Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

18 AUGUST 2009

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Tuesday, 18 August 2009

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MR SPEAKER (Mr Rattenbury) took the chair at 10 am, made a formal recognition that the Assembly was meeting on the lands of the traditional custodians, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petitions

The following petition was lodged for presentation, by **Mr Smyth**, *from 7 residents*:

Roads—footpaths—petition No 99

> **ACT Legislative Assembly For The Australian Capital Territory**
>
> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> ***This petition of residents of John Close, Gilmore, of the Australian Capital Territory draws to the attention of the Assembly that:*** the residents of John Close, Gilmore whose names appear below, petition the assembly to close the pedestrian footpath access from John Close to Alice Jackson Crescent, Gilmore, by installing physical barriers to both John Close and Alice Jackson end of the public access area, to stop people access, not just vehicles, and that a sign be placed at the entry of John Close advising the closure.

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.

Long Service Leave (Contract Cleaning Industry) Act—petition No 98—ministerial response

The Clerk: The following response to a petition has been lodged by a minister:

By Mr Hargreaves, Minister for Industrial Relations, dated 6 August 2009, in response to a petition lodged by Mr Hargreaves on 7 May 2009 concerning portable long service leave entitlements for ACT security officers.

The terms of the response will be recorded in *Hansard.*

The response read as follows:

> The ACT Government notes the petition by the petitioners, tabled by the Minister for Industrial Relations on 7 May 2009 and makes the following comments:
>
> The ACT acknowledges that since 1981 ACT workers in the building and construction industry have enjoyed a portable long service leave scheme together with protection of the benefit in centrally managed funds. This benefit was expanded to the ACT contract cleaning industry in 1999 and it is intended that the community sector industry be similarly covered in the near future.

> The ACT Government's priority is to progress the successful amalgamation of the boards and functions of the building and construction industry and contract cleaning industry portable long service leave authorities from 1 January 2010, with the integration of the community sector industry scheme to follow shortly thereafter.
>
> By experience, the ACT Government is well aware that the progression of a new industry into a portable long service leave scheme is an exhaustive process, involving consultation with employers and employees, determinations of scope and coverage, budgetary considerations and extensive legislative and administrative requirements.
>
> That said, I am generally supportive of the petition and, along with members of my staff, continue to consult with industry representatives and the relevant unions to best facilitate the possible future establishment of a portable long service leave scheme for the ACT security industry.

Personal explanation

MS PORTER (Ginninderra): I seek leave to make a personal explanation pursuant to standing order 46.

MR SPEAKER: Yes, Ms Porter.

MS PORTER: Thank you. On 30 July 2009, Mrs Dunne circulated a press release that was titled "Porter the Rorter". In the *Macquarie Dictionary*, a "rorter" is a colloquial term used to describe "an incident or series of incidents involving reprehensible or suspect behaviour, especially by officials or politicians". According to the dictionary, "rorting" can also be understood to be "gaining control over an organisation by falsifying records".

One would expect the contents of the media release to contain some justification for such a claim, supposing that the person who penned this press release had not simply decided to indulge in elementary verse, sacrificing the truth and risking libellous action by trying to be just too clever. Mrs Dunne then went on to say in her media release that was published that all the necessary information could be found on my webpage.

In my letter that was delivered to households in Hawker, I clearly asked those who wanted to know more about the consultation process to ring me on my number, or contact me through my website. Residents obviously welcomed this invitation, as I now have a mailing list of Hawker residents who appreciated my offer to keep them abreast of developments.

Some mention was also made of "letters to residents about speeches she didn't give". I am not in the habit of repeating what other people have said in this place just so that I can hear the sound of my own voice. However, there was an error in the address that I provided for my website in a media release. It was an unfortunate error, but one that could not be understood by any reasonable person to be "reprehensible or suspect behaviour" that would constitute "rorting". It also needs to be noted that the correct web address was used in the letters that were delivered to the households.

My reputation stands on its own merits. The reputation of a member is predicated on actions, not on mere numbers or words in a speech, a letter or a media release. I am not so foolish as to believe that I can meet everyone's needs or desires or bring a satisfactory resolution to all the issues that people raise with me. We all know that it is impossible to do this. It is the way one is accessible, listens, understands, accepts and compassionately deals with the issues of concern brought by constituents that is important. I believe that associating my name with the term "rorter" is both offensive and misleading.

Planning, Public Works and Territory and Municipal Services—Standing Committee
Report 3

MS PORTER (Ginninderra) (10.05): I present the following report:

> Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 3—*Inquiry into the Crimes (Bill Posting) Amendment Bill 2008*, dated 13 August 2009, including additional and dissenting comments *(Ms Le Couteur)*, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The Crimes (Bill Posting) Amendment Bill 2008 proposed to amend the Crimes Act 1900 to provide additional offences in relation to illegal bill posting on private and public property. Bill posting refers to the fixing of posters, notices or placards on any public property such as light poles, walls, trees, bus shelters and fences and on private property without permission of the owner.

Historically, people have used bill posters for "advertising public information or public agitation". According to the government submission, the first known complaint about bill posting was published in an Oregon newspaper in 1892. The author decried the lack of sufficient legislation in place after his freshly painted fence was defaced by bill posters. The ascension of this bill by the government suggests that this complaint may still be relevant today.

If enacted, the bill would extend the operation of existing strict liability offences against the marking of private or public property, such as graffiti, in section 120 of the act to include unlawful bill posting. A strict liability offence is one without a fault element, so there is no need to prove intent, knowledge, recklessness or negligence as long as the physical element—bill posting—exists. A prosecution only needs to prove that the defendant's action caused the offence, not his or her mental intent. While ignorance is not a defence under strict liability, an accused may raise the defence of mistake. The defence of mistake is set out in the Criminal Code 2002.

During the consultation process, the question was raised by one submitter that the bill may limit freedom of expression, and one emphasised that it should not be unduly

harsh on organisations that are not for profit. One submission emphasised the need for more legal posting facilities to facilitate community advertising and discourage illegal bill posting. One submission highlighted a particular concern about posting activities that used adhesive paste because of the high cost of removal and the damage it causes to building surfaces.

Regarding the right to freedom of expression, the scrutiny of bills committee found that the bill did not unreasonably limit the right to freedom of expression, and acknowledged that the explanatory statement highlighted that there would be locations provided by the government for lawful bill posting. The committee also noted that, as the bill posters include not-for-profit organisations, community groups and private individuals attempting to notify residents in their immediate area of events, garage sales, lost pet notices et cetera, local and group shopping centres should be key locations for the placement of bill posting facilities.

The first recommendation made by the committee was that the ACT government facilitate adequate legal bill posting space in all local, group and town centres. The committee noted that the extended provisions in the bill can only be workable if adequate legal bill posting facilities are available, and noted that the ACT government needs to make the community aware of the implications of the bill. It also needs to inform the community about legal bill posting and noticeboard facilities that are available around Canberra, and other permissible signage mechanisms and advertising. All of this information needs to be made readily available in one place, particularly as section 121 imposes a duty of clean promotion on event promoters, subcontracted bill posters and other employees or volunteers.

The committee notes that the list of current bill posting silos is available on the TAMS website. However, as noted above, very little information is available on the location of community noticeboards. The committee considers that these noticeboards need to be better publicised in order to increase the availability of information on legal bill poster facilities and to assist the community to do the right thing. The committee believes that information on local community noticeboards should be available online.

The second recommendation that the committee made was that the Department of Territory and Municipal Services include information on its website about the location of these noticeboards. On its website, TAMS also highlights good poster etiquette, requesting that individuals "not post over other posters unless they are out of date or there is more than one copy of the poster on view".

The committee noted, from its own experience of pasting up posters on the available silos in Canberra city, that the limited number of silos currently available makes it very valuable advertising "real estate" and, as a result, posters are often covered with more posters within a matter of days—or, in some cases, a matter of hours. While additional poster silos would help to reduce the competition for legal bill posting space around Canberra, increasing the awareness and an acknowledgement of poster etiquette suggested by TAMS may assist all groups to negotiate a reasonable period of display time.

The third recommendation that the committee made was that the ACT government use announcements on new silo locations to also reinforce the need for good poster etiquette.

More concerning to the committee than the awareness of the available facilities is that the community awareness of the legislation appears to be extremely limited. The committee received a number of inquiries from members of the public who were unaware that bill posting was already an offence, let alone the provisions and implications of the amendment bill.

The fourth recommendation was that, as additional bill posting silos become available, the ACT government undertake an awareness campaign to inform the community about the requirements of any legislation affecting bill posting activities.

The committee received a number of submissions about who would be held liable for bill posting offences and how this might be proved. Individuals making inquiries of the committee wanted to know whether the contact person named on the poster, the event venue or event organisers could be liable for unlawful placement of posters or placards under section 120 of the act for events they are a party to, even if they were not individually witnessed committing the offence.

The Chief Minister highlighted in his letter of 10 February 2009 to the Standing Committee on Justice and Community Safety, performing the duties of a scrutiny of bills and subordinate legislation committee, that under section 8 of the Magistrates Court (Crimes Infringement Notices) Regulation 2008, an authorised person must witness the person committing the offence.

The Chief Minister advised in the letter that the need for a fault element was reduced because of the already prohibitive level of evidence that would ordinarily be required in a court in a prosecution merely to establish the factual element of the offence. A person must be seen committing the offence in order for reasonable grounds to exist for them to be served with an infringement notice. The strict liability provisions therefore apply to individuals posting bills illegally, not to event organisers, who would need to be prosecuted through the courts. The committee was further advised that it would not be sufficient to track a person down from the contact details provided in the poster or notice.

The Criminal Code 2002 also provides an avenue to challenge a strict liability judgement. It acknowledges that in certain circumstances individuals may be acting under a misapprehension and a mistake of fact may exist.

The committee also notes that community notices of a minor nature, such as lost pet notices, may be captured by the de minimis rule, which means the matter is so minimal or trivial that the law does not take it into consideration or it does not matter. The committee notes, on the other hand, that an individual organisation may be liable for offences under section 121 of the act based on their duty to ensure clean event promotion, even if they, or anyone associated with them, are not personally witnesses to the unlawful affixing of placards or paper to public property. An event has not been promoted cleanly if paper or placards are affixed in contravention of section 120.

The committee is concerned about how this might be applied in the case of mischievous or vexatious bill posting. There is a possibility that bill posting could be undertaken unlawfully by an individual wishing to hurt a promoter. The committee, however, notes that section 121 is not proposed to be a strict liability offence, so the fault or intent element must be proved and a defendant would have greater avenues of defence than only the mistake of fact.

The committee is concerned that the bill could disproportionately impact on groups or individuals who do not have the resources to fund paid advertising. SMS and electronic advertising do not allow targeted communication with a local community and can easily become spam. These methods also only reach people who are already involved in a group. This form of advertising can be expensive and the mainstream media also sometimes refuses to accept certain types of material, leaving bill posting as one of the few ways to have an opinion heard.

The committee notes the Chief Minister's comments to the Assembly about the problem with commercial enterprises promoting commercial events via illegal bill posting and suggests that the bill can target posters that are commercial in nature without placing too heavy an onus on political activists and community groups.

The committee also notes that the Roads and Public Places (Removable Signs) Code of Practice 2005 provides a mechanism for community groups, charities and schools to advertise events using movable signs. The code of practice enables community groups, registered charities and schools to display up to 20 signs for a period of two weeks prior to an advertised event. However, the committee notes that the costs associated with insurance requirements under the Roads and Public Places (Removable Signs) Code of Practice 2005 and the production of signage may render this form of advertising unattainable for many community organisations and individuals.

In recommendation 5, the committee recommends that the ACT government provide a link on the Department of Territory and Municipal Services bill posting webpage to the Roads and Public Places (Removable Signs) Code of Practice 2005 in order to direct the public to further information on the use of community signs.

Recommendation 6 was inserted because of the desire of the majority of the committee in response to the fact that the consultation regarding the amendments was conducted after the government had introduced and debated the bill. However, I believe that this recommendation is far too broad in its scope and unworkable in its implementation.

In conclusion, the committee notes from the government submission that TAMS has recently undertaken a telephone survey of 1,000 residents to "establish the views of the Canberra community towards bill posting".

I note Ms Le Couteur's dissenting remarks. However, I believe that her comments are an indication of her continued misunderstanding of the intent of this bill and that it targets those who insist on indulging in what I would describe as "commercial vandalism". I also note that the media release that was put out by Ms Le Couteur's

office today was put out by mistake and in error and that her office did not mean to put it out before I had tabled this report today.

I thank Ms Le Couteur and Mr Coe for their work on the committee's inquiry into this interesting but concerning issue of illegal bill posting. I also thank Nicola Derigo, the committee secretary, and the secretariat office for all of their hard work that went into the conduct of this inquiry, and also the witnesses and people who submitted to the inquiry.

MS LE COUTEUR (Molonglo) (10.18): I would like to elaborate on my comments in my dissenting report on this issue. Firstly, however, I would like thank the committee secretariat, in particular Nicola Derigo, and my fellow committee members, Ms Porter and Mr Coe. I remember Mr Stanhope saying at the time of referral that he regretted the matter going to committee because extending the criminal offences for bill posting was in fact a straightforward and simple matter.

Mrs Dunne: Of course it is.

MS LE COUTEUR Well, of course, yes. However, the committee has agreed on a number of recommendations to improve the bill. They include the need to provide better information to the community, to consult prior to the introduction of legislation and the need for more legal bill posting space. I think it is clear from reading both my report and the majority report that the issues arising from the bill are not really straightforward and simple.

While I agree with the committee majority's recommendations, I regret that it did not more closely examine the human rights implications of the bill or the technical aspects of the legislation and how they might apply in practice. But I do wish to be constructive; so my dissenting comments include recommendations for amending the bill to allay these concerns.

Bill posting, as well as other uses of public space by citizens such as graffiti or public protest, is often criticised for being ugly or disorderly and it has always been closely associated with social and political change. Posters have traditionally been used by minority groups to publicise new ideas or causes. They have often been used to spread political, revolutionary or unpopular ideas. Maybe that is one of the reasons why governments tend to be so happy to squash this practice. However, we need to remember that already the voices of the disadvantaged or the unorthodox often go unheard in our society.

Bill posting can be regarded as an economic crime. If you are able or willing to pay, there are many legal bill posting avenues available. I particularly think of the new bus shelters which are being installed by a private company in busy parts of Canberra in return for the right to advertise on them. That is a form of legal bill posting, in my opinion.

Freedom of expression is a right that has an extremely high value. As legislators we need to take the utmost care when we move to limit this right. That is one of the reasons why I and the Greens have so many concerns about this bill. It is seeking to further restrict freedom of expression. I must stress that my comments are not because

I object to every single limitation on free speech. I do accept that free speech is not an absolute right. However, we do need to take caution when we limit it and I do not think that the government's bill takes sufficient caution when it wants to limit free speech.

One aspect of the bill I would like to note is the wording of the defacing offence proposed by new section 120 under which a person can be liable for making a mark "with chalk, paint or any other material" on public or private property without permission.

This definition makes temporary, even innocuous, marking illegal. It is so broad that kids playing hopscotch in the street could in fact be prosecuted under it. Street artists, such as we have in the warm weather in Civic making beautiful portraits, could be prosecuted under this, even though they are using chalk which, when it rains, will wash off. Temporary markings like this are often a part of community life. It is a tradition in cycle events such the Tour de France, and it is also a tradition when people gather to remember tragic losses such as Hiroshima. We often draw chalk outlines of people in remembrance.

I recommend that the definition be changed to cover only people who make marks with paint or other material that is not easy to remove. As I have said, and I have heard members of the government say the same thing, laws impacting on freedom of speech should made in the least restrictive means possible.

Another of my concerns is the lack of adequate legal bill posting space in Canberra. There just simply is not enough. There have been only five bill posting silos in Canberra for the last five years. That is five silos in a city of over 300,000 people and five town centres. That is simply not an adequate number for political, social and community notices.

The government said that it would look into providing more space at the time the original bill posting offences were passed over a year ago, but they have not as yet provided any additional space. I also suggest that the government look at using existing structures such as walls in shopping centres as bill posting areas. This already occurs in a number of local shopping centres in Canberra, I think particularly of ones I know of at Lyneham and Garran. This is quite successful. It is a low cost and very resource-efficient way of providing a legal bill posting area.

The situation is now that if the government were to remove any of the few existing legal spaces or even if it fails to increase the number of spaces, the ban on bill posting in Canberra would effectively become an absolute ban. I have therefore recommended that the government provide a legislative guarantee in the bill that adequate legal bill posting spaces be provided around Canberra and that the existing spaces be notified by the regulations.

My report also details problems with making bill posting a strict liability offence. As a strict liability offence, the proposed section 120 would not allow a bill poster to use a defence of reasonableness. It is unreasonable to enact a broad, strict law and then rely on the authorities using their discretion on how to apply the law. That is simply poor law making. To enact a law and use as a defence the notion "we do not think people

will actually do what they could do under the law" is not how we should write laws. Many people receiving infringement notices will not challenge them in court, particularly if they are young people. There will, therefore, never be additional judicial scrutiny of these cases and it is inappropriate to rely, as I said, on officers just routinely not enforcing the law.

I believe these bill posting laws will probably be breached regularly, particularly by young people, and often they will be breached by mistake rather than by a deliberate act. Young people are likely to be disproportionately impacted by these laws. They often use bill posting to communicate and they are commonly organisers of political rallies and protests.

I note that the ACT Human Right Commission believes that the bill imposes significant limitations on the rights of young people, and these are rights which we are obliged to protect under the ACT Human Rights Act as well as international treaties to which Australia is a party.

My dissenting report therefore recommends that the government remove the strict liability element from this bill. It also recommends that, prior to enacting strict liability offences, the government undertakes a thorough social impact assessment to assess the social consequences on particular groups and to ensure that the proposed offences will operate fairly.

I also want to point out that the bill posting offence in this bill would apply broadly to all types of bill posting. I particularly want to point that out because this bill has been in some cases promoted incorrectly. In particular, when the Chief Minister introduced the bill he stated that community notices about such things as lost pets would be excluded from prosecution under this legislation. That is not the case. It is likely that in fact they will not be prosecuted, but they are not actually excluded from prosecution. I am concerned, and the Greens are concerned, that this misinformation is likely to cause confusion and may result in unwarranted prosecutions.

