see someone at CALMS or they have to pay for their treatment.

For elective surgery also, people are on unacceptable levels of waiting times. I hear regularly of patients who actually go into New South Wales to seek treatment because



they can do that in a shorter time frame than they can achieve for treatment in the ACT.

I had the very real experience of going to the emergency department on Monday with my two-year-old son. He was referred to the emergency department by his doctor. I did have a brief conversation with a friend who I met waiting in the emergency department, but I certainly did not inquire of anyone there how long they had been waiting. I would just like to make that clear; it would have been highly inappropriate to do so.

But it did make it real for me that people in pain are waiting there. You see the misery of people who are waiting in emergency departments. It is a real issue and it brings home that those statistics involve real people. As an aside, I would like to thank the staff of the Canberra Hospital in this case for their very prompt and caring treatment of my son. I would like to express my admiration for the nurses and doctors who are on the frontline of our health service. They do a wonderful job in very trying circumstances.

I turn to funding. The ACT commits more of current funding to health per capita than any other jurisdiction in Australia, other than the Northern Territory. I think we would appreciate that the Northern Territory, with its high Indigenous population and also vast distances, has some unique circumstances. So whilst our current health funding has increased and is now close to a third of our budget, what has happened over the period of the Stanhope-Gallagher government is that our outcomes and our performance in key areas have actually declined.

Before Christmas the ACT government received additional funding from the commonwealth of \$80 million. That is a significant amount of money. We will wait to see in detail how that will be spent and how that will be invested in our health system. Certainly, the ACT opposition welcomes that additional money.

But now the government has received that money, it is certainly time to stop playing that blame game between the ACT government and the federal government that we have seen for so many years. We really now have the opportunity to set some long-term goals and achieve some outcomes in the Health portfolio that we have been missing out on. We need to see how the government is going to spend that money and expressions from the government on how it is going to actually move those performance indicators, which are towards the bottom, towards the top.

So what we need from the health minister is for her to tell us exactly when we will see a reduction in emergency department waiting times. Now we have had the \$80 million bailout, when will we see that improvement in elective surgery to satisfactory levels, when will we see a reduction in the bed occupancy rates to acceptable levels and when will we see our GP numbers comparative with the rest of the nation?

As a jurisdiction, I believe that the ACT should always be striving for excellence—to be the best. We have heard Mr Stanhope today say that he sets aspirational targets, targets which he believes set the standard. I would really like to see us do so in health. The intent of this motion is to highlight where we are failing in a number of areas, but

that is only part of it. The key issue with this motion is to seek from the minister her declaration that we will start to improve so that we actually set benchmarks to ensure that we will achieve the best outcomes in Australia across those key performance areas.

We have a lot of money being spent on physical upgrades to our health infrastructure. I would also be interested to see how the minister will make sure that that money we are spending on our health infrastructure is spent wisely so that what we do not end up with is more money going into the Health portfolio without the outcomes that we require. We have certainly seen over the course of this government a failure to deliver on a number of projects. For instance, the GDE half a road was delivered late and the hospital was significantly reduced in scope and is still not open.

What I want to see as we move forward is that the money, the significant investment in our infrastructure, does not deliver the same results and that we do not get half a hospital upgrade reduced in scope and with cost blow-outs. I want the government to think long term and I do want them to set ambitious performance targets. I want the government to stop talking about the need to increase these targets without setting goals, and actually come out and say, “Yes, we should be the best in Australia, we can be the best in Australia, and this is how we are going to do it and this is when we are going to do it.”

I put this motion before the Assembly so that this government can have an opportunity to respond to the community and tell us that while there are some poor performance indicators, they are doing things about it and to tell us that this is when the ACT will move from being the worst in a number of categories to being the best across those categories.

**MS GALLAGHER** (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women) (6.10): I welcome the opportunity to speak today in relation to the public health system in the ACT. It appears that the new opposition health spokesperson has chosen to take up where the previous spokesperson left off. In fact, I think I have spoken to two motions pretty similar to this, if not almost identical to this, in the previous Assembly. It is a motion that talks down our public health system. It is a motion that is incorrect in that Mr Hanson alleges in his speech that we have poor health outcomes here in the ACT, and I would challenge that.

I think we do have the best health system here in the country. I do think that if you are going to get sick in Australia, a good place to get sick is Canberra, particularly when we have a major tertiary referral hospital here for a community our size, and in light of the services that we have available here. One-third of Canberrans, on average, use our public health system every year. We have the highest utilisation of any public health system in the country. They choose to come to the public health system.