One of the main new elements of the bill is a clean promotion duty. I do accept that bill promoters need to take some responsibility for the promotion of their events but there are problems with this part of the bill. The first problem is that it does not differentiate between the different types of promoters or the different bill posting material. It is clear from the Chief Minister's comments to the Assembly, which Ms Porter also alluded to, that the bill was primarily intended to stop widespread illegal bill posting by commercial enterprises. But the bill will cover not only them. It will also cover community, political and social groups.

The second problem is this: it makes someone criminally complicit for another person's crime without necessarily having to demonstrate close involvement or intention. In my view, criminal penalties are not warranted under these circumstances, particularly as we are all aware of the potential problems with criminal convictions for people's ongoing lives. I have therefore recommended that the clean promotion duty should only apply to event promoters who are promoting an event as part of a business for profit-making activity.

I also have recommended that criminal liability be replaced by a more flexible system of civil penalties. The Environment Protection Authority could manage the system. Under this system we could have an issuing of clean-up notices, we could have pecuniary penalties in addition to the costs of restitution, we could have banning orders that would limit the future promotion opportunities for those who have breached the laws and there could be administrative repeals of decisions. You could potentially go to ACAT as well as a low-cost way of administering these issues. I would ask both sides of the Assembly to closely look at the committee's report and the issues and recommendations in my dissenting report. The Greens do not propose to support the bill unless it is amended, preferably as I have proposed in my report.

In conclusion, I would like point out that whatever our views on bill posting are, we should remember that in fact bill posting is already illegal; so increasing and expanding the offences, or increasing the illegalness, should only be done with great care to make sure that we do not needlessly trample on some of our society's most valuable rights.

MR COE (Ginninderra) (10.29): I rise to add my comments to the report of the Standing Committee on Planning, Public Works and Territory and Municipal Services inquiry into the Crimes (Bill Posting) Amendment Bill 2008. Firstly, I think it is important to note that there is no recommendation that the bill be passed. I think the omission of such a recommendation is important for the Assembly to reflect upon and that we should be careful before passing this bill in its current form. As I said earlier in this place, I think the bill is poorly drafted and vague legislation and, on that balance, may not actually enhance our city.

I believe that the bill has a disproportionate impact on some of the most vulnerable in our community and potentially unfairly targets people for harmless actions. In an extraordinary admission, the explanatory statement accompanying the bill talks about the applicability of provisions to community notices. In relation to lost pet notices, it says that a person affixing such notices on property without consent could still be prosecuted under sections 119 or 120 of the act.

The bill would also technically make it a crime for chalk hopscotch drawings to appear on paths and for small groups such as scouts to paint stencilled numbers on guttering outside residential properties. Whilst it might be unlikely that such children or groups would be prosecuted, it seems like heavy-handed tactics to me.

Whilst considering this bill, it has become clear to me and others in this place that this is another example of the Stanhope-Gallagher government's "decide now, consult later" mentality. Instead of talking with businesses, community groups and others with an interest in bill posting, the Chief Minister rushed forward with vague legislation. I am glad the committee was able to do what the government refused to do.

Recommendation 6 of the report rebukes the government and requests the government to take a more serious approach to consultation. I find it amazing that TAMS undertook a telephone survey after the bill was introduced into the Assembly. You would think such research would be undertaken prior to government moving legislation. Again, it is a "decide now, consult later" mentality.

I am still concerned that these laws may have some consequences for freedom of speech. Many political events such as rallies and lectures are advertised through the distribution of posters. Severely restricting this form of postering limits the ability of these organisations to have successful events and participate in public debate.

It is disappointing that the Human Rights Commission's submission came to the committee so late in the piece. Their thorough report highlights a number of concerns from a freedom of expression point of view. I think it would be worth while for all members to review their submission and take their views into account before voting on this bill. Given the stage of deliberations the committee was at, it was impossible for us as a committee to give due consideration to the issues the commission raised. However, I am grateful to receive the submission prior to our taking a vote on the proposed legislation.

I support recommendations 1 to 6 as they are about making sure the government takes a proactive stance to encourage the use of community noticeboards. Active participation in our community by Canberrans should be encouraged. I hope the government will take on these recommendations, regardless of whether the bill is passed or not. I look forward to seeing the government's response to the committee and to any recommendations and amendments the government proposes.

I would like to thank my colleagues Mary Porter and Caroline Le Couteur for the constructive working relationship. I would also like to extend my thanks to Nicola Derigo for her diligent and professional approach as the committee's secretary.

Question resolved in the affirmative.

Privileges—Select Committee
Establishment—amendment

Motion (by **Ms Hunter**), by leave, agreed to:

> That the resolution of the Assembly of 16 June 2009 that established the Select Committee on Privileges be amended by omitting the words "on 18 August 2009" and substituting "by 27 August 2009".

Justice and Community Safety—Standing Committee
Scrutiny report 9

MRS DUNNE (Ginninderra) (10.34): I present the following report:

> Justice and Community Safety—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 9—*2009 Australia-New Zealand Scrutiny of Legislation Conference,* dated 10 August 2009.

I move:

> That the report be noted.

Question resolved in the affirmative.

Scrutiny report 10

MRS DUNNE (Ginninderra): I present the following report:

> Justice and Community Safety—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 10, dated 10 August 2009, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MRS DUNNE: Scrutiny report No 10 contains the committee's comments on seven bills, 11 pieces of subordinate legislation, 10 government responses, one private member's response and a review of secrecy clauses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Planning, Public Works and Territory and Municipal Services—Standing Committee
Report 2

MS PORTER (Ginninderra) (10.36): I present the following report:

> Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 2—*Draft Variation to the Territory Plan No 288*, dated 9 July 2009, including additional comments *(Ms Le Couteur)*, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

In tabling this report on the draft variation today, I would remind members that it contains two parts: changes to residential zone multi-unit housing development code part A(5); and Lyons estate redevelopment changes to the zoning for blocks 3 and 4 section 69 Lyons, and block 8 section 47 Lyons. Largely due to the above, the consultation undertaken by the standing committee was extended to ensure that stakeholders were given an opportunity to both understand the variation being proposed and comment on it.

As the report outlines, RZ5 zones are high density zones that aim to create a wide range of affordable and sustainable housing choices within a high density residential environment to accommodate population growth and meet changing household and community needs, particularly on transport corridors, employment centres and commercial development, to provide an opportunity for home-based employment and to promote energy efficiency and conservation and sustainable water use.

Before coming to the committee, the joint venture for Lyons had undergone extensive consultation, and the committee heard from one witness that it was "one of the better consultations". Nevertheless the committee took pains to ensure that its own processes

were thorough and accessible. There was some confusion amongst some submitters and stakeholders in relation to the nature of the planning study undertaken by the proponents. The committee acknowledges that having the proponent source and pay for a consultant to prepare the study may create a public perception that the consultant is not assessing a project independently, and it recommends that ACTPLA commission all planning studies itself and, where a territory plan variation is initiated by request from a proponent, require the proponent to fund the cost of the study.

Regarding the first part of the variation, the committee notes that there is currently very little difference between provisions for RZ4 and RZ5 developments. Other than a small number of site-specific requirements, the existing provisions do not allow height to be used to distinguish between the two zones. The Canberra spatial plan provides for increased residential intensification along major transport corridors and within a 7.5-kilometre radius of the city centre. In this context, the committee considers that raising the height limit for RZ5 zones will provide ACTPLA with more distinct options when planning for future urban development areas. It will also distinguish RZ5 as being high density, consistent with the objective of "high density urbanised settings".

The committee also notes that criterion 25(d) of the multi-unit housing development code applied only to "development on adjoining residential land" and is "not for development within a single site". The committee is concerned that, as multi-unit developments often incorporate multiple building elements on a single site, this criterion does not appear adequate to protect the amenity for residents of future multi-unit developments. It makes two recommendations in relation to this: one in relation to protecting the solar access requirements of developments on the same land in addition to protecting adjacent land and another that the proposed changes to rule R25 and criterion C25 of the residential zones multi-unit housing development code part A(5) proceed.

Most submissions received were in relation to the second part—that is, Lyons, blocks 3 and 4 section 69, and block 8 section 47. The committee noted that block 8 section 47 had already been developed—that is, the Freycinet development of 24 public housing retirement village units, a three-storey development of 24 units with basement parking. There is no current proposal to increase the height of this development, although it is still proposed to be rezoned to RZ5.

The development application for stage 1 of the development of block 3 section 69 was approved in April 2008, and the construction of the single-storey villas and the blocks of two and three-storey self-care units has begun. Ms Le Couteur, in her dissenting remarks, makes comment on the existing retirement development, which the committee was not required to consider, as I previously explained. There will be a variation in the height of the buildings on the site once the whole site is completed as there are some three and two-storey villas on the site. However, these are adjacent to the Burnie Street one-storey development which already exists at the rear of the site and which was developed, the committee heard, to be more in sympathy with the adjoining development, whereas the blocks moving towards and running alongside Melrose Drive are more suitable for the six and 10-storey developments, as will now be possible under these variations, forming a transition from building heights from Burnie Street to Melrose Drive.

As noted earlier, increasing high density residential developments around town centres, including Woden, will encourage people to use alternative transport modes, including walking and public transport. Buyers might also be motivated to purchase in this location if they currently work in Woden.

The committee supports the proposed rule 27A of the residential zones multi-unit housing development code because it will theoretically enable the site to increase housing density near the Woden town centre and it is in keeping with the direction of the Canberra spatial plan. However, the committee believes that this change in zoning should be approved if accompanied by a change in allowable site density to enable real residential density to occur—that is, the committee recommends that ACTPLA increase the density allowance in the lease and development conditions for blocks 3 and 4 section 69, Lyons, and that the proposed variation to the territory plan include rule 27A, allowing developments of up to 10 storeys as part of block 4 section 69 Lyons. That should be agreed to subject to the above recommendation.

The committee regularly receives comment in relation to a concern that the current solar access rules in the multi-unit development code are inadequate for good passive solar housing design. The committee acknowledges that ACTPLA is undertaking a review of the territory plan as part of its ACTPLAn initiative and believes that this is an ideal time to strengthen such rules as the solar access rule.

The committee did find some challenges in dealing with the multiple planning and zoning issues in a single draft variation. Further, it believes future draft variation documentation should include additional documentation on the current territory plan provisions to assist the community to better understand the implications of the variations. The committee does not support Ms Le Couteur's recommendation, however, that the independent planning authority produce illustrations of a development for the proponent "to help the community better understand the development".

I would like to make a few points on Ms Le Couteur's comments in the dissenting report. In respect of the recommendation that the independent planning authority produce illustrations of a development for the proponent to help the community understand the development, if you think that through, ACTPLA will be presenting to the community its interpretation of the development. If and when ACTPLA then sits down to assess that development, the community will wonder how the organisation that was putting forward the illustration can then impartially assess it. In effect, this well-intentioned suggestion could put ACTPLA in a compromised position where it would be seen as a partner of the proponent and assessor of the development. It will also lead to confusion since ACTPLA's illustration of a possible development may differ significantly from what is finally proposed. So this suggestion of Ms Le Couteur's would likely confuse the community and undermine trust in the independent planning authority.

In recommendation C, Ms Le Couteur recommends that an additional environmental analysis be done for all large developments. All large developments already have environmental assessments either as part of the planning study that precedes them or the DA process. Adding an additional process adds nothing to the development and

will ensure the development takes longer and costs more. Her recommendation D tries to address building issues through the territory plan. Choosing the wrong vehicle to regulate an activity really leads to red tape.

There are also clear inconsistencies in Ms Le Couteur's approach. In her dissenting report she says:

> I think there is not an overwhelming case for a 10 storey tower, particularly in the proposed location. It has been strongly opposed by the community and therefore I do not support the Committee's Recommendation 6.

Recommendation 6 is that the 10-storey development be allowed. In a press release of 24 July Ms Le Couteur says:

> Higher density in major town centres makes sense on an economic, social and environmental basis … These sites next to Woden are prime locations to have some higher density on the basis of public transport planning alone.

The press release was titled "Government fails on both sides of Woden", so it seems she wants lower densities on the western side of Woden and higher densities on the eastern side. I recall that Dr Foskey once disparagingly remarked about the old Burnie Court site in the *Canberra Times* as being "more and more units being squeezed onto the block to increase the return". Where do the Greens stand on density? I ask that as a serious question.

As an aside, in Ms Le Couteur's press release of 24 July, she interestingly suggests that ACTPLA make variations to the territory plan. I am sure that she now realises that she and, in fact, all other members of this place make planning policy. ACTPLA independently enforces the planning policy that we, the Assembly, set. We—that is, this side of the chamber—want to keep politics out of planning.

I thank Nicola Derigo in her role as the committee secretary and all the secretariat staff for all their hard work. I would also like to thank my committee members, Caroline Le Couteur and Alistair Coe, and all witnesses and those who submitted to the inquiry.

Finally, I would like to say, however, that if one is serious about making a difference on climate change, some difficult decisions need to be made. I invite the Greens and my Liberal colleagues to take up this challenge in our next inquiry—RZ3 and RZ4 residential redevelopment policies in the inner north of Canberra. That inquiry will provide a great litmus test for the opposition parties' ability to see beyond the short-term politics and contribute to long-term policy that actually makes a difference. I urge my colleagues to take this inquiry seriously, and I look forward to working with them on this important task.

Ms LE COUTEUR (Molonglo) (10.47): As before, I would like to thank the planning committee's secretary, Nicola Derigo, and my fellow committee members, Ms Porter and Mr Coe. I will not go through the majority report at great length because, with the exception, as Ms Porter has pointed out, of recommendation 6, the 10-storey element, I agree with the majority report and I think that all the suggestions there would improve the development, if implemented by the government.

I will go through, basically, my dissenting report and start off firstly by touching very briefly on history. The site that we are talking about was originally developed in the 1970s and consisted of 264 units. Basically they were bedsitters. It was known as Burnie Court. It was owned by ACT Housing, which decided to demolish the complex in 2001 due to management issues.

A master plan for the site was prepared in 2001 and this plan, in fact, allowed for 274 dwellings, with a maximum height of three storeys, because that was in accordance with the height restrictions under the territory plan at the time. Most of these units had good solar access. They were north facing.

Part of the block was offered for sale in 2003, with the development conditions as set out in the master plan. The block, however, was passed in at auction because it did not meet the reserve price, which was really surprising, given the favourable economic conditions at the time, in 2003.

Subsequently, the block boundaries were changed; the master plan was no longer a condition; and in 2005 a joint venture entity was established consisting of Hindmarsh Living and the Commissioner for Housing. That was established for the development of the site.

As Ms Porter has mentioned, at present the site has on it 24 three-storey public housing retirement units at the southern end and six blocks of nearly finished, single-storey retirement units, which have been developed by the joint venture. These single-storey units cover two-thirds of the site, and this is why I have been concerned about and why my press release talked about the need for real densification of the site. To cover two-thirds of such a good site with single-storey development is—it is hard to find the word—crazy, bizarre, silly, given that it is such a good site in such a prime location in Woden.

The committee asked why we had so much single-storey development on the site and we were told that it was because that was what the market demanded for retirement building. Goodwin Village has been successful with its multistorey development in Ainslie. In fact, I am told that most of the units in the 20-storey Sky Plaza in Woden town centre are, in fact, occupied by over-55-year-olds.

The site previously had 240 public housing units. It now only has 24, 10 per cent of the previous number, although I note there will be 12 units owned by Community Housing. One of our concerns is that developments like this are leading to public housing units moving to less desirable locations. While this is not something which we can deal with in the territory plan, it is one of our concerns.

Ms Porter also talked about the public consultation on this site. I agree this has been one of the sites where there has been probably more rather than less public consultation. There have been a lot of comments. I would like to quote what the Woden Valley Community Council said in its submission:

> To find out at this late stage, and only through the release of the Draft Variation, that the proposal has changed from medium density maximum 3 storey (with a

> 9 storey tower) to high density 6 storeys to be allowed to be developed over the entire site (with set back of 50 m) and a 10 storey tower, flies in the face of all the years of earlier consultation with WVCC. It is a similar example to the disregard given by ACTPLA to the Woden Town Centre Master Plan after at least 3 years intense consultation with the community.

Yes, there was significant community consultation. However, I think that a lot of the community feels that they were not listened to in that consultation. The 10-storey element which Ms Porter mentioned is one of the areas where they feel significant concern. That is the reason why, after much soul searching, I have decided in my dissenting report not to support the 10-storey element. Yes, I am very concerned about densification of this site. However, as I said before, two-thirds of the site is covered with single-storey development; so the government is clearly not concerned about densification on the site.

It seems to me they were trying to use the 10-storey element as a get-out-of-jail-free card because of what they did on the rest of the site. Their other reason for doing it was that it would be a gateway to the Woden town centre and provide a stronger visual impact. I think everyone would agree it would provide a stronger visual impact but that does not mean it is a good idea.

The 10-storey element is also planned to be on the north-east corner of the site. As we are all aware, putting things on the north means that you are going to be overshadowing the rest of the development. I suppose the only positive thing is that at least you are not overshadowing someone else's development. But a number of people in their evidence pointed out to the committee that, if you are going to put a 10-storey tower anywhere, the site chosen by the proponents seems to be the worst possible site for it.

Getting back to community consultation, I think that, if we are serious about consulting the community, we also need to listen to what the community says. In this case, it said clearly that the 10-storey element was not wanted. Given that it only seems to be there because of other planning issues with the site, I felt that it was not reasonable to support it.

I also note that the rest of the development, which has still to be developed, will be six-storey. The difference in the number of units between six and 10-storey over such a small area, because the 10-storey element is only allowed at one corner, is not actually going to be significant.

I would now like to talk about my recommendation with respect to the information that ACTPLA provides. Unfortunately, Ms Porter misinterpreted what I said. One of the things that were obvious in the comments on the site was that most people were commenting on what effectively would be the DA, because ACTPLA had provided some pretty pictures of a possible development there. That is what people commented on, because that is what people could understand.