There are a few elements about our public health system that make us different from other jurisdictions, and we suffer that. I refer particularly to emergency department performance and timeliness reports. My frustration at times in dealing with the Health portfolio and defending the Health portfolio, as I am constantly required to do

politically, has been this complete obsession with emergency department timeliness and elective surgery timeliness.

I am not saying that they are not important, but I would argue that they are not the only indicators of a quality health system. I think in relation to emergency department timeliness, it will be difficult, particularly in times of GP shortage and particularly when our emergency departments are dealing with 100,000 presentations a year, to meet those timeliness targets. I do not think it is impossible, but I think in categories 3 and 4, which are the areas that we do need to improve, it will be difficult.

I would challenge the AMA's public hospital report card as a journal of quality health performance reports. I would, instead, urge Mr Hanson to look at the AIHW's Australian hospital statistics and the commonwealth Department of Health and Ageing state of our public hospitals report which, whilst it also reports on emergency departments and elective surgery, also reports on a whole load of other areas. It shows the ACT doing extremely well. In fact, those statistics show that the ACT population is the healthiest in the country.

I will just quickly go through some of the areas. In emergency department presentations, 100 per cent of our category 1 presentations are seen on time. This is something that we have achieved for the past six years. In category 2 in 2007-08, 81 per cent of presentations were seen within 10 minutes. This not only exceeds the national target, but also is better than the 77 per cent reported the previous year and the 71 per cent reported the year before that.

What I am saying is that there are genuine improvements. Even though in categories 3 and 4 we have not made the national benchmarks yet, there are genuine improvements in emergency department timeliness. The emergency department staff have been working very hard over the past two years. I have probably been down there and met with them at least five times to talk with them about emergency department work. They have all been focused on trying to improve timeliness.

Some of that improvement has come because of the extra beds. We have set up the medical assessment and planning unit and the registrar review clinic. Of course, as I say, the extra hospital beds have come online. These are all initiatives which will continue to help our emergency department. We have 25 additional beds coming online in the first half of this year. We are almost ready to start construction on the mental health assessment unit. Again, that will help our emergency department staff.

These ideas have come from them and we are responding to them. The surgical assessment and planning unit, which is modelled on the medical assessment and planning unit, or MAPU, will provide a similar service to the medical assessment and planning unit, except that it will be for surgical patients. Again, this will quickly remove them from the emergency department, freeing up beds and allowing emergency department staff to see patients in the waiting room.

I turn to elective surgery. The report on the state of our public hospitals deals with data from 2006-07, even though it is published in June 2008. I would say that all the reports that you are seeing cover periods of time that are almost two to 2½ years old.

It is just a fact that in health systems the time to report and the checking of data to make sure that it is absolutely accurate means that there are quite substantial delays in making that information public. That is not an excuse from me; that is the case with those national reports.

In relation to category 1 patients, hospitals admitted 93 per cent of category 1 patients within the national standard of 30 days. This figure was the second best in the country and above the national average of 88 per cent within 30 days. I should say that category 1 patients must be seen within 30 days. At Canberra Hospital, 50 per cent of our work on any given day of the week is emergency work.

We have to do the emergency work as it comes in the door. That is 50 per cent of the surgical load on any day. The fact that we are getting 93 per cent of category 1 patients within 30 days is a very good result. That was the case in 2006-07 in the published data. In 2007-08—this data has not been published—96 per cent of category 1 patients were admitted within 30 days. Again, that is a substantial improvement.

These are the areas that we have been working on in terms of removing our long waits from the list. We do not want people waiting longer than they need to for surgery. I have prioritised the long waits and that has resulted in my taking quite a lot of criticism about the waiting times when it is reported that, for example, the waiting time is 62 days. That is a measurement relating to people who have been removed from the list, not people who are on the list.

In fact, people who were on the list can be seen much more quickly than that, and often are. We are dealing with the long waits, the people who have been waiting a long time for surgery. That may be due to doctor shortage, the nature of clinical decisions that have been taken about the urgency of their operation—a whole range of factors. The 989 people that were on the waiting list in December 2007, who had been waiting longer than a year, has dropped in one calendar year by 30 per cent because of our focus on people who have been waiting too long.

I am very confident that elective surgery is going well. It will take some years, I think, to bring those reported waiting times down. Because they are reported based on the numbers removed from the list, we are focusing on long waits. Because that data is two years old, it will take some time for the improvements to show up, but things are certainly improving.

We are also working in partnership with the commonwealth. We will have two extra operating theatres open, hopefully, by the end of this year and an extra operating theatre that is due to open pretty shortly at Calvary. Again, this will just include our theatre resources and ensure that our emergency operations can go ahead but not necessarily at the expense of our elective lists.

I know that the GP issue was really big in the election and I know that it is a big issue in the community. It is very easy to lay the blame for a GP shortage at the feet of the ACT government. I can certainly say genuinely that the powers to increase GP numbers lie not with the ACT government. They lie with the commonwealth and I

continue to lobby the commonwealth around this matter. It is not acceptable that we are 60 general practitioners short. But when you look at the situation at a national level and at the number of doctors per capita, the ACT always comes out showing that we have more doctors per capita than anywhere else.

That is because we have a huge number of GPs that work in research and the public service and who do not actually provide a GP benefit to the community in the sense of seeing patients. So when you ask on a needs basis for consideration around our workforce shortage, some of that data can be distorted at times because of the fact that we do have a lot of doctors here, but they are not necessarily working as doctors.

I think we do have a genuine understanding from the commonwealth that the GP shortage is putting pressure on our own services in the emergency department particularly. Through the COAG arrangement, we have got \$10 million extra to deal with pressure in our emergency departments. We intend to use that money to assist us with the start-up of our nurse practitioner clinic to be operated at the Canberra Hospital where we would like to start this new model of care. But that does not mean that I have taken the eye off the ball in terms of looking at ways to attract GPs to the ACT.

We announced a whole range of initiatives in the budget. I am working with the Division of General Practice and the AMA. In fact, there is a working group that looks through attraction and retention programs for GPs to come to the ACT. We are working with the ANU Medical School to make sure that we get GP registrar positions. We are working with clinics to make sure that they can take on students. We have been successful in getting a couple of extra places that are funded for GP trainees to work within clinics in the ACT. We fund a GP adviser within the Department of Health. We also have GP liaison units that work in our hospitals. We fund the Canberra after-hours locum medical service to provide an after-hours general practice in Canberra at both our public hospitals.

We are going to extend that to nursing homes, which is an area of significant pressure that GPs are telling us about, and to the emergency department for elderly patients who are in nursing homes who do not have a GP. We think an in-hours locum medical service for elderly residents of nursing homes will support current general practice with their workloads and hopefully assist the emergency department in ensuring that people do not get to the point where they need to come to the emergency department.

We are doing what we can with students. We are doing what we can with the industry. We are working with the commonwealth. We are going to fund some of our own programs in the budget around GP attraction and retention. So I would challenge Mr Hanson's allegations that we are not doing enough in this area. But we have never agreed with the Liberal Party about GP clinics in the suburbs that bulk-bill. Firstly, they could not deliver them. They cannot provide the numbers to ensure that they bulk-bill, although I think what they were going to do was actually budget fund them. There was also industry concern. I think probably one of the stronger statements from the AMA in the election campaign relating to health policies was their concern about the idea of bulk-billing GP clinics in the suburbs.

I think the issue we have to deal with is not necessarily around bulk-billing, although it is important for people who cannot afford to pay to see a GP to have access to bulk-billing. Many GPs that I work with will tell you that they know who those people are. If they are on their patient book, they will already bulk-bill them. GPs need to earn an income. The way they earn their income is to charge fees. That is the way they pay for their practice nurses, their admin overheads and earn an income derived from their business and have a business that is valued.

But there were some very significant concerns around setting up what they saw was government underwritten competition when they are in private business trying to make ends meet. I think there were some problems with the model and I know that was the difficult part of the election campaign, for everybody to articulate the arguments around that. But the real issue is access to GPs. I am not convinced that it is access to bulk-billing GPs. We need to improve access to GPs for the community and we are certainly working on that.

I could go on about this. I look forward to the health tour that we have organised for Friday. It is a shame that Mr Seselja and Mrs Dunne have had to pull out today because I have commissioned quite a number of health executives to spend the day with us demonstrating the ACT health system. I think we have 10 Assembly members now coming. I think that will be a very informative day and hopefully people can learn some of the good aspects of the ACT health system. I will oppose the motion.

**MS BRESNAN (Brindabella) (6.25):** While I appreciate Mr Hanson's concerns about the ACT's health services, I will not be supporting his motion today. I believe the motion does not acknowledge the complexity of the situation which is facing the health system. The approach taken on the motion seems to be quite black and white. If we do not correctly identify what the key issues and problems are we cannot identify the solutions.