Most people cannot understand the wording of territory plan variations. I count myself as someone who finds this hard to understand. What they commented on was the pictures they saw. What I am saying is that the pictures that they see should be consistent with the territory plan variation. That is what my recommendation says—

consultation on territory plan variations should include an illustration of the maximum permissible 3D building envelope—because that is what the territory plan variation is allowing. People should know what they are actually commenting on, what we are potentially approving.

I also in this recommendation said that, in the descriptions accompanying planning proposals, ACTPLA should ensure that the text is consistent with the actual characteristics of the development. This, again, was something that was pointed out extensively by the community. The text accompanying the development said that a majority of the units have a strong northerly orientation at the main frontage, with the remainder predominantly facing east or west.

However, the committee received evidence, particularly from Mr Wrigley, that in stage 1, which does not include the public housing units, only 22 per cent of the housing units had a northerly aspect. In block E, 10 of the 11 units have no northerly windows. So what I was saying and the community was pointing out was the description of the development was not consistent with what appeared to be proposed as the development.

The hardest part in trying to make a constructive report on this was working out how we can improve the development, given that two-thirds of the site has already been covered by single-storey development. It is basically a waste of a good site. What makes it particularly bad is that the government had a large, empty site in a very good position which they owned in 2001 and they still partially own.

It is not a situation where poor decisions have been made by external developers and the ACT government has been powerless to intervene. They made these decisions. These decisions demonstrate a lack of commitment by the ACT government to the ACT greenhouse strategy and to the Canberra spatial plan, which is supposed to reinforce residential densities around town centres.

Mr Barr: We were proposing densities.

MS LE COUTEUR: Yes, you were proposing to increase them but the reality is that two-thirds of the site is covered by single-storey development.

Ms Porter also commented on my recommendations about energy efficiency, stating that the Building Code of Australia was a more appropriate mechanism to do this. I have no problems with changes to the Building Code of Australia but that is not something that I am in a position to do. However, the committee is in a position to recommend changes to the precinct codes and the territory plan. I believe that the committee should do that with respect to energy efficiency in multi-unit developments.

Most people do not realise that multi-unit developments, in fact, have lower energy efficiency requirements than single residential units. This, again, seems somewhat crazy to me. If you are unfortunate enough to live in a single residence, which is poorly insulated or poorly orientated, you probably have at least some possibilities for improving your dwelling.

If, however, you have bought into a multi-unit development which faces south, does not have good or sufficient insulation or sufficient opportunities for cross-ventilation or any number of potential issues, you are probably in a position where there is actually nothing you can do it about it. You are constrained by the building envelope; you are constrained by the body corporate; and you will just have to suffer the consequences of the poor building design for the rest of your time there.

Given this, it is really important to ensure that multi-unit development is at least as energy efficient as a single residence. My recommendation would actually make it slightly higher, although I would point out that what I am asking for is, in fact, consistent with the ACT Labor-Greens parliamentary agreement and COAG's proposals for the future.

My recommendation is that the minimum energy efficiency rating for RZ5 should be raised to five stars, with an average of six stars. If the Building Code of Australia is later changed to give a higher minimum for single residences then this should also apply to RZ5. This should also apply to the other multi-unit codes, RZ2, RZ3 and RZ4.

This is probably an issue, as I should have mentioned before. As summers are getting warmer in Canberra and the rest of Australia, people will find needs for cooling and air conditioning. The people who are living in the multi-unit developments in Burnie Court are likely to be facing Melrose Drive, which is a six-lane highway. They are probably going to have fixed windows. They will not build a passive building. They will be forced to rely on air conditioning. We have a duty to ensure that they live in well-designed buildings. I think it is a pity that the majority of the committee did not also see that as a requirement.

Finally, we have spoken a lot about densities around town centres. I really would like to put on the record that the ACT Greens strongly support increasing density around town centres. I will read out recommendation I, my last recommendation:

> That ACTPLA, LDA and ACT Housing improve practices to increase densities around town centres in accordance with the Spatial Plan. Increased densities should be done as part of a robust, high quality urban design process that is subject to public consultation and debate and results in site specific building envelope controls being incorporated into a territory plan precinct code.

I thank you for listening to the recommendations.

Question resolved in the affirmative.

Climate Change, Environment and Water—Standing Committee

Statement by chair

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Climate Change, Environment and Water.

The Standing Committee on Climate Change, Environment and Water enjoyed a visit to the Canberra airport on 29 July 2009 to view the trigeneration facility and blackwater treatment plant. Canberra airport's project manager, Ms Karen Emms, and the director of planning and environment, Mr Noel McCann, provided the committee with an explanatory tour, for which we were very grateful. Our aim for the visit was to learn more about the application of energy reduction technologies in industry so as to inform the committee's inquiry into greenhouse gas reduction targets.

The Majura Park trigeneration plant that the committee visited is one of two located at the Canberra airport complex. The other is situated at Brindabella business park. The trigeneration facility, located in the central services building at the Majura office precinct, has the capacity to service the heating and cooling needs of its 40,000 square metre buildings.

The process of trigeneration involves using natural gas to produce electricity, while capturing and reusing the engine's excess heat to generate further electricity and to heat and cool water. That water can then be used to heat buildings in winter and to cool them in summer. The Majura Park trigeneration plant is an energy creation and recycling facility that can potentially reduce Majura Park's greenhouse emissions by up to 70 per cent. The Canberra airport estimates that its annual reduction in CO_2 emissions is equivalent to taking 1,700 cars permanently off the road.

Any surplus electricity created by the plant can be used to provide power to the Majura office precinct, and excess can also be sold back into the national electricity grid. According to the Canberra airport, the plant's output capacity of 1,200 kilowatts of electricity is equivalent to the total average annual consumption of electricity of 250 homes. This efficiency dividend is integral to the success of this technology. In the committee's view, this facility marks the way for innovation in greenhouse gas reduction in business and, potentially, housing throughout Canberra.

The Majura office precinct facility took three years to complete, from design to completion. The cost recovery period for the trigeneration plant is estimated to be between eight and 12 years. This presents to industry an economically viable energy option that also reduces greenhouse gases.

As part of the tour, the committee also inspected the Majura Park blackwater treatment plant, one of two located at the Canberra airport, the other being at Brindabella business park. The plant recycles water waste from the Brindabella business park and Majura office park and has the capacity to recycle around 50,000 litres per day at each plant. This water can then be used for irrigation, toilet facilities and, in the future, cooling. The Majura park blackwater plant is not yet operational, as it needs to accumulate a base amount of waste fluids for the essential bacteria to work.

The committee commends the Canberra airport for their efforts and innovation in leading the way and reducing greenhouse gas emissions in the ACT. On behalf of the committee, I would like to thank the staff of the Canberra airport who participated in the visit, particularly Ms Michelle Knighton, Ms Karen Emms and Mr Noel McCann.

Four Geneva conventions of 1949—60th anniversary

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.06), by leave: I move:

> That this Assembly:
>
> (1) notes the sixtieth anniversary of the Four Geneva Conventions of 1949;
>
> (2) congratulates the International Red Cross and Red Crescent Movement on its continuous fostering of the principles of international humanitarian law to limit human suffering in times of armed conflict and to prevent atrocities, especially against civilian populations, the wounded, and prisoners of war;
>
> (3) recalls Australia's ratification of the Conventions and of the two Additional Protocols of 1977;
>
> (4) affirms all Parliamentary measures taken in support of such ratification;
>
> (5) encourages the fullest implementation of the Conventions and Additional Protocols by the military forces and civilian organisations of all nations;
>
> (6) encourages ratification by all nations of the Conventions and Additional Protocols; and
>
> (7) recognises the extraordinary contribution made by many individual Australians, including Australian Red Cross members, volunteers and staff, to the practical carrying into effect of the humanitarian ideals and legal principles expressed in the Conventions and Additional Protocols.

Sixty years ago, on 12 August 1949, the international community adopted the four Geneva conventions to protect victims of armed conflict. The Geneva conventions are at the core of international humanitarian law, the body of international law on the conduct of armed conflict. The original Geneva convention was the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field of 1864. Unlike previous laws about the conduct of war, the convention was not devised by the officials of a religion on the basis of their religious precepts. Instead, it was devised by the International Committee of the Red Cross and constituted by agreement of nation states of the world. Hence, the convention's founders could and did genuinely promote the convention's universality. There has long been a consensus among historians and legal scholars that this was the beginning of today's international humanitarian law.

The first convention was followed by three others. The four came into force as international law on 21 October 1950. They came to be known as the Geneva conventions. They prescribe certain protections for people who have not taken part in hostilities—the civilians, health workers and aid workers—and those who are no longer taking part, such as wounded, sick and shipwrecked soldiers and prisoners of war. Australia ratified the conventions on 14 October 1958 and the Australian parliament enacted the Geneva Conventions Act 1957. The major purpose of this act

is to provide criminal sanctions for grave breaches of the conventions and to endow Australian courts with jurisdiction to try them.

There are 194 states that are parties to the conventions; so they can truly be described as universal. In the two decades after the commencement of the conventions, the world witnessed a significant increase in the number of non-international armed conflicts. In response, two protocols additional to the four conventions were adopted in 1977. Protocol I strengthens the protection of victims of international armed conflicts, and protocol II, the victims of non-international conflicts. Protocol II was the first-ever international treaty devoted exclusively to situations of non-international armed conflicts. Australia ratified these protocols on 21 June 1991.

The Geneva conventions, the additional protocols and the statutes of the International Red Cross and the Red Crescent Movement charge the International Committee of the Red Cross with protecting and assisting victims of war, promoting and developing international humanitarian law and encouraging states to implement their international humanitarian law obligations.

Many people all over the world clearly regard the conventions as rules that are at least as essential as when they became law shortly after the Second World War. Since then, violent intra and interstate conflicts have claimed the lives of many millions of civilians and left tens of millions permanently displaced. These conflicts have featured grave violations of international humanitarian and human rights law. And often, the warring parties have made non-combatants their primary victims of rape and massacre.

The International Committee of the Red Cross recently commissioned research on what people think about the conventions and acceptable behaviour during hostilities. The findings of this research resoundingly affirm the broad support for the principles enshrined in the conventions. Approximately 4,000 people were surveyed in eight countries affected by war, namely, Afghanistan, Colombia, the Democratic Republic of the Congo, Georgia, Haiti, Lebanon, Liberia and the Philippines. The questions put to these people focused on their experience of violent conflict. They overwhelmingly agreed that some behaviour is unacceptable even in times of conflict, including killing civilians, kidnapping, torture, looting and sexual violence.

The conventions are also of tremendous importance to people throughout Australia, including in the ACT. Most Australians have a sense of how imperative it is for all to abide by the conventions, from the experiences of Australian prisoners of war during World War II and other international conflicts, due to the stories passed down by family members, neighbours, historians and community leaders. The Australian Red Cross volunteers and staff members have contributed enormously to the implementation of the conventions and protocols. Praise is due to them and the current chief executive officer of the Australian Red Cross, Robert Tickner.

The Geneva conventions are also important to Australians because many of them find themselves in the midst of armed conflict overseas. These Australians are providing assistance in countries when bloody conflict breaks out or are helping in countries where there are ongoing armed hostilities. And there are many members of the Canberra community who have devoted themselves to serving communities and

individuals caught up in places of conflict, war or religious violence. They, and the local non-combatants they serve, can only remain alive and free of torture if the warring parties comply with the conventions. Australian government and non-government officials must insist upon combatants adhering to the conventions and international humanitarian law generally.

Accordingly, I think it is fitting today that the Assembly take the opportunity to commemorate the 60th anniversary of the Geneva conventions and the recognition of the achievements of the International Committee of the Red Cross and the Australian Red Cross in advancing the conventions. There are many members of our local community who participate strongly in the activities of the Red Cross through fundraising, welfare and other forms of assistance, and there are many Canberrans who have contributed in international arenas to the advancement of human rights and humanitarian law, to the advancement and protection of refugees and all those caught up in conflict. For these reasons, it is appropriate that we recognise this important anniversary today, and I commend the motion to the Assembly.

MR HANSON (Molonglo) (11.13): I thank Mr Corbell for bringing this motion to the Assembly. It is certainly a worthy motion on the 60th anniversary of the Geneva conventions. I thank Mr Seselja for allowing me to speak before him on this matter. I have got to get away to, funnily enough, a Vietnam veterans function shortly.

The key principle about the Geneva conventions, and the phrase that has been used recently, is even wars have laws. I think it very well summarises exactly what the Geneva conventions are about, ensuring that even when hostilities occur, when nations are in conflict, there need to be some protocols that govern the way that we conduct ourselves. And certainly, if you look at the history of the Geneva conventions and how they have arrived, they are derived from civilised nations that have realised that, in some ways, the armies and the way they combat actually reflect the societies that those militaries come from and that there are standards that need to be applied, even on the battlefield.

I note the ICRC's role in the development and the implementation of the Geneva conventions. They have certainly played a very important role in facilitating what has been such an important piece of law. They have had difficulty in negotiating with so many nations to actually come to the table and agree. I think it has been a remarkable success. They have been largely successful since their implementation. It has not always been so, and often we do focus on the negative and where the laws of the Geneva conventions have not worked.

The first convention is about the wounded and sick military personnel. The understanding that we have, the instant recognition that we have—of ambulances that we might see on television driving in the Middle East with a red crescent or a red cross on them, or the images from *M*A*S*H* of hospitals with a red cross on them—and how that has become such an important part of the feature of combat and combat situations, we now take for granted. But that has not come by accident; it has come as a direct consequence of that Geneva convention.

The second convention deals with the wounded and sick at sea. I think we treat with horror the sight that we see of sailors whose ships have been sunk and who are left

there to drown. I think that we would all have fond memories of ships that have sunk and then the retelling in history where the opposing side has gone and risked their own lives to save the sailors from the vessels that they had just sunk.

The third convention covers prisoners of war. If we look back into our history of the Second World War, we all have very grim recollections of things like the Sandakan death marches, the Thai-Burma railway and the treatment of our POWs, many of whom suffered greatly at the hands of the Japanese. The Geneva convention that arose out of those terrible experiences in World War II has, in some measure, prevented those sorts of atrocities occurring again—but obviously, not entirely.

The fourth convention deals with civilians at war. In the Second World War there were 80 million-odd civilians who died as a result of conflict. I think that the emerging face of war is that civilians are the casualties. The combatants make up a certain percentage but if you actually look at the conflict areas across the world, whether it be in places like Iraq, Afghanistan, the Sudan, and indeed if you consider the international war against terror, it is civilians now that are actually bearing the brunt of hostilities. Making sure that there are laws in place to prevent civilians being used, making sure that they have some legal grounds in conflict, is so important.

Mr Corbell did not really cover in his speech the role of the ADF. I note that the motion that he has brought forward encourages the fullest implementation of the conventions by military forces and, in paragraph (7), recognises the extraordinary contribution made by individual Australians, including the Red Cross.

But I would like to discuss the ADF's role in the implementation and the conduct of Geneva conventions. Probably there is no greater example of a nation that has applied and adhered to the Geneva conventions and a military that has adhered to and set an example on the Geneva conventions than Australia and the ADF. It does not happen by accident. From your very first moment of training in the ADF, the laws of armed conflict and the Geneva conventions are a mandatory part of your training and are instilled in every member of the ADF. So it is not something that is taken lightly.

Nor is the relationship between the ADF and the International Committee of the Red Cross to be taken lightly. I was at a couple of functions last week. There was one very moving ceremony at Parliament House and another function at the High Court. The head of the International Committee of the Red Cross in Australia actually spent some time extolling the virtues of the ADF. There were a number of ADF members there, in particular from the legal section. The collaborative way in which the organisations work, I think, has been a fundamental part of making sure that Australia has set such a high standard in its implementation of the Geneva conventions.

I think there are two very important reasons for that. Firstly, a military is very much a reflection of the society that it comes from. The standard, the way that the military and the ADF behave, reflects on us as Australians. The soldiers fighting in Iraq, the soldiers fighting in Afghanistan, East Timor and other places, are simply Australians doing their job. And we want to make sure that the ADF reflects our values, as Australians. I believe that it does. I believe that the ADF has done extremely well in some very difficult circumstances to make sure that our reputation as Australians has been upheld.

If you consider the damage that has been done to national reputations in places like the former Yugoslavia and some of the atrocities that were carried out there, in the Second World War by the Germans and by the Japanese, these are things that take decades, if not centuries, to recover from. So that is a very good reason for adhering to the Geneva conventions.

The other reason, from a purely pragmatic circumstance, is that, if you are fighting a war, then you must have the nation's will behind you. What we refer to in the military now is a strategic corporal. The actions of a corporal on an outpost can have strategic ramifications. If he behaves improperly, if a young private soldier does something that is stupid, he reacts improperly to a civilian, he shoots a civilian, he does something that causes harm, the nation's will behind the ADF will collapse. So there are some very good reasons to adhere to the Geneva conventions from a humanist point of view. We also find that modern militaries, the professional armies, will adhere to the Geneva conventions because it actually makes good military sense to do so.

The problem is that we are fighting nowadays an adversary who has a different standard. We are fighting people like the Taliban, al-Qaeda, Shiite militias in Iraq and previously militias in East Timor, who, by their very way of fighting wars, basically are the exact opposite of what the Geneva conventions are set up to implement. If you consider what they do, they target civilians. If you think about the way the Taliban operate, the way al-Qaeda operates, they deliberately target civilians. They commit atrocities. And they do so to try to provoke Western nations, people who are signatories to the Geneva conventions, to overreach the mark. So if you are in a position where you are adhering to the Geneva conventions but fighting an adversary who is deliberately and at all times trying to provoke you into committing atrocities, it is a remarkably difficult situation to be in.

We would all condemn a number of the things that we have seen in Iraq and in Afghanistan in very limited numbers. But I think it is also worthy of reflecting on the fact that what has happened as an exception to the rule by Western forces is actually the standard rule or method of operation by our adversary. It is important to note that, where there have been atrocities in places like Abu Ghraib, that has been investigated. The armies and the nations in which that occurred have condemned it soundly. People have been convicted and people have been punished.