One of the biggest issues we encounter is that of workforce, including our ability to attract and retain qualified staff. This is not just an issue for the ACT but for Australia and most other countries. The solution does not just involve attracting doctors and nurses from other jurisdictions, as we then become competitors with other governments. I also wonder if it is fair for us to fight for medical staff, particularly from regional areas in Australia when these areas typically have very limited services available. This also applies to other countries, in particular, developing countries whose own people often lack even basic medical services.

A sustainable solution involves producing and retaining a local workforce, and I note that from about 2012 onwards there will be a significant increase in the number of medical students graduating and entering the workforce. There is also action on workforce planning occurring nationally and at a state and territory level as it is an issue which demands national attention and cooperation. The AMA report which Mr Hanson tabled today acknowledges:

... Australia is just one of many countries to have failed to train enough health professionals for the needs of their population. Worldwide competition for health professionals is increasing.

The ACT government has acknowledged the ongoing problems that we experience with long elective surgery waiting lists, and this again is an issue that affects all of Australia. The commonwealth acknowledged this by providing one-off funding last year to assist in decreasing waiting lists. The ACT government has made good progress since then on its elective surgery waiting lists, but I note that the number of people waiting for surgery does remain high.

Waiting lists are also greatly affected by people in hospital beds waiting for services in the community. This includes support at home, placement in step-down, step-up or convalescent facilities or a placement in a residential aged care facility. This goes to the way we fund health services and the need to change to a more preventative focused health system with much greater emphasis on community based services.

The lack of GPs in Canberra, and bulk-billing GPs at that, is an issue and is a key reason why we have a high level of demand on our emergency departments. The body responsible for GPs and bulk-billing is the commonwealth government, and this again relates to overall workforce issues and is one which requires, as I have already stated, national cooperation.

The ACT government has a strategy of enhancing health services available in the community via models such as community health centres and walk-in clinics. Again, with this, we must consider the number of new graduates entering the workforce, which goes to the point of not just attracting workforce, including GPs, but developing and retaining the workforce.

The Greens recognise the need for people to avoid acute health care, where possible, and for this reason the ALP-Greens agreement includes initiatives relating to this, including providing space in community health centres for GPs to provide services and reconsidering the option of the community midwives program attending home births.

When we look at overall health system reform it is important that consumer representatives are involved in the evaluation of existing programs and the design of new ones as they can provide some of the best advice on how programs can better be tailored to meet the needs of the consumer in an efficient and cost-effective manner.

I encourage both the Liberal and Labor parties to pay attention to comments made by the Health Care Consumers Association of the ACT, including those which relate to the AMA report which has been referred to in the motion. On 12 November the Health Care Consumers Association stated:

The AMA is quite right to draw attention to the bottlenecks occurring in Australian hospitals. It is a bit behind the game. At the national level the Commonwealth has established a Health and Hospitals Reform Commission to address these problems, and locally the ACT is implementing a major capital asset redevelopment plan covering both the Canberra Hospital and Calvary hospitals.

Consumers will welcome additional hospital beds which ensure that they are not put up for long stays on trolleys in emergency departments when they need to be

admitted, but we have been saying for quite some time that many of the new beds needed could be lower acute beds at step-down facilities enabling convalescing patients to be discharged earlier from the acute care hospitals.

If the AMA really wants to ensure that taxpayers get best value for our health dollar, they will also be advocating for health care to be provided in the most appropriate setting, which means more primary health care and preventative services, and not just more acute care beds.

I place a high level of respect to the comments made by the Health Care Consumers Association, for it is the consumers more than anyone that have the most to lose when there are problems in our health care system.

**MR HANSON** (Molonglo) (6.31): Mr Speaker, I certainly am happy to acknowledge some of the positive outcomes that we get in the ACT health system. Certainly our category 1 performance is good. I acknowledge that and I certainly acknowledge the hard working individuals that we have across the spectrum of health care professionals in the ACT, particularly those on the front line—the nurses, the doctors, the allied health professionals and so on in our emergency departments who are dealing with patients every day and doing so extremely well. We also have good clinical outcomes. I do acknowledge that.

My criticism, though, is in some specific areas, and the minister, I feel, talked up some of the highlights of the health system. What I am focusing on is those areas of greatest need, and they are: the waiting times in emergency department, the waiting times for elective surgery, GP numbers and bed occupancy rates. I have singled out those issues because they are significant issues.

The minister said that there is an obsession with the emergency department and elective surgery. There is within the community—I do not know if “obsession” is the right word—certainly a concern, and a grave concern, because the reality is that there are not enough GPs in the community and there are not enough community-based health resources across the spectrum of mental health and a whole range of other areas of need and chronic illness.

So the reality is that emergency departments have become an area where people do end up. The minister says it is an obsession; I would say it is an area of concern. When people are waiting protracted periods for elective surgery—and often it is the elderly waiting for a hip replacement and so on—I guess they do get slightly obsessed.

Maybe the minister can clarify this, but I thought that the Nurse Practitioner Centre at the Canberra Hospital was still going through its period of consultation. My understanding was that no decision had been made about what format that was going to take or, indeed, the location. I understand the reasons why that is being presented and put forward in that location, but I am not sure if that is pre-emptive and whether we have actually made that decision at this stage.

The minister criticised our desire to put GPs in the suburbs and the AMA has raised concerns about competitive work practices or salaries. I understand they are raising similar concerns about nurse-led clinics in the suburb.



**Ms Gallagher:** Which is why we are not having one there.

**MR HANSON:** Sure, but you certainly have raised that for consultation. The first one you have said is going into the hospital, but you certainly have raised the issue of putting nurse-led clinics in the suburbs—Tuggeranong, Belconnen and Gungahlin. The issue of competitive work practices should not be something that would prevent us from putting GPs into those suburbs, into that greatest area of need. We certainly believe that there is a strong desire from the community and there is the ability, if we work with our federal government colleagues, to get more GPs into the suburbs. Certainly the Liberal Party remains committed to doing so.

I am disappointed that the government will not strive to become the best in the country in those categories outlined in the motion. I would like them to. The situation that we find ourselves in now is that the performance indicators that I have talked about are the result of eight years of this government. We have seen a decline in a number of areas, in emergency department rates, elective surgery rates and GP numbers. That has occurred on the watch of this government. Yes, there is lot of work going on, there is a lot of noise and a lot of money being spent, but I am asking the government to come out and say, “Yes, we can be the best, and we will be,” and to outline to us when that will occur.

I think that what I am calling for is entirely reasonable. I think it meets community expectations. I stand by the motion.

Question put:

That **Mr Hanson’s** motion be agreed to.

The Assembly voted—

Ayes 3

Mr Coe  
Mrs Dunne  
Mr Hanson

Noes 7

Mr Barr  
Ms Bresnan  
Ms Burch  
Ms Gallagher  
Ms Le Couteur  
Ms Porter  
Mr Rattenbury

Question so resolved in the negative.

## Community events

**MS LE COUTEUR** (Molonglo) (6.39): I move:

That this Assembly:

- (1) acknowledges that live music and events are an integral part of our culture and essential for maintaining a vibrant, culturally diverse community; and
- (2) calls on the ACT Government to:

- (a) develop a policy and actions to support live events in our community, including, but not limited to, ensuring that:
  - (i) order of occupancy legislation is reviewed;
  - (ii) each local shopping centre has a large 24 hour accessible community space, such as bollard or clearly sign posted and prominent wall space, for the promotion of events via bill posters;
  - (iii) large commercial developments in group and town centres provide a community bollard for the promotion of events via bill posters; and
  - (iv) building codes for residential development in all commercial zones have sound insulation and physical security appropriate to co-location with live cultural events;
- (b) provide adequate late night transport options for large scale events; and
- (c) report back to the Assembly by the last sitting week in 2009. (Notice given 10 February 2009.

I am very pleased to be introducing this motion in the Assembly while the fringe festival, which we have just been talking about, is being held outside in the Civic Square. It was really good to be able to leave last night after a late sitting night and see such a vibrant culture in our small city on a Tuesday night. In fact, the whole city seemed bustling throughout, not just at the fringe festival. There were people having coffee, going to pubs, chatting in the squares and generally adding to the feeling that Canberra is alive, which I am sure is what we are all aiming at.

Modern, high technology societies such as ours run the risk of increasing fragmentation. For some people, community exists more strongly in the virtual world than it does in the physical world. People form communities of interest based on activities, pastimes and occupations. In that context, issues such as the value of live music, the arts and peaceful, large-scale community activities need to be in the forefront of our minds. It is good for all of us who live in this city if it is lively, engaging and diverse in the entertainments and activities that are available for people to enjoy and to make their living from.

Despite being such a small city, Canberra boasts a rich diversity of cultural events—music of most kinds, theatre, circus, festivals, such as the current multicultural festival, and so on. What we need to now see is greater government support for such culture, not just through the provision of buildings and funding, which is important, but through our planning system. We need to be planning our building layout and design to enhance this vibrant city feeling, not just in Civic but in other town centres as well.