It is always worthy, I think, to reflect on where we do go wrong. But if we are honest we must also recognise that we are doing an extremely good job in very difficult circumstances, both in the ADF and with our allies.

I would like to highlight a couple of personal examples, if I could. Firstly, in terms of training, when I was in Papua New Guinea in 1990 we were training the Papua New Guinea defence force to go and operate in Bougainville. We were hearing stories about atrocities which were coming out of Bougainville which unfortunately were committed in some cases by the PNGDF. They were not verified but certainly there were some pretty horrific stories.

We then changed the training regime for the people we were training there. I must say that we altered it to the point where a large focus of the training that we conducted

was focused very much on the Geneva conventions and on making sure that when the next generation of Papua New Guinea defence force recruits entered their defence force, and if they went to Bougainville, they would make sure that they treated the civilian population with respect. I hope that, by doing that, we perhaps prevented any further atrocities occurring.

In East Timor in 2000, I was in a place called Suai where only a couple of months before there had been a massacre of some 200 civilians in the church. And that certainly served to me as a very pointed example of where things can go wrong. Militias supported by the Indonesian defence force, or certainly members of the Indonesian defence force, had massacred a number of civilians. And to stand in that church where that had occurred and see the blackened area in the car park of the church where bodies had been burned certainly made me realise the importance of adherence to the Geneva conventions and the laws of armed conflict.

In East Timor, though, we did see some great success stories where the Geneva conventions were put into play. We saw civilians coming back. Refugees that had fled East Timor when the initial troubles had begun came back in their tens of thousands and were assisted by the United Nations, by the ADF, by the Indonesian defence force, by the International Committee of the Red Cross. To see people coming back from the horrors that they had been suffering for months to their homes was really quite moving.

A more recent example was in Iraq. I talked about that double standard before and the difficulty that causes for nations who are dealing with a double standard when they are fighting wars. But the experience I had there was where the militias of al-Qaeda and the Shiite militias would move into civilian areas and bombard the bases where we were. On many occasions I recall sitting in a bunker while we were being bombed and there was simply nothing we could do about it because the enemy combatants or terrorists were using civilian areas to do that from.

They are just a few examples. I commend Mr Corbell for bringing this motion forward. I would ask that the Assembly also note the very important role played by our own ADF in the implementation of the Geneva conventions and the extremely good standard that I think they set for the world in their implementation and remember, as we move forward, that wars do have laws.

MR SESELJA (Molonglo—Leader of the Opposition) (11.27): It is with significant pride and respect that I rise today to speak about one of the most important legal documents of the modern era. There genuinely are few documents whose impacts have been so widespread, whose positive influence has been so widely recognised and whose longevity has been so confirmed by the importance of their influence.

The Magna Carta—a document that still influences Westminster-style parliaments such as this very Assembly—is one of only a few such documents. It is important not only because of the specific articles contained within it, which can now seem archaic and anachronistic, but because of the notions it introduced and the influence it has produced.

Both the documents mentioned mark a point in time when great injustices were no longer treated as unavoidable but, through supremacy of reason and determination of will, a person or groups of people made a statement of such force of intellect and such compelling compassion that all could see the wisdom of the change and none could resist the correctness of the cause. In short, they are documents after which the world could and would never be the same again.

In the case of the first Geneva convention, we are talking about an observer who witnessed the horrors of war and the mistreatment of combatants after the fighting had ceased. He saw not enemies or combatants but people—dreadfully wounded and mercilessly left to their fate. It occurred to him that, even in times of open hostility, the nature of humankind should be able to avoid the descent to monstrosity.

This led to the drafting of the first of the documents that have had worldwide ramifications. The Convention for the Amelioration of the Condition of the Wounded in Armies in the Field was signed at Geneva on 22 August 1864. Ratifications were exchanged at Geneva on 22 June 1865, and the declaration of accession was signed by the President of the United States on 1 March 1882.

It has led to a belief in the neutrality of medical assistance, even in war zones—a revolutionary idea at the time. It also led to the awarding of the first Nobel Peace Prize in 1901 and the establishment of the Red Cross and Red Crescent organisations, which have become some of the most recognised and respected symbols of neutrality and compassion throughout the world.

One of the most important things the first convention did was introduce the validity of international obligations under the law, which has in turn led to many more conventions on all manner of issues. The notion of international law itself was in fact revolutionary.

Since then there had been other treaties and conventions—until it became the document we are recognising on its 60th anniversary, the Geneva conventions of 1949. The four core documents that make up the 1949 Geneva conventions were collated after the end of World War II—a conflict that, despite the introduction of the original conventions, saw extraordinary brutality.

However, the conventions were also the bedrock of many of the claims brought against perpetrators, and they introduced to us the term "war crime"—again a notion that was without precedent at the time but is now part of the common lexicon of international law.

It also solidified the liability or command responsibility—that is, ordering an act against the conventions or protocols accrued guilt as much as carrying them out personally—and the failure of the so-called Nuremberg defence—that is, claiming that one was simply following orders would not generate an immunity from prosecution.

There are two important additional types of documents which form part of the package: the common articles and the additional protocols. The common articles

apply to all the conventions and include the notion that in international conflicts the conventions will apply even when only one of the international parties is actually a signatory to the convention, thus extending the scope and reach of the protections. Also, they say that the conventions will apply to signatory nations even in the absence of a formal declaration of war, thereby removing an unnecessary bureaucratic impediment to a problem of imminent human suffering. The additions also introduced important concepts such as the inclusion of conventions related to non-international conflicts. We have seen several examples of intranational conflict that have shown the need for international intervention.

The fourth protocol, added in 1949, made the important extension to include civilians in the protection afforded, even in occupied territories. This was horrifically and tragically made clear in the occupied territories and the atrocities of the holocaust visited against civilian populations.

There have, of course, been other dreadful abuses of the rights protected by the Geneva conventions. Even today there are cases all around the world that beggar description and defy belief. That does not invalidate the law or the basis upon which they were built; it reinforces the need for them to be reviewed and reinforced. The fact that a law is broken or betrayed is no reason not to recognise its import or reaffirm its intent.

One aspect that shows that the Geneva conventions remain a relevant, important body of law are the additional protocols that have been added over the years, as mentioned previously. As the world changes, the conventions are capable of being changed to meet the new challenges.

In this way, it is no different from civil or internal criminal laws. There is no disputing that local laws have changed over time, but the fundamental belief in the importance and the validity of the rule of law itself is the foundation of freedom, the respect for humanity and the defence of democracy throughout the world. Similarly, noncompliance is a matter of concern and enforcement, not a rationale for abandonment.

It is, though, in this area that the challenges for the next 60 years will lie. The nature of conflict has changed, as has been outlined by my colleague Mr Hanson. It is arguable that the nature of the laws protecting the innocent in conflicts should change as well. However, the changing nature of the conventions themselves since the very first draft in 1864 shows that the conventions can and will be extended, adapted and organised to meet the challenges of a changing world.

Moreover, the original revolutionary intent to impose obligations at an international level has led to other conventions and treaties being developed and ratified on a whole host of issues. Without the Geneva conventions establishing the rights and benefits of international legal obligations, it is arguable that none of those other treaties or conventions would have been developed or would have the weight and authority they currently do.

In this way, an important victory of the Geneva conventions is not just the specific sanctions originally envisaged but the very recognition of fundamental legal rights and obligations on an international scale, as a matter of validity in its own right. While

there are, doubtless, challenges ahead, it is important on this anniversary to recognise the great advances that the Geneva conventions have brought to our world.

We can go far back to look at the very first convention and wonder at the strength of conviction that brought into law notions that we can become in danger of dismissing as having always been there—notions such as that ambulances and hospitals shall be acknowledged as neutral, to be protected and respected; that persons employed in these situations will be regarded as neutral; that the wounded or sick shall be cared for regardless of nationality; and that a distinctive and uniform flag will be adopted for hospitals, ambulances and evacuations. This last concept, article 7 of the 1864 convention, led to the creation of the Red Cross and the Red Crescent.

These notions, and many more which have followed, are crucial, fundamental and speak to an underlying humanity even in times of the darkest days of our most difficult years. These notions have survived world wars and genocides. They remain crucial as we face the scourge of terror into the future.

I and my party recognise the deep importance of the conventions and the contributions of the Red Cross and Red Crescent organisations. I support this motion on the 60th anniversary of the 1949 Geneva conventions.

MR RATTENBURY (Molonglo) (11.34): I would like to thank the Attorney-General for putting this motion to the Assembly today and providing members with the opportunity to speak to it. I welcome the comments that have been made so far in relation to the Geneva conventions, which have shed a great deal of light already on the importance and relevance of these conventions.

It has been 60 years since the four Geneva conventions were opened for signature in 1949. That is indeed a significant anniversary. The essential spirit of the Geneva conventions is "to uphold life and dignity … in the midst of armed conflict". That is how the President of the International Committee of the Red Cross described it when speaking in Geneva recently at the ICRC's ceremony to celebrate the 60th anniversary of the Geneva conventions.

In pursuing that essential spirit, the Geneva conventions pay particular attention to the most helpless and vulnerable people unfortunate enough to be caught up in war. As the motion before the Assembly today notes, those most helpless and vulnerable people include civilian populations, the wounded and prisoners of war.

I quoted from the speech given by the President of the ICRC because his concluding comments were of vital importance. After outlining the essential spirit of the Geneva conventions, to protect the most helpless in war, he went on to stress that the conventions remain as important today as they were 60 years ago.

The conventions remain as important today as ever because there are innocent people today being put through the horrors of war who need protection, just as there were 60 years ago. There are prisoners of war who need enforceable and basic human rights, just as there were 60 years ago. There are nurses who need a safe zone in which to tend to the injured, just as there were 60 years ago. And, of course, there are innocent civilian populations, just as there were 60 years ago.

That there are these helpless and vulnerable people caught up in war is self-evident to anyone who watches the TV news at night. Rarely a night goes by when images of human suffering from war zones are not splashed across our television screens. And of course, as we all know, TV representations of events far away will never tell the full story.

As the Attorney-General noted earlier, it was for these reasons that the ICRC commissioned a survey of some of the people living in the most troubled places on earth, people who were either in the midst of war or suffering from its aftermath. As the Attorney-General noted, the survey covered a range of civilian populations in places such as Afghanistan, Colombia and the Democratic Republic of Congo.

Perhaps unsurprisingly, the vast majority of respondents to the survey thought that there should be clear distinctions made between civilians and combatants. Those surveyed felt strongly that certain actions such as depriving civilians of food and taking civilian hostages should be completely off limits. One finding of the survey that did stand out as surprising related to how many of those surveyed had heard of the Geneva conventions. Fewer than half of those surveyed had heard of the conventions; that is, people had not heard of the conventions that seek to prevent the acts of war which they spoke out against and classified as off limits.

It is with this fact in mind that I congratulate the Red Cross movement on its work in international humanitarian law, in particular the Geneva conventions. I congratulate the Red Cross movement and its volunteers, because it is those and other like organisations who are on the ground in the war zones making a difference and seeking to uphold the conventions. It is those types of organisations that make a real difference to the vulnerable in times of war. I make the simple point that without the Red Cross movement, the conventions would be far less than they currently are.

The survey I referred to earlier asked if people had heard of the Geneva conventions, but it did not show them any of the three emblems of the Red Cross and ask if they recognised them. The three distinctive emblems—the Red Cross, the Red Crescent and the more recent Red Crystal—are emblems that are instantly recognisable to those in need at times of war. People associate the emblems with neutrality and with hope. The Red Cross movement offers hope where otherwise there would be none, and that is worthy of our full support today.

The ACT Greens are a party of peace and non-violence. We will always campaign for non-violent resolution to conflict. This position is based on a concern for the wellbeing of all humans, but especially civilian populations. It is from this basis that the Greens fully support the motion before the Assembly today marking the 60th anniversary of the Geneva conventions and congratulate the Red Cross movement on its work to prevent atrocities against the helpless.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.40), in reply: I would like to extend my thanks to members who have spoken in favour and support of this resolution this morning.

Some may remark on why the ACT Assembly should pass a resolution of this nature. It is for two reasons. The first is that the Assembly and the government were approached by the Australian Red Cross to promote the issue in this parliament, as in every state and territory parliament and the commonwealth parliament. But perhaps more important than that, as I mentioned earlier in my speech, is the fact that there are many Canberrans who have devoted themselves to the causes and the principles that are enshrined in the Geneva conventions. They have done so through the support they provide to the Red Cross—here in Australia, here in Canberra—in its very many charitable and volunteer activities. But there are also many Canberrans who, in a city as cosmopolitan and as international as our own, have served overseas either in the service of the Australian government, through the Australian defence force, as Mr Hanson mentioned, or in entirely voluntary and personal capacities, to promote the cause of peace and to promote the cause of providing succour and aid to those displaced by war.

It is fitting that the government and the Assembly recognise the efforts and the important principles of the International Committee of the Red Cross, its organisation here in Australia and the Geneva conventions that underpin its work. I thank members for joining in support of the motion today and commend it to the Assembly.

Question resolved in the affirmative.

Road Transport (Mass, Dimensions and Loading) Bill 2009

Debate resumed from 7 May 2009, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

Debate (on motion by **Mr Corbell**) adjourned to a later hour.

Justice and Community Safety Legislation Amendment Bill 2009 (No 2)

Debate resumed from 18 June 2009, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (11.43): The opposition will be supporting this bill. In large part, the bill makes relatively minor amendments, usually of a technical nature or to clarify intent or to create efficiencies. A good example of this last quality is the Machinery Act, in which the chief executive is not restricted to appointing public servants as machine inspectors under the act. Some machines are highly specialised in nature, and public servants may not always have the particular expertise required to inspect specialised machinery. To allow the chief executive the flexibility to focus more on the expertise in a particular field creates not only efficiencies but also safer working conditions, and it is a sensible amendment.

There are three elements of this bill that go to more substantive amendments. These include the Door-to-Door Trading Act 1991, which will be amended to treat

unsolicited selling by telephone in the same way as door-to-door selling for the purposes of contract cooling-off periods. The Legal Aid Act 1977, amongst other things, introduces amendments to establish a board of the commission, to rewrite the provisions relating to services provided by private practitioners, and to establish dispute resolution provisions. The ACT Magistrates Court Act 1930 is amended to substitute a new division 3.4.2 in relation to warrants for witnesses to make it more compliant with human rights law.

Madam Deputy Speaker, whilst we support the amendments that this bill will introduce, we once again have a situation where omnibus legislation is used to introduce substantial amendments which really should be dealt with in stand-alone legislation. I have said before in this place that omnibus legislation should be used to make amendments which are minor or technical in nature or which serve to clarify simple points of law. Substantive amendments, such as we have with these three acts, should be given consideration in stand-alone legislation.

Indeed, only last February the government introduced the first of the JACS amendment bills for 2009 in which was hidden corrections of serious administrative blunders by the Attorney-General. These blunders related to illegal statutory appointments that should never have been swept under the carpet of omnibus legislation.

The amendments in the three acts I have outlined, while not controversial on this occasion, are nevertheless substantial. They have a significant impact on the way that business is done in the territory, how the legal profession can assist the government in the area of legal aid and how witnesses are treated by the legal system. Indeed, the Legal Aid Commission spoke at length during the estimates process about about the amendments in relation to the Legal Aid Act and how important they were. They received considerable coverage in the media at the time, and, given the important changes that are being bought about by the amendments to the Legal Aid Act, they should have been stand-alone amendments to that legislation. They are not simple or technical or minor in their impact. Indeed, the scrutiny of bills committee singled out these three amendments for particular comment, as well as the amendments to the Machinery Act.

Notwithstanding this, I believe the Attorney General's response adequately addresses the issues raised by the committee, and their mere mention reinforces the fact that they are substantive amendments. Importantly, there is nothing in the Attorney-General's presentation speech or the explanatory memorandum that would indicate what consultation processes have been undertaken in relation to these amendments. Perhaps there have been none. I would not be surprised if that was not the case. The only mention of any consultation relates to the amendments to the Association Incorporation Act, which came about from recommendations of the report by the public accounts committee of the Sixth Assembly, *Review of Auditor-General's report No 1 of 2006: regulation of charitable collections & incorporated associations.*

The amendments to the Door-to-Door Trading Act, the Legal Aid Act, and the Magistrates Court Act should have been brought to the Assembly as individual amendments to their own legislation. I hope that this government will in future

consider these matters and not treat this Assembly and the people of Canberra in such a shabby manner.

MR RATTENBURY (Molonglo) (11.47): I rise today to support this bill, and I wish to make a few brief comments. This is the 21st in a series of bills described as making minor and technical amendments to portfolio legislation. Whilst the amendments themselves may be minor and technical, the rationale behind some of the amendments is worthy of discussion today.

The telemarketing amendments will be of immediate community benefit, and I will talk briefly about those. Telemarketing, for good or bad, appears to be with us for the long haul. As a result, people who receive calls from telemarketers need to be very clear about their rights. This bill will amend the Door-to-Door Trading Act 1991 to ensure that telemarketers fully inform potential customers of their rights before they enter into a contract. This makes for good consumer protection, and the Greens will be supporting these amendments.

Some of the specific obligations put onto telemarketers by these amendments would appear to be widely practised by the industry currently, and I acknowledge those who do already set a higher standard. However, that is certainly no reason not to make the amendments. The role of legislation in consumer protection is unfortunately sometimes to set the minimum standards that must be adhered to by all market participants. In the context of telemarketing, consumer protection laws must protect the unsuspecting public from any unscrupulous telemarketing operators that exist now or in the future. In this sense, the amendments are aimed at the minority of telemarketers, not the majority. That is the nature of consumer protection, and the Greens support this initiative.

The amendments will remove any confusion that may exist currently and require telemarketers to fully introduce themselves at the start of a call and explain to the customer their right to rescind any contract they enter into within the 10-day cooling-off period. These are two practical ways in which the amendments will make for better informed customers who are more aware of their rights before entering into any contract over the phone.

Another aspect that this bill raises that is worthy of discussion are the provisions relating to arrest warrants for witnesses in the Magistrates Court. Arrest warrants for witnesses are issued at the discretion of the court, and that is an important principle that this amendment retains. The discretion to arrest a witness in order for them to be brought to court and provide evidence is a very important decision indeed. At the heart of such a decision will be contradictory factors. On the one hand, the interests of the witness will generally point towards no arrest warrant being issued. Witnesses may not wish to attend court for a large range of reasons, and arresting them will be a last resort. On the other hand, broader interests of justice considerations will point towards the witness being brought before the court. The court system relies on relevant evidence being put before the court, and the most responsible decisions of the court will be made after all relevant evidence has been tendered.

This amendment recognises the importance of a decision to arrest a witness and sets out clearly the factors that a court must consider when deliberating on such a decision.

Whereas previously the legislation left the decision wholly to the discretion of the court, this amendment provides the basic framework under which such decisions will be made. That is a positive step and one the Greens support. There is no suggestion or evidence to show that the court has ever inappropriately exercised its discretion to issue an arrest warrant for witnesses, but this amendment simply removes any risk of that occurring, and that is a responsible path to take.

A number of particular amendments were commented on by the Standing Committee on Justice and Community Safety in its role as the scrutiny of bills committee. The committee recommended that the Attorney-General address those issues identified. The issues raised specific policy questions surrounding a number of individual acts. The minister has responded to those issues in a letter to the committee, which I have been provided a copy of, and I am satisfied that the response of the Attorney-General adequately addresses the concerns of the committee by setting out the broader policy context for the amendments. The remaining amendments in the bill will be supported by the Greens.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.52), in reply: I thank members for their support of this legislation. As members have noted, the bill makes a number of changes to a range of acts. I have to disagree with some of the comments made by Mrs Dunne where she suggests that these changes are such that they required some form of broader community consultation. I think once you look at the detail of these amendments, you would note that they really have come about as a result of issues raised by the agencies or elements of government which are responsible for the administration of these acts where they have identified a range of issues that have needed clarification. Indeed, the intention is to ensure that these matters are clarified. The bill amends 15 separate pieces of legislation, and all the amendments are worded following that process of identifying the need for clarification that I mentioned earlier.

I would like to take the opportunity to discuss some of the more notable amendments in the bill and also to address the issues raised by the Standing Committee of Justice and Community Safety in its scrutiny report. The Door-To-Door Trading Act amendments are notable examples of the kinds of improvements introduced in the bill. These amendments ensure that the consumer protections extended under the act remain relevant and easy for consumers to understand in the context of telephone marketing. The purpose of the act was to deal broadly with the unsolicited marketing of products to ACT consumers, but the act used some language that was easier to understand in terms of face-to-face meetings than in other contexts, such as a telephone call. Therefore, the amendments clarify the way the act applies to telephone calls and removes any doubt that consumers who are urged to buy products by telephone receive the same protections as those who are urged to buy products by a door-to-door salesperson.

For example, the act requires standard paper notices of a consumer's rights to be given before a contract is made between a consumer and a dealer. The amendments add that in a telephone call, these notices of rights must be read out loud to the consumer before the contract is made. Similar clarifications are made throughout the act to detail clearly how consumer protections will apply in telephone calls. These

improvements to the act were developed in consultation with industry stakeholders. Industry stakeholders will now have a clearer understanding of their responsibilities, and consumers will have a clearer understanding of their rights when it comes to unsolicited marketing. The government's existing policy of consumer protection is unchanged, but compliance with and administration of the law is improved as a result.

I note that the standing committee's scrutiny report raises a concern with the regulation-making power under this act. In response, I would like to draw attention to the purpose of section 4. The act was originally written to allow the government to exclude contracts by regulation. The purpose of this is to allow the government to respond to rapidly changing market practices so that the core protections of the act are preserved without causing unnecessary inconvenience to consumers. The amended regulation power serves that purpose by allowing for precisely crafted exemptions. Because of the constantly changing market conditions, maintaining a balance between convenience and protection is best achieved by means of regulation.

The Legal Aid Act amendments recognise the existing structure of the Legal Aid Commission and strengthen the governance of arrangements with private legal practitioners. These amendments improve the Legal Aid Commission's ability to deliver assistance to the community effectively and efficiently. The standing committee expressed concern with the arrangements for private legal practitioners under the amendments. The bill gives flexibility to the Legal Aid Commission in dealing with private legal practitioners so that all legal aid services can be managed in accordance with the commission's knowledge and expertise in providing this essential service. It is most appropriate for the commission itself to determine the terms and conditions under which a private practitioner may assist in providing legal aid to the public.

The negotiation clauses in the bill improve the commission's ability to solve disputes through means other than formal court proceedings. Negotiation will help legally assisted persons to arrive at a fair settlement without involvement of the parties, Legal Aid ACT or the courts in a time-consuming and expensive court proceeding. The standing committee has raised some concern with the guarantees of confidentiality afforded for these negotiation sessions. In response, I would like to point out that the confidentiality rules the bill provides are very similar to those that apply in mediation sessions under the ACT Mediation Act 1997. These amendments provide assurances of confidentiality to the parties to a negotiation and, with only a few exceptions, to permit disclosure for compelling reasons, such as preventing harm to others or complying with a legal obligation to disclose information. The bill will also exclude anything said at a negotiation from being used as evidence in a later court proceeding so that the parties to a negotiation will have adequate incentive to discuss the issues openly and honestly.

If this exclusion were more limited, as the standing committee suggests, the parties to a negotiation would face a higher chance of having their words used against them in court. This would make negotiation much less effective as a means of resolving issues without court proceedings. This bill will increase the chances that people receiving legal aid will settle their disputes without the time and expense of going to court. The increased efficiency will allow for more people to receive legal aid and will avoid overburdening the courts with cases that could have been settled by mutual agreement.

The amendment to the Machinery Act is beneficial because, in some circumstances, it would not be practical or even possible to appoint a person as a public servant to perform inspections under the act. There may be too few inspections to be done to justify hiring a full-time public servant specifically for that purpose. This amendment expands the pool of expertise available to conduct inspections under the act. In response to the standing committee's comment on including conditions of qualifications in the act, I note that the chief executive considers employment qualifications in selecting a person to do any job, including a job of inspecting machinery in the territory.

Finally, the proposed amendment to the Magistrates Court Act is another example of the government's commitment to the ongoing improvement of the statute book. The part of the act dealing with warrants for witnesses who fail to attend court has been expanded to provide a more clearly defined procedure. The government has worked closely with the courts to ensure a system for ensuring these warrants that is both simple to administer and human rights compliant. I would like to thank the committee for its recognition in the report of the improvements that will come from this particular amendment.

All the amendments in this bill introduce helpful and carefully considered additions to the territory's laws. The original policy goals behind each of the laws amended in this bill remain unchanged. What these amendments will accomplish is to make the territory's laws more effective in achieving those original policy goals. Like the selected pieces of legislation I have already discussed, all the amendments in this bill strengthen and improve the administration of justice in the territory. The amendments ensure that the legislation remains responsive to the needs of our community. I commend the bill to the Assembly and thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Statute Law Amendment Bill 2009

Debate resumed from 7 May 2009, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (12.00): The opposition will be supporting this bill. It amends a range of acts and regulations for statute law revision purposes. The substantive elements of the bill are contained in four schedules. Schedule 1 provides for minor, non-controversial amendments initiated by government agencies, and two acts are amended. Schedule 2 provides for structural amendments to the Legislation Act 2001, initiated by the parliamentary counsel's office. Schedule 3 provides for minor or technical amendments to a range of acts and regulations initiated by the

parliamentary counsel. Eighty acts and regulations are amended. Schedule 4 provides for routine repeals.

I will briefly address the amendments covered in each of the four schedules. Schedule 1 amends the Environment Protection Act 1997 to enable the repeal of expired notifiable instruments. Undated instruments will be considered to have expired six months after the date of notification. Repealed instruments will be listed in the legislation register under the "repealed" heading. Schedule 1 also amends the Mental Health (Treatment and Care) Act 1994 to provide that particular officials—the chief psychiatrist, the care coordinator, a mental health officer or the official visitor—are not civilly liable for conduct under the act engaged in honestly and without recklessness.

Schedule 2 amends section 60 of the Legislation Act to provide that statutory instruments added to the register under section 19(3), which deals with the contents of the register—that is, "additional material"—should be named correctly, as is the case with legislative instruments. This will apply to "additional material" entered in the register because the PCO considers it is likely to be useful to users of the register—for example, appointments of public servants to statutory bodies. Schedule 2 also makes a number of other minor, non-controversial amendments, some of which are consequential on the amendment I have just discussed; others of which serve to clarify, provide consistency or introduce new definitions, some of which are consequential on other previous legislative amendments.

Schedule 3 provides for a range of minor technical amendments that are non-controversial. They involve the correction of minor errors, updating language, improving syntax—something I am always in favour of—minor consequential amendments, and other changes.

Schedule 4 lists a large number of notifiable instruments issued under the Environment Protection Act 1997 that have served their purpose and are no longer needed. They will be transferred from the "current" list in the legislation register to the "repealed" list.

This bill is another example of the fine work of the Office of Parliamentary Counsel. The people there take great care to ensure that the ACT's statute book is contemporary, accessible and consistent. I am pleased to have the opportunity once again to congratulate the parliamentary counsel for their dedication to the achievement of these qualities. Their close eye on the ACT's statute book is an important and valued service. The opposition is pleased to support the bill.

MR RATTENBURY (Molonglo) (12.04): I rise on behalf of the Greens to support this bill, and I wish to make a few brief comments. The bill is described as making minor or technical amendments that are non-controversial, and I believe that is an accurate description of it. And this is also a case where the sum total of the bill is greater than its individual parts. By that, I mean that the broad policy reasons underlying this amendment bill are of public importance which would not be evident if you were to read the clauses in isolation.

The policy reason for this bill is enhancing the community's ability to access the laws passed here in the Assembly. To pursue that policy objective, this bill amends the ACT statute book to make it simpler and more consistent. A simple and consistent statute book will more readily be accessed by the public than one that is overly complex and convoluted. The ACT Greens support this bill on the basis that it simplifies the statute book and therefore encourages community access.

A simpler and more consistent statute book is a worthy aim in any jurisdiction. Here in the ACT, we have statute law that has originated from a diverse range of sources. This comes from our unique history of progress towards the self-government that we enjoy today, and that diverse source of statute law means the task of ensuring consistency across the ACT statue book is that much more important.

As Mrs Dunne has noted, parliamentary counsel play a central role in ensuring that the community have access to the laws that affect them, and PCO play the lead role in drafting amendment bills of this type. I understand that the work required to simplify the statute book is, conversely, complex and requires the technical skills and leadership of PCO. However, a simple and consistent statute book is of no use if the public cannot readily access it, and PCO maintain the ACT legislation register to meet this access requirement. I believe the ACT legislation register is an example of best practice in Australia and I congratulate PCO on their continued good work. I also thank them for their continued good work because accessing ACT law is made that much easier for me and my staff because of the register.

I would like to conclude by looking at one of the amendments contained in this bill and drawing out exactly how it will simplify the ACT's legislation. There are many other amendments made by this bill but the way this amendment operates makes a good illustration of the point. The amendments to the Environment Protection Act 1997 are a good example because they quite literally clean up the original legislation. The current operation of that act means that an authorisation issued under the act may remain as a current authorisation indefinitely. This has the potential to block up the register with out-of-date authorisations. The register as it currently stands lists nearly 100 authorisations that have effectively lapsed and are no longer required. By simple amendment to the act, this situation has been cleaned up and all authorisations will now lapse automatically and be moved to another section of the register. This is a practical step that will make the register easier and more simple to use.

This bill is an important part of the ongoing work to maintain the ACT statutes, and we fully support it.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (12.07), in reply: I would like to thank members for their support of this bill. This bill carries on the technical amendments program that continues to develop a simpler, more coherent and accessible statute book for the territory through minor legislation changes. It is an efficient mechanism to take care of non-controversial, minor or technical amendments to a range of territory legislation, while conserving resources that would otherwise be needed if the amendments were dealt with individually.

Each individual amendment is minor, but when viewed collectively they are a significant contribution to improving the operation of the affected legislation and the statute book generally. For example, inserting a provision in the Environment Protection Act 1997 to automatically expire certain notices once they have served their purpose will mean notices appearing under the "current" heading on the legislation register will be truly current. The expired notices will instead appear under the "repealed" heading on the legislation register.

Similarly, the repeal by schedule 4 of a number of notifiable instruments under the Environment Protection Act 1997 that have served their purpose and are no longer needed will mean those instruments will no longer appear under the "current" heading on the legislation register and will instead appear under the "repealed" heading. The overall effect of both these changes will be to make it easier to access truly current instruments on the legislation register. As Mr Rattenbury has indicated, that will be of some considerable benefit to members of this place and the broader community.

The amendments to the Legislation Act ensure that the overall structure of the statute book is cohesive and consistent and kept up-to-date with best practice. In particular, extending the application of section 60 to statutory instruments included on the register under section 19(3) will ensure that the naming conventions for legislative instruments apply also to this additional material.

I would like to express my ongoing appreciation for members' continuing support for the technical amendments program. It is a good example of the territory leading the way and striving for the best—in this case, a modern, high-quality, up-to-date, easily accessible statute book. I would also like to add my vote of thanks for the work of the officers of the parliamentary counsel's office. Their professional and diligent activities are such that we have one of the best and most modern statute books in the country, and I thank them for their ongoing work. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.10 to 2 pm.

Questions without notice

Gaming—sale of Labor clubs

MR SESELJA: My question is to the Treasurer and relates to the potential breaches of the gaming act by members of the Labor Party. Treasurer, in segments of a letter sent by the president of the Labor Club and published in the *Canberra Times*, the president says:

> Under the Gaming Machine Act the board of directors of the Canberra Labor Club Group Limited are required to have control of the company. If it can be

> shown that the directors are not actually in control of the company then it may be for the Gaming Machine Licences to be cancelled.

Treasurer, what action will you, as minister, be taking to ensure that these claims are thoroughly investigated?

MS GALLAGHER: I received a copy of that letter yesterday and I forwarded it to the Gambling and Racing Commission for their information.

MR SPEAKER: Supplementary question, Mr Seselja?

MR SESELJA: Treasurer, if there is an investigation by the Gambling and Racing Commission, how do you propose to deal with your conflict of interest, given you are a member—

Mr Corbell: On a point of order, Mr Speaker: the question is hypothetical. Mr Seselja is asking if a certain course of action occurs what will the government do. That is clearly a hypothetical question.

MR SPEAKER: The point of order is upheld. Mr Seselja, would you like to reframe your question?

MR SESELJA: Thank you, Mr Speaker. Minister, how will you deal with conflicts of interest in relation to the Gambling and Racing Commission, given you are a member of the party which may be investigated and the CEO of the Gambling and Racing Commission is a public servant who is answerable to you?

MS GALLAGHER: The Gambling and Racing Commission is an independent body who can investigate compliance with gaming laws without ministerial interference. I have no powers in relation to investigating these matters. These quite properly lie with the Gambling and Racing Commission. I have complete faith in the Gambling and Racing Commission to investigate these matters independently.

If there are any issues that the Gambling and Racing Commission would be concerned about in relation to any potential conflicts of interest that I may have, or indeed any other member of this place may have, in relation to membership of any other organisation they might be a member of, I am sure that they would quite properly bring that to my attention. In this case, so far, they have not.

Gaming—sale of Labor clubs

MS HUNTER: My question is to the Chief Minister. Can the Chief Minister confirm that it is his understanding that the Weston Creek Labor Club, the Ginninderra Labor Club, the Canberra Labor Club and the City Labor Club are owned by the Canberra Labor Club Ltd and operated by a board of directors and not by the ACT Labor Party or the federal branch of the Australian Labor Party?

Mr Corbell: On a point of order, Mr Speaker: this does not relate to the Chief Minister's responsibilities as Chief Minister and the question is out of order.

MR SPEAKER: Yes, the point of order is upheld. Ms Hunter, do you have a question?

MS HUNTER: Can the Chief Minister explain, in his role as Chief Minister, why he issued a warning to a board that he has no legal control over? I quote from the *Canberra Times* of Saturday, 15 August 2009:

> The sale of the clubs collapsed last week after Chief Minister Jon Stanhope warned the local Labor Club board could face the sack unless the sale was aborted.

Chief Minister, have you sought to direct the decisions of the ALP—

Mr Corbell: On a point of order, Mr Speaker: the question again relates to actions that the Chief Minister engaged in which do not relate to his responsibilities as Chief Minister. The question time standing orders clearly state that questions to ministers must relate to their portfolio responsibilities. Ms Hunter needs to indicate how it relates to the Chief Minister's portfolio responsibilities.

Mr Seselja: On the point of order, Mr Speaker: it has been a longstanding convention in this place that ministers are responsible for their public statements and are answerable for their public statements in this place. So I would put it to you that it is quite in order for Ms Hunter to be asking the Chief Minister about his public statements which were reported in the *Canberra Times*.

MR SPEAKER: The point of order from Mr Corbell is upheld on the basis that it relates to party matters.

Gaming—sale of Labor clubs

MR SMYTH: My question is to the Chief Minister. Chief Minister, in your ministerial code of conduct you state that ministers will ensure that their conduct does not bring discredit upon the government or the territory. Chief Minister, have you brought discredit through your conduct or your part in influencing and directing the sale or withdrawal of the sale of the Canberra Labor Club Group? If so, were you involved in the transaction?

Mr Corbell: I raise a point of order, Mr Speaker. Again, the standing order makes it quite clear, and standing order 114 is the one relevant here. It states:

> Questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.

You have just ruled that questions to members of the government, insofar as they relate to the activities of the Australian Labor Party or groups associated with it, are not relevant and are out of order, and this is clearly the case in relation to Mr Smyth's question also.

MR SPEAKER: Mr Smyth on the point of order.

MR SMYTH: It is the Chief Minister's code of conduct. I am asking him, the minister who is responsible for the code of conduct, to answer a question about things that he is alleged to have been involved in. I think it is entirely appropriate. Either that or there is no minister responsible for the code of conduct and the code of conduct is worthless.

MR SPEAKER: In this instance there is no point of order. Mr Smyth is specifically asking about the code of conduct as a matter for which the Chief Minister is directly responsible.