The Greens are keen to see music and cultural events in places that are easy for people to get to and which make it pleasant for people who live near those areas. We actively support live cultural events in our community. We need strong policies which ensure: existing leasing rights for venues are prioritised to maintain cultural event diversity;

planning and design solutions are found to help with noise mitigation and physical security issues; organisations are able to promote their events in an accessible and cost-effective way; and good public transport options for people attending events, especially late at night.

I have many friends who have moved closer to Dickson, precisely because it is bustling in the evenings. There are plenty of restaurants and a few pubs. Trinity, for example, has live DJs on many nights of the week. That gives life to the area, but the noise can also be heard by nearby houses. This is a tricky issue for our planning system. Some residents are very positive about occasional loud music. However, there are other people, especially those who have been living in the area for a long time, who may be in a different boat. Perhaps the government could look at ways to help retrofit noise abatement measures to existing houses. Such measures might include double glazing for windows, wall insulation especially for timber or fibro houses, rubber flooring, vegetation to buffer blocks and perhaps, in extreme cases, even a free earplug scheme. Provision of this could be part of the planning conditions if a change of use which would produce significant noise was introduced.

The issue of the Lighthouse Bar in Belconnen is an interesting one, because it is a busy pub and it is a very good spot for a venue as it is close to Lake Ginninderra. At the same time, it is in an area which has growing demand for residential accommodation. It is close to the town centre and close to public transport and evening entertainment. But the threat that the increase in the number of residents in close proximity poses to the Lighthouse Bar is one which may lead to closing yet another venue in our small city. We have seen this happen unfortunately too often in Canberra with the Gypsy Bar and, more recently, Toast. Toast was an example of something which was in a prime location. It had a good courtyard, and there were no permanent residents nearby. However, it was near the Waldorf, which made many complaints about the venue.

What the Greens would like to see is an analysis of ways to mitigate these impacts. We also want to ensure that zoning through the territory plan makes it clear to people moving into commercial zones that they should understand that there may be existing noise-producing activities in the area. When moving to a new area, people need to realise that they need to explore the whole area with regard to traffic conditions and noise at night and not just when they inspect the house in the middle of the day.

There are many places around Australia which have been forced to consider the issues around supporting live music and loud events generally. Canberra has managed to avoid confronting this issue for a number of years. However, now all the commercial zones in our territory plan allow for residential development, it is time to do more thinking and planning.

One place which has found a solution is Fortitude Valley in Brisbane. They now have a zoned precinct for entertainment with their valley music harmony plan. The precinct was created to ensure the long-term future of the music-based entertainment industry in the valley without exposing the residents or businesses to unreasonable levels of amplified music noise. A special entertainment precinct designates areas within the valley where new noise, music and development laws apply. It amends the Brisbane

city plan and prescribes high levels of construction compliance, and it amends the Queensland Liquor Act so that licensed premises in that location can emit more sound than they can in the rest of the state. It has a specific law for amplified music levels, which are regulated by the amplified music venues local law. The new music noise and development laws protect music venues from having to turn down their volumes when residential development is built nearby. Instead the onus is on new developments to incorporate extensive noise insulation.

The creation of a special entertainment precinct in Brisbane does not mean that the valley is only for music. It remains a vibrant mixed-use precinct involving residents, backpackers and hotel accommodation, nightclubs, live music venues, cafes, restaurants and retail businesses. The valley's large live music scene is important for a creative and prosperous Brisbane, and the community feedback the council has collected suggests broad public support for the continued growth of live music culture and the venues that support it.

Both Sydney and Perth have also introduced development control plans that include areas specific to entertainment and night economic zones. These plans are designed to encourage a mix of land uses as well as those of an entertainment nature, with the Sydney plan specifically tailored towards late-night trading premises. These are the kinds of solutions which we should be exploring in the ACT as a high priority before we put any more small local independent venue operators out of business.

Last night in the chamber we discussed the government's anti-bill-posting legislation, and we touched upon the implications these strictly framed laws could have on the less-heard voices in our community. Bill posters are often people from Canberra's struggling independent live music scene trying to get an audience. New and independent music naturally starts small and has to work hard to grow its audience. Mainstream media is expensive and sometimes also refuses to accept material, leaving bill posting as one of the few ways to communicate a message.

SMS and electronic advertising has been suggested as an alternative to bill posting, but those means do not allow easy, targeted communication with a local community that only physical communication can do. These means can easily become spam, and they tend only to reach the people who are already in the know about the event. The government claims that there are already locations where musicians and promoters can post bills legally. It is true there are some areas, but in all of Canberra there are only five legal bill posting pillars. Most areas have no legal bill posting areas at all. Are five poles really enough to support the free dissemination of live event information in a city of over 300,000 people?