MR STANHOPE: Thank you, Mr Speaker. Mr Speaker, I cannot recall a single time or incident in which I have breached the code of conduct.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Chief Minister, were you involved in any way in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club?

Mr Corbell: I raise a point of order. That question is completely out of order, Mr Speaker.

MR SPEAKER: Mr Seselja on the point of order.

Mr Seselja: On the point of order, the question goes to issues around the gaming act. The original question was around the code of conduct, which talks about ministers complying with the law at all times. It is perfectly in order for a supplementary question to go to that very point that has been asked in the original question, which you upheld.

Mr Corbell: On the point of order, Mr Speaker, the supplementary question in no way related to the original substantive question. There was no reference made to the code of conduct. It asked explicitly about the issue of the proposed—

Members interjecting—

MR SPEAKER: Order! Mr Corbell has the floor.

Mr Corbell: sale of the Canberra Labor Club and, as you have already ruled, that is not a matter for which the minister is responsible in his responsibilities as a minister.

Mr Seselja: Mr Speaker, on the point of order, the minister is responsible under the code of conduct, which was the original question, to comply with the law. But the question around the gaming act issues goes to that very point, about interfering with the lawful activities of the board. It is therefore in order and it is therefore clearly supplementary to the original question, which you upheld.

MR SPEAKER: Mr Smyth, can you repeat your question, please?

MR SMYTH: It is: Chief Minister, were you involved in any way in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? It directly follows on from the words I used in the main part of the question, Mr Speaker.

MR SPEAKER: Yes, thank you, Mr Smyth. I think, to be consistent with earlier rulings today, the question is out of order. However, having said that, Chief Minister, if you wish to answer the question, you may.

MR STANHOPE: I would not wish to answer a question that was not consistent with the standing orders. I would not wish to actually breach the standing orders in any way, Mr Speaker, just, of course, as I would not wish to breach the code of conduct.

Energy—solar

MS BURCH: My question is to the Minister for the Environment, Climate Change and Water. Can you please provide the Assembly with an update on the implementation of the feed-in tariff?

MR CORBELL: I thank Ms Burch for the question. The introduction of the feed-in tariff has proven to be a very successful program in the ACT in the five or so months since it first commenced in March this year. Part of the government's climate change response, it is the first gross payment scheme for a feed-in tariff in the country. As members would know, thanks to the universal support that we received in this place for the legislation, that is through the payment of a premium price for each and every kilowatt hour that is produced.

Since that time, we have seen 163 new solar generators installed in the ACT, growth of over 28 per cent. ActewAGL Distribution has advised me that, as of today, that figure is just short of 800 installations, with a further 200 applications in progress for installation over the next two to three months. What a tremendous endorsement of a scheme designed to put solar power onto the homes of ordinary Canberrans. As well as households, we are seeing churches, community groups and small businesses signing up for solar power in the ACT.

Of course, we know that, as determined by the Australian Energy Regulator, the average impost per electricity bill is $27 per year per account holder. With ACT electricity prices still well below those in surrounding New South Wales, it amounts to approximately 50c per week per account holder—50c per week over the next five years.

This has been a very positive scheme, warmly embraced by the Canberra community. I note that Mrs Dunne is leaving the chamber. We know that there is now a major division in the ranks of the Liberal Party when it comes to the feed-in tariff. Let us remember that it was the Liberal Party that voted for the feed-in tariff when it was introduced in March this year. Indeed, we now have the interesting situation where a scheme is overwhelmingly endorsed by now close to 1,000 Canberra households. Fewer than 1,000 Canberra households in just over six months have indicated their willingness to sign up and put solar power on their roofs.

The Liberal Party voted for it. They voted for it and endorsed it when the bill was passed in March this year or February this year. What have we heard since then? We have heard Mr Seselja walk away from the Liberal Party's support of this scheme. The question has to be asked: why have they walked away from their support for this

scheme? Why have they done so? Perhaps it has to do with some of the climate change sceptics in their ranks. Perhaps—

MR SPEAKER: Order, Mr Corbell! Mr Corbell, I recall that the question was about the progress of the feed-in tariff. I invite you to return to the question.

MR CORBELL: We do not want to see the progress of the feed-in tariff impeded by members of this place who say one thing and do another. We do not want to see those like Mr Seselja who say, "I don't need to be convinced about environment issues. I'm of the generation—that is just second nature." If it is second nature, Mr Seselja, why do you say one thing and do another when it comes to the feed-in tariff regime? Why do you vote for it and then change your mind and abandon all support for it?

What it shows is that the Liberal Party cannot be trusted on climate change, cannot be trusted to support progressive policies that are being endorsed and picked up by hundreds and hundreds of Canberra households. *(Time expired.)*

MR SPEAKER: Ms Burch, a supplementary question?

MS BURCH: Thank you. Can the minister go on to tell us how important this feed-in tariff is to Canberra's reputation as the solar capital of Australia?

MR CORBELL: The feed-in tariff would have to be one of the most important policy settings we have for positioning our city as a city which is pinning its future to renewable energy and sustainable development in the city.

It may not have occurred to those opposite but, when it comes to industry interest in investing in renewable energy generation and projects in the ACT the development of a real and progressive feed-in tariff is central to attracting that interest. Time and again since I have become minister for this portfolio I have seen and heard from industry representatives that they consider Canberra, they consider the ACT, to be the most credible city/jurisdiction in the country, backing renewable energy, backing sustainable development, because we have a gross feed-in tariff. They contrast it with the position of those opposite and other states around the country who are not serious in their support for renewable energy and do not support legitimate and progressive feed-in tariff programs.

It is important, I think, to note some of the comments that have been made in this debate, in particular the comments of Mr Seselja when he led the Liberal Party's support for the feed-in tariff regime back in February of this year. He said:

> Australia not only has sunshine, but we have world-class scientists, many based at universities in Canberra, who are producing cutting edge solar technology. We need to utilise this for the good of the environment and the nation. This bill seeks to encourage Canberra families to utilise this technology by installing renewable energy generators in their homes by offering a premium rate for any electricity they feed into the grid.

Hear, hear! We agree. But what has happened to Mr Seselja's support? He goes on to say:

> The electricity feed-in scheme is a good start but we need to see much more …

Indeed we do. And that is why this government is moving ahead with plans for a 30-megawatt minimum solar power facility for the ACT. It is why this government is moving ahead with energy efficiency programs in our homes, in our commercial buildings. That is the record and that is the program of this government.

But the question has to be asked: can the Liberal Party be trusted on climate change policies, because they say one thing and they do another? They say they support progressive policies, they say that the feed-in tariff is a good start and then they walk away from it. Why did they walk away from it? Why are they going to jeopardise Canberra's reputation as the emerging solar capital of the country? Why are they going to jeopardise the significant interest Canberra is getting from renewable energy companies around the country because we have a gross feed-in tariff?

Go and talk to the Clean Energy Council. Go and talk to all of those large multinational companies that are part of the Clean Energy Council and ask them whether they think the gross feed-in tariff is a good thing for Canberra and positions Canberra as a city for the future. And they will say, overwhelmingly, yes, it is; it is good for green jobs; it is good for green investment; it is good for the sustainable development of this city.

The only person in this place who seems to think it is not good is Mr Seselja, because Mr Seselja says one thing and he does another. He says he is for the environment; he says he is for renewable energy. But, when the going gets a little bit tough or he thinks there is a little bit of political opportunism in it, bang, he is away; he is not serious about backing climate change policies because if he were he would be standing up to those in his party who do not like the idea of a feed-in tariff, who do not support progressive policy; and he would be telling them this is the right way for the city to go.

Labor will be maintaining its peak commitment to the feed-in tariff and to policies that establish a renewable energy future for our city.

Recycling—Aussie Junk

MS LE COUTEUR: My question is to the Minister for Territory and Municipal Services and concerns the former re-usables contract to Aussie Junk. What is the situation with respect to the stock which used to belong to Aussie Junk? Are the liquidators sending the stock to landfill, has the government acquired it, or what has happened to it?

MR STANHOPE: I thank Ms Le Couteur for the question. I will have to take advice on that. Suffice to say, however, Ms Le Couteur, that my understanding, and the direction that I will provide to Territory and Municipal Services in relation to recyclable or re-usable goods in this hiatus between the demise of Aussie Junk as a provider and the introduction of new arrangements, is that no re-usable or recyclable materials will be disposed of in landfill. That is my position; that is my expectation. I have no reason to believe that, in relation to the transition from Aussie Junk to other arrangements, any re-usable or recyclable goods will be disposed of in landfill. That is my requirement of the department, and I have no doubt that that is a requirement that has been relayed to Thiess.

To the extent that there is a ray of light on the horizon in relation to this unfortunate issue, Thiess, I understand, from a briefing that I received towards the end of last week, will be managing itself; it will not be contracting out, the Mitchell facility; and Thiess intends that the Thiess facility will be fully operational as soon as possible. I was given some indication that that may be as early as this weekend, but the Mitchell recycling and re-usables facility will be fully operational, hopefully, from this weekend. This is good news. In relation to Mugga, I understand that there will be a more significant delay than what has occurred at Mitchell and that there will be a tender process that we anticipate could take between two and three months. In the context of materials that are currently being deposited and are re-usable and recyclable, the position is that they will not be taken to landfill.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Thank you. We have been informed by Aussie Junk that their staff were required to deal with hazardous material such as paint as part of the Mugga Lane contract. We have also been informed that they did not have a hazardous waste licence. Can you confirm whether or not they did require a licence and, if they did require a licence, did they in fact have one? How did they deal with it unlicensed if they did not?

MR STANHOPE: I thank Ms Le Couteur. I do not know that detail of the licence arrangements that were in place at Mugga as they affected Aussie Junk and its operations, but I am more than happy to take the question on notice. I can say, however, Ms Le Couteur, that it has never been drawn to my attention, nor have I ever been briefed, that Aussie Junk was not acting consistent with its obligations in relation to hazardous materials or that it was exposing its employees at Mugga Lane inappropriately to hazardous materials. It is not a matter that has ever been drawn to my attention; it is not a matter on which I have been briefed. But I will, of course, in light of your question, be more than happy to take advice and respond directly to you.

Gaming—sale of Labor clubs

MR COE: My question is to the Treasurer and relates to a potential breach of the gaming act over the sale of the Labor Club Group. Treasurer, were you, any of your staff or your representatives involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, who, and in what manner were they involved?

MS GALLAGHER: No.

Gaming—sale of Labor clubs

MR DOSZPOT: My question is to Minister Barr and relates to the potential breach of the gaming act over the sale of the Labor Club Group. Minister, were you, any of your staff or your representatives involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, who; and in what manner were they involved?

Mr Corbell: On a point of order, Mr Speaker: in what capacity is Mr Doszpot asking the question of Mr Barr? Mr Barr can be asked a question about his portfolio responsibilities. Mr Doszpot has not indicated that this question in any way relates to any of Mr Barr's responsibilities. Therefore the question is out of order.

MR SPEAKER: Mrs Dunne.

Mrs Dunne: Mr Speaker, Mr Barr is the planning minister and is therefore responsible for all concessional leases, including those concessional leases which cover licensed clubs. In fact, he currently has out for discussion a planning and development concessional lease amendment regulation that relates directly to licensed clubs.

Mr Corbell: On the point of order, Mr Speaker, Mr Doszpot's question did not in any way canvass any of those matters raised by Mrs Dunne. It simply asked about the issue around the proposed sale of the Labor Club. The question is clearly out of order. Members opposite need to frame questions to ministers as they relate to their ministerial portfolio responsibilities. Mr Doszpot has failed to do so and his question is out of order.

Mr Seselja: Mr Speaker, on the point of order, what Mr Corbell is arguing is that the minister who is responsible for concessional leases and responsible—

Ms Porter: It was not the question though, was it?

Mr Seselja: If I can finish—responsible for concessional leases which are clearly a factor in the potential sale of this club cannot be asked about whether he or any of his representatives in any way influenced the potential sale or otherwise of that club. It is directly relevant. Just because they do not like the questions does not mean that they are out of order. He is the planning minister; he is responsible and he should answer the question.

MR SPEAKER: Mr Corbell's point of order has picked up a technical flaw in Mr Doszpot's question. I invite Mr Doszpot to re-ask his question.

MR DOSZPOT: Thank you, Mr Speaker. My question is to the planning minister, responsible for concessional leases, and relates to the potential breach of the gaming act over the sale of the Labor Club Group. Minister, were you, or any of your staff or your representatives, involved at any level in influencing or directing the sale or withdrawal of sale of the Canberra Labor Club Group? If so, in what manner were they involved?

Mr Corbell: On a point of order, Mr Speaker: members opposite cannot simply say "I refer the minister to" a policy he has responsibility for and then ask a question that has nothing to do with the policy they are referring to. Mr Doszpot has not indicated how there is any connection—

Opposition members interjecting—

MR SPEAKER: Order! Mr Corbell has the call.

Mr Corbell: You cannot simply ask a question and say, "I am asking a question of Mr Barr, who is the minister responsible for concessional leases," and then change the subject entirely to issues about the sale of the Canberra Labor Club Group. Mr Doszpot has not asked the question in a way that relates the first part of his question to the second part of his question. It is a subterfuge to allow Mr Doszpot to ask a question of Mr Barr that does not relate to his portfolio responsibilities. The question is out of order.

Mr Seselja: Mr Speaker, he appears to be questioning your ruling. I think you have ruled that this is in order and that it simply needed to be reframed in terms of referring to the relevant minister. He has done that. Mr Corbell is labouring on the same point. We are entitled to ask whether a minister who is responsible for concessional leases, which will be part of the sale of this club—it is a concessional lease; it will be the transfer of a concessional lease—if he or any of his representatives have in any way influenced that. That is directly relevant and it needs to be answered.

MR SPEAKER: There is no point of order, Mr Corbell. My understanding is that there are relevant issues in Mr Barr's portfolio that are being asked about.

MR BARR: No.

Health—disability services

MS BRESNAN: My question is to the Minister for Health and concerns the move of a number of disability equipment services to Kambah, in particular the Independent Living Centre. Minister, if those services become more difficult for people in the ACT to access, the ACT government would violate the UN Convention on the Rights of Persons with Disabilities. What assurances can you provide to people with a disability that the availability of transport to the Kambah facility will be equal to or better than that which they have to current facilities?

MS GALLAGHER: Thank you, Mr Speaker. I am very happy to give that commitment to people who have a disability that might be using a whole range of services at what we hope is the new aged care and rehabilitation service to open at Village Creek school.

The aim of this whole relocation is to make it more convenient for people who are using these services by allowing a collocation of a number of work sites and places for people to go to into one location. If they have to visit an occupational therapist and then go and look for some equipment, instead of going from one site to another, they will be dealt with in a one-stop shop.

It is true that staff and clients of the Independent Living Centre based in Weston have raised concerns, both with me and with ACT Health, about the relocation to Kambah. I think at this point in time ACT Health are doing everything they can to address all of those concerns. They are having regular forums with staff. They are speaking with ACTION bus services and local community services around the buses. They have set

up an anonymous email account for staff to ask questions around the move. They are producing a newsletter on a fortnightly basis. The working groups are meeting regularly. The Health Care Consumers Association and a number of disability groups—People with Disabilities ACT Inc—and Disability ACT are involved in the steering group that is now looking at this matter.

I can certainly assure the member that we are not trying to make it harder for people to get to these services. We are actually trying to make it easier and more convenient for people. Until all of those Is are dotted and Ts are crossed consultation and negotiation will continue, but very much with a view to making it easier, quicker and, hopefully, more convenient in the long run.

MR SPEAKER: Ms Bresnan with a supplementary question.

MS BRESNAN: Thank you, Mr Speaker. Given transport is such a concern, why did the ACT government believe it was beneficial for people with a disability to move these disability equipment services away from a transport hub?

MS GALLAGHER: The idea behind it again was not about making it inconvenient or moving people away from a transport hub. It was in response to quite a bit of feedback around the inconvenience of having to visit a number of services across ACT Health, whether it is in Holder, whether it is in hospital or whether it is at Weston.

The opportunity of Village Creek school, the old Village Creek school, presented a genuine opportunity to collocate all of those services into one place with convenient parking. We are talking to ACTION around the relocation of a bus stop and the timetabling of buses visiting that service. It is about five kilometres away from Weston, I understand.

The decision also is part of the bigger Health redevelopment. Unless we move out some services from the hospital to Village Creek, we cannot establish the nurse-led walk-in clinics. In order to decant a number of services from the hospital we will need facilities such as Weston. So it is not that the Weston Independent Living Centre will not be used. It will be used by another part of ACT Health.

But this was not driven by trying to make it inconvenient or removing people with a disability from a transport hub. It was around trying to make sure that all of the services we provide to clients at the aged care and rehabilitation service can be put together and the service facilitated in a way that maximises the experience for people who are using it.

As I said, until we have convinced people, particularly people using the service, that we can address all their concerns, we will not finalise the details of the relocation. But I am very confident that we can address all of the concerns over the next few weeks.

Alexander Maconochie Centre—death in custody

MR HANSON: My question is to the Minister for Corrections and relates to the death in custody of a remandee at the Alexander Maconochie Centre. Minister, can you

advise the Assembly about the status of ACT Corrective Services' investigations into the death, as well as the involvement of other agencies in the investigation?

MR HARGREAVES: My understanding is that, if any death occurs in a correctional institution, it is automatically referred to the Coroner, and that is where it stands.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Thank you, Mr Speaker. Minister, can you advise if there have been any interim measures adopted at the Alexander Maconochie Centre in the wake of the death?

MR HARGREAVES: I thank Mr Hanson for the question. These matters trigger an automatic review of procedures. I have not been advised of the conclusion of such a review. In any event, it would be most appropriate for us to review the efficacy of procedures and then await any comment by the Coroner before moving forward. But I do thank Mr Hanson for the question.

Work safety

MRS DUNNE: My question is to the Minister for Industrial Relations. Minister, the Work Safety Act and regulations are scheduled to commence on 1 October this year. In relation to the regulations, you issued an exposure draft and invited submissions, which closed on 20 July just past. Minister, how many submissions did you receive and what objections or concerns were raised in those submissions?

MR HARGREAVES: That is a very good question. It deserves a very good answer. So I will go away and get one.

MR SPEAKER: Mrs Dunne, a supplementary question?

MRS DUNNE: When you are going away and getting the answer—I could probably table enough of them to inform the minister—and looking into that, minister, can you also advise the Assembly whether you will be making any amendments to the draft regulations and, if those changes are forthcoming, will they impact on the commencement date of the regulations?

MR HARGREAVES: I will give the suggestions given to me by Mrs Dunne all of the consideration that they are worth.

Housing—affordability

MS PORTER: My question is to the Chief Minister. Could the Chief Minister update the Assembly on the government's progress in promoting housing affordability through the creation of a housing continuum?

MR STANHOPE: I thank Ms Porter for the question and for her continuing deep interest in the subject and for the grasp that she has of an initiative that does demand a sophisticated and coherent response across a number of areas.

The government are justifiably proud of the strides we have taken and the change that we have engendered in relation to housing affordability in the ACT. In relation to land supply, and accelerated land supply, 3,470 dwelling sites were released in 2007-08 and a further 4,309 sites were released in 2008-09. That is just on 8,000 sites over two years, and in this last financial year, in 2008-09, at 4,339 sites, it was the single greatest number of sites released in any year since self-government. It is a sign of the continuing strength of the economy.

Land supply, of course, is fundamental to our capacity to meet the housing needs of all Canberrans. A significant aspect of that release of just on 8,000 sites over the last two years is the mandated 15 per cent of all new greenfield estates being required to be devoted to house and land packages priced at under $300,000. So in two years, with 8,000 blocks released in greenfield sites, and with a government directive or requirement that 15 per cent of all greenfield developments or estates be devoted to affordable housing—that is, houses under $300,000—one can quickly grasp the significant impact that that particular policy, by itself, is having on affordability.

Indeed, I recently met with the board of the Village Building Company, and Mr Bob Winnel, at that meeting, indicated—and I think we are all aware of this—that just in 12 months, in west Macgregor, the Village Building Company had been able to produce in the order of 500 houses sold and built for under, I think it was, $350,000. That is an outstanding effort by Village Building Company and a testament to the ACT government's land supply policies and its housing affordability policies, particularly in relation to that 15 per cent requirement.

It is also relevant that we have entered into a historic partnership with CHC Affordable Housing. Members are aware, and have been aware for some time, that, in partnership with CHC Housing—a partnership engendered on our part by a direct grant of $40 million worth of assets to CHC Affordable Housing and the provision of a $50 million revolving loan facility to CHC Housing—we have asked of them that they produce just on 1,000 houses over the next 10 years, with 500 to be within the affordable rental range and 500 to be affordable houses for sale.

It has taken CHC Affordable Housing, admittedly, some little time to get rolling, but they have now hit the road and are cracking along at some pace. Just two to three weeks ago, I, with the member for Canberra, Annette Ellis, turned the sod on a significant CHC development in Forde, and a development that is consistent with the ACT's new partnership with the commonwealth in relation to homelessness and affordability. Just last week, with the federal Minister for Housing, Tanya Plibersek, we opened an eight-unit development in Holt, built and managed by CHC Affordable Housing. CHC Affordable Housing are well on the way to delivering on the 1,000 rental and for sale units of accommodation that they have undertaken to deliver over the next 10 years. I think that is a stunning commitment by CHC Affordable Housing to deliver that level of housing for rental and for sale at affordable levels across Canberra each year, year on year, over the next 10 years.

There is also very significant progress being made on the government's other affordable housing arrangements. The shared equity scheme for public housing is at the point now of final consideration of tenders through an open expression of interest

process. We are looking for that to proceed. The OwnPlace initiative—the much-maligned in Liberal Party quarters OwnPlace initiative—is proceeding extremely well. We can declare at this stage that, as of this week, with respect to nine of those houses, nine of 250 families have actually moved into their OwnPlace homes—homes of a style and quality that those families would never have dreamed of owning, except for OwnPlace.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Thank you, Mr Speaker. Could the Chief Minister update the Assembly on the next steps the government is taking in relation to affordability?

MR STANHOPE: I am more than happy to do that. I will conclude my previous answer by acknowledging the extent to which the OwnPlace initiative, similar to other initiatives, now that it is up and going and well ensconced, has nine house completed and nine houses moved into. I think of the order of another 100 houses are under varying stages of construction and another almost 150 on top of that are about to commence.

Similarly with land rent, certainly accepting some delays in the identification of a financier, land rent is now a reality. I understand that as of today, since the financier actually developed and finally approved a loan facility for land rent, 11 Canberra families have now received loans from CPS. Of course, as time progresses, more and more will. I think there is somewhere in the order of another 50 being accepted.

To put that in some context, this a scheme that has been completely and totally opposed by the Liberal Party. It is 11 families. It is early days. There are 11 Canberra families that will now own their own home, 11 Canberra families that the Liberal Party were happy to have never owning their own home.

To be a little bit more pragmatic than that and move away from that human dimension, there are 11 houses now being constructed, a couple of million dollars of building activity. That is what it means, not just 11 families that now will own for their first time their own home, 11 Canberra families amongst many to come—

Mr Hanson: Eight years of your government and we have the least affordable housing in Australia. That is what you have delivered.

MR STANHOPE: Not just families owning homes, families who would never have owned a home, but just the economic level of activity, the building activity engendered by another 11 houses as of today about to start construction in the ACT.

Mr Hanson: You have delivered 11 houses in eight years, Jon.

MR STANHOPE: That is more than $2 million of economic activity, more than $2 million of construction activity.

We hear Mr Hanson, beyond embarrassment, beyond shame, actually interjecting, beyond embarrassment, beyond shame. If we go back and look at the *Hansard* and reflect on the virulent opposition of the Liberal Party to land rent, over-my-dead-body

opposition, "these people don't deserve to own their own homes" opposition, the Liberal Party view of those that actually cannot afford to go out at this stage and buy the home that they want, their dream home, the virulent opposition of the Liberal Party to people within this community owning their own homes.

Here we have the embarrassed cacophony by those that will live with this shame for the rest of their time in this place. I will, of course, remind them from time to time of their position in relation to land rent. And they do not like being reminded of it. They seek to yell you down to cover their embarrassment at having completely misread and misunderstood the nature of land rent. There soon will be more. And we will add those to the 250 people signed up to OwnPlace, that other scheme that actually attracted their ire.

But this is only the first tranche of the government's response to these issues. There is much more that the government is seeking to do. Much of that, of course, was reflected in the suite of homelessness initiatives that the government has entered into in partnership with the commonwealth government under the national partnership agreement on homelessness.

I look forward to going into greater and continued detail on that matter and on issues like land rent and OwnPlace, those initiatives that the Liberal Party has opposed root and branch in this place, an opposition that actually belies the right of all Canberrans and all Australians the dream of home ownership, a dream which the Liberal Party does not believe some in our society should dare to entertain because it does not actually fit within their limited structure of how society should view these matters.

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

Papers

Mr Speaker presented the following papers:

> Auditor-General Act—Auditor-General's Report No 5/2009—Administration of employment issues for staff of Members of the ACT Legislative Assembly, dated 7 August 2009.

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

> Standing order 191—Amendment to the Road Transport (Third-Party Insurance) Amendment Bill 2009, dated 25 June 2009.
>
> Travel report—Non-Executive MLAs—Seventh Assembly—Travel completed up to 30 June 2009.

Executive contracts
Papers and statement by 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): For the information of members, I present the following papers:

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

Long-term contracts:

Bruce Carroll.

David McDonald, dated 17 December 2008.

George Tomlins, dated 24 June 2009.

Jayne Johnston.

Margaret Bateson.

Patrick McAuliffe, dated 18 December 2008.

Short-term contracts:

Alison Purvis (2), dated 4 June and 24 July 2009.

Alyn Doig, dated 20 May 2009.

Andrew Taylor, dated 26 June 2009.

Andrew Whale, dated 19 June 2009.

Anthony Hays, dated 6 July 2009.

Barry Folpp (3), dated 19 and 25 May, 18 and 22 June and 9 and 13 July 2009.

Chris Tully, dated 22 and 23 July 2009.

Christopher Reynolds, dated 22 and 27 May 2009.

Daniel Walters, dated 15 June 2009.

David Dutton (2), dated 18 and 24 June and 24 July 2009.

David Foot, dated 24 July 2009.

David Read, dated 6 July 2009.

Doug Gillespie, dated 15 June 2009.

Eric Swan, dated 6 July 2009.

Felicity Keech, dated 18 May 2009.

Greg Kent, dated 22 June 2009.

Gregory Haustead, dated 10 June 2009.

Jacqueline Bear.

Jane Carder (2), dated 12 May and 23 June 2009.

John Lundy, dated 15 May 2009.

Jon Quiggin, dated 22 June 2009.

Kate Starick, dated 19 June 2009.

Kathleen Goth, dated 27 May 2009.

Katrina Bracher, dated 22 and 27 June 2009.

Michael Chisnall, dated 16 July 2009.

Nicole Stenlake, dated 9 July 2009.

Paul Coleman (2), dated 22 June 2009.

Phil Canham, dated 24 July 2009.

Phillip Perram, dated 22 and 24 July 2009.

Ray Giucci, dated 1 July 2009.

Robert Carter, dated 17 and 21 April 2009.

Russell Watkinson, dated 12 May 2009.

Stephen Goggs (2), dated 17 April 2009 and 10 July 2009.

Sue Dever, dated 14 and 20 July 2009.

Tracey Pittard, dated 23 July 2009.

Contract variations:

Alan Franklin, dated 24 and 25 June 2009.

Bren Burkevics, dated 2 July 2009.

Conrad Barr, dated 4 June 2009.

Danielle Krajina, dated 22 June 2009.

Floyd Kennedy, dated 29 May 2009.

Glenn Bain, dated 27 May 2009.

Greg Kent, dated 4 June 2009.

Janet Davy, dated 25 and 26 June 2009.

John Bissell, dated 26 May 2009.

Lana Junakovic, dated 31 July 2009.

Loretta Zamprogno, dated 4 June 2009.

Marsha Guthrie, dated 2 July 2009.

Penny Farnsworth, dated 10 July 2009.

Rowena Barrell, dated 22 July 2009.

Sandra Kennedy (3), dated 1, 9 and 15 June 2009.

Stephen Goggs, dated 1 June 2009.

Stuart Friend, dated 6 July 2009.

Susan Hall, dated 22 July 2009.

Tania Manuel, dated 22 June 2009.

Tim Swift, dated 25 June 2009.

Tom Elliott, dated 25 June 2009.

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

Leave granted.

MR STANHOPE: Mr Speaker, I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all chief executive and executive

contracts and contract variations. Contracts were previously tabled on 16 June. Today I present six long-term contracts, 42 short-term contracts and 23 contract variations. The details will be circulated to members.

Papers

Mr Stanhope presented the following papers:

> Remuneration Tribunal Act, pursuant to subsection 12(2)—Determinations, together with statements for:
>
> Clerk of the Legislative Assembly—No 6 of 2009, dated 29 June 2009.
>
> Part-Time Holders of Public Office—Part-Time Non-Presidential Members—ACT Civil and Administrative Tribunal—No 7 of 2009, dated 29 June 2009.

Legislation program—spring 2009
Paper and statement by 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): For the information of members, I present the following paper:

> Legislation Program—Spring 2009.

I ask leave to make a statement in relation to the paper.

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to present the government's legislation program for the spring 2009 sittings. The program further delivers on our commitments made at least year's election while also looking to address some of the challenges of these demanding times. It will also continue to build a better, safer and more equitable city that the community expects from a responsible, compassionate and disciplined government.

Firstly, we are all affected by environmental concerns, particularly in relation to water. As part of the national water initiative, the government will be introducing the Water Resources Amendment Bill 2009. The national water initiative builds on the Council of Australian Governments agreements to achieve a nationally compatible, market regulatory and planning-based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes. These amendments will facilitate control of commonwealth water in the ACT and interstate water trading.

Secondly, the education and training needs of our young people require more attention. The government will give effect to COAG's national youth participation requirement to standardise minimum requirements for the education, training or employment of all young Australians. Amendments to the Education Act 2004 will create a mandatory

requirement for all young people to participate in school or an approved equivalent until they complete year 10. Additionally, young people who have completed year 10 will have to participate in education, training or employment until age 17. This will ensure that every young person in the ACT is engaged in meaningful study, training or employment after year 10 and provide flexible pathways better tailored to meet individual students' needs, which in turn will create seamless and successful employment transitions for young Canberrans.

Thirdly, greater effort is to be given to addressing crime and enhancing community safety. To this end, the ACT is currently enacting a program of cross-border investigative power model laws to enhance a nationally coordinated and cooperative approach to combating serious and organised crime.

The second area of law to be addressed in that program, and now to be progressed locally, is that of assumed identities. The Crimes (Assumed Identities) Bill 2009 will create a more efficient, transparent and accountable legislative regime for police officers to acquire identity documents necessary for them to pursue cross-border criminal investigations and allow the use of documents produced in one jurisdiction in another.

To increase the value assigned to a penalty unit for a criminal offence, an amendment will be made to the Legislation Act 2001. It will increase the base level of statutory fines by 10 per cent in line with a decision made in this year's budget. One penalty unit is currently worth $100 for individuals and $500 for corporations. This has been the base rate for penalty units for at least eight years. The amendment will increase the base unit to $110 for individuals and $550 for corporations and will align penalty units in the ACT with those in the commonwealth and New South Wales.

To simplify and clarify the procedures for entry and search of premises and records held by legal practices the government will present a bill to amend enforcement provisions in the Legal Profession Act 2006. The bill will ensure that any compensation for loss suffered as a result of a search of a legal practice will be limited to the costs of compliance with the requirements of an investigator.

A number of other various safety measures are to be progressed. To facilitate transport safety we will move to adopt national road model road transport legislation developed by the National Transport Commission. This will provide for the safe and secure transportation of goods to which the Australian Dangerous Goods Code applies. At present the transportation of dangerous goods within the territory is regulated by commonwealth legislation. This will be repealed as it predates the development of the national model legislation and does not reflect nationally agreed standards. These agreed standards on the transport of dangerous goods are to start nationally no later than 1 January 2010.

The safety of vehicles is to be highlighted with the replacement of the existing Motor Vehicle Service and Repair Industry Code of Practice. This follows advice from the Motor Trades Association that the current code is too difficult to enforce, with no power to issue infringement notices or to prosecute a motor vehicle repairer for breaching the code. The Motor Vehicle Service and Repair Industry Bill 2009 will address the MTA's concerns and enhance the existing regulatory regime for the motor vehicle repair industry.

The safety and proper care of children and young people is another high government priority. This is to be improved through amendments to the Adoption Act 1993 that reflect best practice, are child-centred and compliant with the territory's human rights law.

In 2006 the government began a review of the Adoption Act, which when first an act, was viewed as progressive legislation. Since that time a number of developments have provided impetus to ensure that the act remains consistent with other legislation and for it to reflect contemporary evidence-based and best practice in the adoption of children and young people.

Another national law that the government will propose be adopted is in relation to the regulation of health practitioners by implementing a national registration and accreditation scheme agreed by Australian health ministers. The ACT has been at the forefront of innovation in the area of portable long service schemes, being the first to introduce a cleaning scheme in 2004. In this regard we will propose to establish a portable long service scheme for workers in the territory's community and childcare sectors, as foreshadowed in this year's budget. The ability to transfer long service leave in these important sectors that employ a significant number of people will further strengthen employee entitlements.

Contractors in the building and construction industry are also to be assisted with security of payments legislation closely modelled on the New South Wales scheme. This will allow contractors to more easily claim and recover outstanding payments for services provided. It had been previously flagged for the autumn 2009 sittings but was delayed because of negotiations to determine future governance arrangements for the scheme.

To provide for the government's ongoing efforts in dealing with the economic situation facing the territory and, at the same time, to protect and support the community a suite of new financial legislation is to be introduced. As part of the Australian government extension of the first home owner boost initiative, the ACT government, along with the other states and territories, has agreed to continue to administer the program. The aims of the boost are to stimulate housing activity, give first home buyers a better chance in the housing market and promote growth in the Australian economy. To administer the boost in the ACT, changes will be made to the First Home Owner Grant Act 2000.

While the boost is due to cease from 30 September—it was due to cease in 30 June—it will continue in its current form until 30 September and will provide an additional $7,000 to first home buyers purchasing an established home and $14,000 to first home buyers purchasing a newly constructed home. From 1 October to 31 December the boost payments will be halved.

Amendments will also be sought by way of the Revenue Legislation Amendment Bill 2009 to the First Home Owner Grant Act, and also to the Taxation Administration Act. Changes to the First Home Owner Grant Act will provide a definition of "reviewable decision" for the purpose of tribunal proceedings; extend the timeframe from 12 months to 18 months in which a grant applicant who

has taken up residence has to apply to the commissioner for an extension/exemption from the residency requirement and, in the case where there are joint applicants, introduce an automatic exemption for one applicant where the other meets the residency requirement.

The Taxation Administration Act 1999 will be amended to introduce a five-year time limit in which a taxpayer may apply to the commissioner for a refund of tax overpaid. The Payroll Tax Amendment Bill will make changes to the Payroll Tax Act specifically to where an employer pays wages to an employee who works in more than one jurisdiction in a month, such as the airline industry.

The amendments will seek, from 1 July 2009, to enforce that payroll tax is to be paid to the jurisdiction where the worker resides. In cases where the worker does not reside in Australia, tax is to be paid in the jurisdiction where the registered Australian Business Number address of the employer is located.

Other proposed changes to financial legislation involve the Duties Act 1999 and reform of both the Road Transport (Third-Party Insurance) Act and the Unlawful Games Act. The Duties Act will be amended to:

- provide consistency to agreements or transfers of dutiable property that are cancelled or terminated with provisions that allow for agreements to be rescinded;

- insert new provisions that allow de facto relationships to be recognised agreements in line with changes made to the Family Law Act;

- repeal redundant sections that relate to the duty liability of territory entities, as these sections are under the Taxation (Government Business Enterprises) Act; and

- amend the provisions that relate to an application to register a motor vehicle to reflect the current terminology used by motor registry and ensure the correct vehicle types are captured under the correct duty rate.