Members may recall that when the bill posting laws were introduced a year ago, my predecessor Dr Foskey appealed to the government for more legal locations. The government advised her that it would provide more sites in Civic to compensate for its laws, but it has not done that. In fact, the number of legal bill posting pillars in Canberra has remained at five for the last five years. Providing adequate legal posting space is essential to grow Canberra's music scene and prevent it being driven away altogether.

I would also acknowledge that live music events are an integral part of maintaining a vibrant city. At the same time proper legal spaces would go a long way to alleviating the illegal bill posting problem. Not too long ago the government removed the bollards from Garema Place and replaced them with public art sculptures. The bollards were located where there is the most frequent foot traffic and effectively operated as the town noticeboard. We are not against public artwork; it is an important medium which enriches our city; but so does live music. There is something a bit ironic in the government removing the venue for free expression in order to put in public artwork.

We believe the government needs to immediately and massively increase the legal posting space. Each local shopping centre should have a large, 24-hour accessible community space, such as a bollard or a prominent and clearly marked wall space. Currently there are less than 40 noticeboards in Canberra, and many of them are small, locked up or poorly placed. There is a lot the government could do to make this happen in both private and public space. At the moment the government says that supermarkets are encouraged to provide noticeboards, but there does not seem to be a lot of encouragement. How does the government encourage it? It does not seem to be succeeding in the encouragement. We would like to see more significant encouragement, and commercial developments in town centres should be required to provide posting bollards or an equivalent space. The government needs to look at changing the planning and development code to ensure that this happens.

Last weekend saw probably the largest event that happens in our city—the multicultural festival. One of its attractions is the opportunity to try beers from all around the world. Many people enjoy this opportunity, and, of course, they should not drive home afterwards. Yet when the festival ends at 11 pm, there are no additional public transport options provided. As far as I understand it, no extra ACTION services ran at all for this year's multicultural festival, despite the thousands of patrons who were in town for the weekend and will be again next weekend.

The same problem occurs on Melbourne Cup Day in Canberra. Constituents have complained to me about the debacle which occurred on that day last year when thousands of people, many of whom had been drinking, had no way of getting home using public transport. It is a crucial issue for live entertainment, and it is especially an issue for young people who are likely to need access to public transport in evenings and at special events. Unfortunately, Canberra does not have adequate public transport for these areas.

That is one of the many things which reduces Canberra's entertainment opportunities. Other cities are more proactive when it comes to this. Perth, for example, runs extra trains on days when special events occur. In London, the lord mayor said it was one of the key cultural imperatives to include the provision of better transport services so that people could go out, especially young people, people living on low incomes and people with disabilities. Better transport is vital; it is desperately needed in Canberra to support our community. I appeal to the Assembly to take this opportunity to support Canberra's living soul.

**MR BARR** (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (6.53): I thank Ms Le Couteur for bringing forward this matter for debate in the Assembly today. I apologise on behalf of the Chief Minister who has portfolio responsibility in this area; he is at another event, but I am happy to deputise for him this evening.

There is no doubt that the majority of us in this chamber appreciate the genuine and deep benefits that the arts and culture bring to our community. Of course, live music in all its forms, from opera to hip hop, is no different from the visual arts or live theatre or the cinema or, dare I even say it, public art in this respect.

The ACT government believes it is important for Canberrans to have opportunities for engagement in the arts. To that end it supports and fosters cultural practice, including musical practice. Live performance of popular music is already number one with a bullet on Australia's cultural top 10, and the most recent figures from the ABS showed that popular music concerts enjoyed the highest attendance rates of cultural activity. Some 25 per cent of Australians aged 15 years or more attended at least one concert a year.

Contemporary music also consistently sells the largest number of tickets of any category of live performance. As I say, the ACT government is conscious of the importance of a flourishing contemporary music scene. We support musicians through the arts fund, through festival funding and through activities such as "groovin' in the city" and the "around town" program, as well as through major public events such as "celebrate in the park".

We are also acutely aware that fostering a live music scene has implications for other areas of our community life. It has implications for regulation and legislation, for neighbourhood amenity and for security. The right of one member of our community to enjoy a particular activity must always be balanced against the rights of others, and that is how we get to a point where we can run along as a community and share our city.

The performance of live music is something, of course, the government wants to encourage. Through the Cultural Ministers Council, the ACT, in company with the commonwealth and the states and territories, is exploring best practice principles for the development of a legislative and regulatory environment that properly supports live music.

The council has set up a contemporary music development working group, which is currently looking at ways to support contemporary music venues in Australia. Last year, the Chief Minister wrote to fellow ministers, including myself as Minister for Planning, reminding us of the importance of promoting live music and of finding ways to reduce barriers to the performance of live music. But there are some genuine balancing acts ahead of us. For example, significant changes in relation to order of occupancy has the potential to create a range of unintended and possibly serious consequences, not least because it might create the expected right of veto and thereby

limit the capacity of the community to develop planning policies for the common good.

But let us have the conversation. The existing planning regime does, of course, already provide for the merits of a proposal to be considered in light of such issues as traffic and noise. The new territory plan is introducing land use zones and development tables, which will serve to forewarn people of what activities might in the future be permitted to co-locate in a particular area.

There is no doubt that transport to and from events is an important issue. Late-night public transport is provided for significant events by the government, including live music performances. Of course, the same thing occurs for other significant events, such as major football games and the Canberra show. Transport arrangements from privately organised events are, quite rightly, however, the responsibility of the organisation presenting the event.

There are issues here that the community and the Assembly should explore. In the true spirit of exploration, the Chief Minister has proposed an amendment, which has been circulated but which I am happy to move now:

Omit paragraph (2), substitute:

“(2) refers the issue of supporting live music and events in our community be referred to the Standing Committee on Planning, Public Works and Territory and Municipal Services for inquiry and report by the first sitting day in October 2009. The inquiry will consider, but not be limited to:

- (a) a review of order of occupancy legislation;
- (b) the existing provision of, and necessity to supplement, prominent areas for the display of promotional material for live music events via bill posters;
- (c) options to encourage or require large commercial developments in group and town centres to provide community bollards for the promotion of events via bill posters;
- (d) examination of how building codes for residential and business development in commercial zones could be amended to ensure sound insulation and physical security are appropriate to co-location with live cultural events; and
- (e) options to improve late night transport for large scale events.”.

The amendment refers this matter to the Standing Committee on Planning, Public Works and Territory and Municipal Services for consideration. I understand from some brief discussions with Ms Le Couteur that there may be some further amendments to the Chief Minister’s amendment which we will probably not have time to discuss tonight but which can be considered when this motion comes back on for debate on a future private members’ day.

I might wrap up my comments at that point so we can all get out of here at 7 o’clock. I presume that this debate will be adjourned at this point and then continue on a

subsequent sitting day. We can then resolve the issues in relation to the amendment that the Chief Minister has suggested, if other members have any changes they would like to make. Overall, I think this is an important issue for that committee to consider. As Minister for Planning, I will be particularly interested in hearing the committee's views in relation to issues such as order of occupancy.

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

## **Adjournment**

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

That the Assembly do now adjourn.

**The Assembly adjourned at 7 pm.**



## Schedule of amendments

### Schedule 1

#### Freedom of Information Amendment Bill 2008

##### Amendments moved by the Attorney-General

**1**

**Proposed new clause 3A**

**Page 2, line 12—**

*insert*

**3A Pt 3 not to apply to certain documents  
New section 11 (1A)**

*insert*

- (1A) A person is not entitled to obtain access under this part to a notebook or similar document (the *Cabinet notebook*) containing notes of any discussion or deliberation taking place at a meeting of the Executive or of a committee of the Executive, made in the course of the discussion or deliberation by, or under the authority of, the Secretary to the Executive.

**2**

**Proposed new clause 3B**

**Page 2, line 12—**

*insert*

**3B New section 11 (1B)**

*insert*

- (1B) A person is not entitled to obtain access under this part to any of the following documents:
- (a) a document prepared for a Minister newly appointed to a portfolio for the purpose of giving information and advice about the Minister's portfolio responsibilities;
  - (b) a document prepared by or for a Minister for the purpose of accounting to the Legislative Assembly for the previous and proposed spending of appropriations by agencies within the Minister's portfolio;
  - (c) a document prepared by or for a Minister for the purpose of assisting the Minister to answer questions in the Legislative Assembly.

**3**

**Clause 4**

**Page 2, line 13—**

*[oppose the clause]*

**4**  
**Proposed new clause 4A**  
**Page 2, line 16—**

*insert*

**4A**      **Executive documents**  
**Section 35 (1), new note**

*insert*

*Note*      Access to the Cabinet handbook is excluded under s 11 (1A).

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