Reform of compulsive third party insurance in the ACT will be continued with changes aimed at ensuring the effectiveness of the new scheme. The Road Transport (Third-Party Insurance) Amendment Bill (No 2) will provide opportunities for people injured in a motor vehicle accident to receive targeted and effective compensation and enhance their rights to such effective treatment and return to health strategies.

Change is required to the Unlawful Games Act, which has become outdated and no longer properly achieves the desired regulatory outcomes. A few associated statutes, the Games, Wages and Betting Houses Act and the Gaming and Betting Act will be combined with the Unlawful Games Act and completely redrafted following an extensive public consultation process.

The ACT planning system and associated legislation is to be enhanced with two amendments proposed to the Planning and Development Act. Over 12 months experience in the operation of the new act has highlighted a number of areas where further efficiencies can be made. Two new amendment bills will consolidate and extend the efficiency of the act. These will also improve the ability of the ACT's

planning legislation to respond to commonwealth and territory economic stimulus and other similar measures.

One of the bills will propose to transition those modifications that have been made by regulation that will otherwise expire on 31 March 2010. The other bill will make changes to several processes. These include technical variations to the territory plan, direct grants of leases, transfer restrictions on leases, triggers for environmental impact statements, exchange of information with ACT Revenue Office and concessional leases.

The Construction Occupations (Licensing) Act 2004 is also to be amended to broaden the range of construction occupations in section 7 of the act. At the same time a new construction occupation class is to be created under part 6 of the Construction Occupations Licensing Regulation. This will be for the purpose of certifying on-site development works associated with multi-unit and mixed use developments.

Finally, the government will look to introduce legislative amendments in relation to welfare and safety of livestock and domestic animals. The Animal Welfare Amendment Bill will implement the recommendation of the Primary Industry Ministerial Council in relation to national codes and their enforcement. The council endorsed the Australian Animal Welfare Standards and Guidelines for the land transport of livestock, replacing seven model codes of practice for such transport. Further industry consultation will occur before the standards are given legislative effect.

Mr Speaker, these reflect only some of the government's legislative priorities for meeting the present challenges in improving governance of the territory. I look forward to the Assembly's support for the proposed initiatives so as to deliver better outcomes for Canberra and its citizens. I commend the program to the Assembly.

Intergovernmental agreements
Papers and statement by 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): For the information of members, I present the following papers:

Intergovernmental agreements—

Australian Consumer Law, dated 2 July 2009.

Business Names Agreement, dated 2 July 2009.

Business Online Services—Heads of Agreement, dated 2 July 2009.

Closing the Gap: National Partnership Agreement on Indigenous Early Childhood Development, dated 2 July 2009.

National Licensing System for Specified Occupations, dated 30 April 2009.

National Partnership Agreement on Energy Efficiency, dated 2 July 2009.

National Partnership Agreement on Essential Vaccines, dated July 2009.

National Partnership Agreement on Youth Attainment and Transitions, dated 2 July 2009.

National Partnership Agreement to Establish a National Road Safety Council, dated 30 April and 14 May 2009.

National Strategy on Energy Efficiency 2009-2020—Memorandum of Understanding, dated 30 April and 14 May 2009.

Ministerial level intergovernmental agreement negotiations—Schedule as at August 2009.

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

Leave granted.

MR STANHOPE: In light of the ACT government's commitment to implement non-legislative transparency measures, I am tabling a number of intergovernmental agreements today, which I just outlined. These agreements include jurisdictional objectives, which aim at increasing accountability to the community and reducing administration and compliance overheads.

Some objectives include greater flexibility for resources to be allocated to areas where they will produce the best outcomes for the community, collaborative working arrangements across jurisdictions and reporting frameworks, facilitating a long-term policy focus, providing incentives for wide-ranging reforms in areas of joint responsibility and assessing the level of incentives for reforms, including the economic benefits of the reform.

The signed agreements clearly indicate the ACT government's commitment for the COAG reform agenda. The ACT continues to improve its nationally consistent approach to planning for better integration and delivery of services to the community. To further continue the ACT government's promotion of transparency and good government, I am also tabling a list of intergovernmental agreement negotiations. In doing so, I reiterate the government's firm commitment to establish a less rigid and more comprehensive flow of information to the Assembly concerning the full range of intergovernmental agreements and negotiations.

Finally, my department will maintain and has maintained a publicly available register of new intergovernment agreements to which the ACT is party. This register, including the full text of agreements, will be available on the department's website.

Financial Management Act—instruments
Papers and statement by minister

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women): For the information of members, I present the following papers:

Financial Management Act—

Pursuant to section 16B—Instrument authorising the rollover of undisbursed appropriation of the Department of Education and Training, including a statement of reasons, dated 29 June 2009.

> Pursuant to section 17—Instrument varying appropriations relating to Commonwealth funding to ACT Health, including a statement of reasons, dated 29 June 2009.
>
> Pursuant to section 19B—Instrument varying appropriations, including statements of reasons, related to—
>
> > Digital Education Revolution—Department of Education and Training, dated 25 June 2009.
> >
> > Trade Training Centres in Schools, Early Childhood Education and Care and Digital Education Revolution—Department of Education and Training, dated 29 June 2009.

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

Leave granted.

MS GALLAGHER: As required by the Financial Management Act, I table several instruments issued under sections 16B, 17 and 19B of the act. The direction and a statement of reasons for the above instruments must be tabled in the Assembly within three sitting days after it is given. These instruments for the 2008-09 financial year were signed in late June 2009. Section 17 of the FMA enables variations to appropriations to be amended for any increases in existing commonwealth payments by direction of the Treasurer. Following the receipt of additional funding from the commonwealth, ACT Health has been appropriated an additional $2.208 million for the Australian health care agreement. This instrument provides for that increase.

Section 19B of the act allows for an appropriation to be authorised for any new commonwealth grants provided to the territory, under agreement where no appropriation has been made in respect of those funds, by direction of the Treasurer. This package includes two Department of Education and Training instruments signed under section 19B, which were authorised following the receipt of new funding from the commonwealth.

The Department of Education and Training has received $9.915 million of additional appropriation, comprising $9.125 million for new grant funding associated with the digital education revolution national partnership for the non-government school sector, $0.096 million for trade training centres in schools national partnership, and $0.694 million for early childhood education and care national partnership.

Section 16B of the act—rollover of undispersed appropriation—allows appropriations to be preserved from one financial year to the next, as outlined in instruments signed by me. This package includes one instrument signed under section 16B. The section 16B instrument included in this package allows for the rollover of the unspent component of the DET commonwealth grant funding outlined above, which was received too late in the 2008-09 financial year to enable the use or on-passage of the funding as stipulated by agreement with the commonwealth. The instrument comprises rollovers of commonwealth grant related appropriation of $0.096 million for trade training centres in schools, $0.694 million for early childhood education and care and $1.749 million for the digital education revolution.

I commend the instruments to the Assembly.

Financial Management Act—instruments
Papers and statement by minister

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women): For the information of members, I present the following papers:

Financial Management Act, pursuant to section 18A—

Nine authorisations of Expenditure from the Treasurer's Advance, including statements of reasons; and

Financial Management Act, pursuant to section 18A—

Authorisations of expenditure from the Treasurer's Advance, including statements of reasons, to:

ACT Planning and Land Authority, dated 23 June 2009.
Chief Minister's Department, dated 23 June 2009.
Department of Disability, Housing and Community Services, dated 23 June 2009.
Department of Education and Training, dated 23 June 2009.
Department of Justice and Community Safety, dated 23 June 2009.
Department of Territory and Municipal Services, dated 23 June 2009.
Department of Treasury, dated 23 June 2009.
Exhibition Park Corporation, dated 23 June 2009.
Legislative Assembly Secretariat, dated 23 June 2009.

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

Leave granted.

MS GALLAGHER: As required by the Financial Management Act, I table copies of expenditure, authorisations and final charge against the 2008-09 Treasurer's advance. Section 18 of the act allows the Treasurer to authorise expenditure from the Treasurer's advance. Section 18A of the act requires that, within three sitting days after the daily authorisation is given, the Treasurer present to the Legislative Assembly a copy of the authorisation, a statement of the reasons for giving it and a summary of the total expenditure authorised under section 18 for the financial year.

Section 18A of the Financial Management Act also requires that, where a Treasurer has authorised expenditure under section 18 within three sitting days after the end of the financial year, the Treasurer must present to the Assembly a summary of the total expenditure authorised for that financial year.

Before I do this, I would like to mention that the unspent balance of the Treasurer's advance is $9.4 million. This underscores the government's ability to control costs and our strong track record on financial management.

This package includes nine instruments signed under section 18 of the act, which comprise $7.668 million for the Department of Territory and Municipal Services for

a range of cost pressures, including $4.2 million to maintain service levels across the Parks, Conservation and Land portfolio; $1.1 million to provide payments associated with the management of the Civic and Tuggeranong pools; $3.215 million for the Department of Justice and Community Safety, comprising $3.2 million for legal expenses and $0.015 million for an increase in judges' pensions following a Remuneration Tribunal determination; $1.212 million for the Department of Education and Training for additional employee-related expenses; $4.681 million for the Department of Disability, Housing and Community Services, comprising $4.5 million for increased out-of-home care costs resulting from increased demand and $0.181 million for Disability ACT clients with extraordinarily high level needs; $0.338 million for the Chief Minister's Department for the establishment of the ACT stimulus package task force; $128,000 for the Legislative Assembly's Secretariat for termination payments required following the 2008 election; $90,000 for the ACT Planning and Land Authority for costs associated with undertaking the Cotter EIS project; $41,000 for the Exhibition Park Corporation for a CSO payment relating to costs incurred in relation to World Youth Day; and $1.2 million for the Department of Treasury for the payment of first homeowners grants.

These instruments and other instruments authorising expenditure under section 18 of the FMA have been authorised to address both a range of necessary expenses that were not foreseen at the time of the original appropriation and/or payments made in response to increased activity necessary to maintain front-line service delivery standards. The Appropriation Act 2008-2009 provided $32 million for the Treasurer's advance. The final expenditure against the Treasurer's advance was $22.637 million, leaving a balance of $9.363 million to return to the 2008-09 budget.

I commend the papers to the Assembly.

Financial Management Act—instruments
Papers and statement by minister

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women): For the information of members, I present the following papers:

> Financial Management Act 1996—
>
> > Pursuant to section 14—Instrument directing a transfer of funds within the Department of Territory and Municipal Services, including a statement of reasons, dated 13 July 2009.
> >
> > Pursuant to section 15A—Instrument directing a reclassification of funds between output classes within the Department of Territory and Municipal Services, including a statement of reasons, dated 13 July 2009.
> >
> > Pursuant to section 16—Instrument directing a transfer of appropriations from the Department of Territory and Municipal Services to the Legislative Assembly Secretariat, including a statement of reasons, dated 1 July 2009.

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

Leave granted.

MS GALLAGHER: As required by the Financial Management Act, I table instruments issued under sections 14, 15A and 16 of the act. The direction and a statement of reasons for the above instruments must be tabled in the Assembly within three sitting days after it is given. These instruments have been signed since the commencement of the 2009-10 financial year.

Section 14 of the act allows for appropriations to be varied by transfer of funds between appropriations, to be authorised by the Treasurer and signed by another minister. The transfer must not reduce by more than three per cent.

Section 15A of the act allows the Treasurer to reclassify an appropriation that was originally classified as either expenses on behalf of the territory or government payment of outputs to the other.

I have signed two instruments that will facilitate new funding arrangements for Exhibition Park Corporation. The 2009-10 budget anticipated the repeal of the Exhibition Park Corporation Act 1976. However, as the legislation had not been repealed, arrangements will be made for funds to be on-passed to the corporation in a timely and appropriate manner.

An instrument authorised under section 14 of the act transfers a departmental capital injection of $2.988 million from the Department of Territory and Municipal Services to expenses on behalf of the territory. This will facilitate the on-passage of funding to Exhibition Park Corporation.

Similarly, an instrument authorised under section 15A of the act transfers government payment for outputs of $350,000 from the Department of Territory and Municipal Services to expenses on behalf of the territory. This will enable the on-passage of funding to Exhibition Park Corporation.

Section 16 of the act allows the Treasurer to authorise for a service or a function to be transferred from the entity to which the appropriation is made to another. This section 16 instrument presented today transfers $499,000 of government payment for outputs and $5,000 of capital injection from the Department of Territory and Municipal Services to the Legislative Assembly Secretariat as expenses on behalf of the territory and capital injection.

This instrument has been authorised in keeping with our commitment with the Greens to transfer responsibility for the management of the government and Assembly library function to the Legislative Assembly Secretariat. Additional detail regarding these instruments is provided in a statement of reasons accompanying each instrument. I commend the instruments to the Assembly.

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

MS GALLAGHER (Molonglo—Treasurer, Minister for Health, Minister for Community Services and Minister for Women): For the information of members, I present the following paper:

> Financial Management Act, pursuant to section 26—Consolidated Financial Report—Financial quarter ending 30 June 2009—2008-09 Interim Result.

This paper was circulated to members when the Assembly was not sitting. I seek leave to make a statement in relation to the paper.

Leave granted.

MS GALLAGHER: This report is required under section 26 of the Financial Management Act. The interim result for June 2009 is a surplus of $14 million. Government is very pleased with this result when compared to the previous estimate of a deficit of $46 million published in the 2009-10 budget update.

I must stress these are unaudited results to the end of June 2009 and it is almost certain that these will change as consolidated annual financial statements are prepared and audited. Changes in this stage of the process can be substantial, relating to technical accounting adjustments as well as reconciliation of interagency trading and transfers.

Nonetheless, the interim result is pleasing, particularly what it highlights and reflects. It highlights the government's discipline in managing costs to the budget and it reflects better-than-forecast economic conditions and the effects of the federal government's initiatives and, in some measure, our own initiatives to cushion the effects of the global economic slowdown, to support jobs and to support activity in the housing and construction market.

Of the $61 million improvement, around $40 million relates to own-source tax revenue coming from better-than-forecast conditions in the housing and labour markets. There is an additional $13 million from residential and commercial conveyancing. Transactions in the housing market were up 30 per cent in the last three months compared to the rest of the financial year. Undoubtedly this reflects the effects of the federal government's stimulus initiatives.

We have also recorded some large commercial transactions. This reflects that, in these uncertain economic times, the territory remains a very attractive place for investment. Payroll tax is around $15 million above the previous forecasts. Just under half of this additional revenue is from compliance activity undertaken by the Revenue Office. I am also advised that there may be some adjustments to this revenue line as employers reconcile their payments to their staffing. Nevertheless, there is a clear indication that employment conditions for medium to large businesses are better than previously forecast.

Taxation revenue related to the stock of property, that is, general rates, land tax and the fire and emergency levy, is around $7 million above the published estimate. This reflects a higher than forecast increase in the stock of both residential as well as commercial property.

We have some other adjustments as well. Service receipts are higher, by around $17 million, across a number of areas, including health, training and planning,

indicating a high level of activity in user charging areas. On the expenditure side, the interim outcome is quite close to the published estimate. There are some technical adjustments, both up and down, relating to how employee entitlements are calculated.

In preparing the budget, it is assumed that the entire Treasurer's advance would be spent during the year and around $9 million of the advance was unspent, which directly improves the net operating balance. This reflects good management of unforeseen, unanticipated cost pressures on behalf of agencies and I am very pleased with this.

On an AAS basis, the GGS recorded a deficit of $293 million, which is a $17.6 million increase from the 2008-09 estimated outcome deficit of $310.6 million. The primary reason for the higher than expected year-to-date performance of the AAS result is the increase in the net operating balance, offset by a lower level of land revenue and the recognition of an increase in employee entitlements relating to the revised methodology for calculating these liabilities. The general government sector balance sheet remains strong, as demonstrated by the strength of key financial indicators such as net debt and net worth.

In relation to how this affects our budget plan moving forward, the plan always provided for some movement in economic activity. However, savings targets will be adjusted accordingly, as always envisaged, to take account of changed economic circumstances. Despite this small adjustment, the government still has a substantial task ahead. It is a fact that the territory's revenues were put back by about two years and, while revenue recovers, expenses do continue to grow to meet the needs of the community.

The unallocated savings task for the financial year 2012-13 was around $180 million. Earlier recovery is helpful but the substantive nature of the savings task has not changed. I commend the June quarter financial report to the Assembly.

2003 Canberra bushfires
Paper

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (3.18): For the information of members, I present the following paper:

> 2003 Canberra bushfires—McLeod Report and Doogan Coronial Inquiries—Government agreed recommendations—Implementation report, prepared by ACT Bushfire Council, dated June 2009.

I move:

> That the Assembly takes note of the paper.

I would like to formally thank the ACT Bushfire Council for taking the time to prepare and provide the government with such a detailed report. The government welcomes it and I am pleased to provide a copy of the report to members of the Assembly.

A combined total of 134 recommendations were made by the coroner and Mr Ron McLeod following their detailed inquiries into the Canberra 2003 bushfires. The government agreed with 122 or 91 per cent of these recommendations. Following this, the government agreed to ask the ACT Bushfire Council to report on progress on implementing the government agreed recommendations.

The Bushfire Council's report indicates that 108 of the 122 agreed recommendations have been implemented. This is a figure of 88.5 per cent. This is the result of a concerted effort by so many across government, particularly the Emergency Services Agency and the Department of Territory and Municipal Services. The report from the Bushfire Council has also recommended supplementary actions be undertaken on 22 recommendations.

The Assembly should be mindful that the coroner's report was only handed down just over 2½ years ago. To have so many recommendations implemented by this time, I believe, is a significant achievement.

I am pleased the Bushfire Council has indicated that it is well placed to undertake the ongoing risk monitoring and reporting against this report as a function of its activities, which is consistent with their functions under the Emergencies Act. This report and its ongoing monitoring is testament to the fact the government is taking these recommendations seriously and will, with the assistance of the Bushfire Council, ensure that the agreed recommendations from the McLeod report and the Doogan inquiry will continue to be implemented. It is with pleasure that I provide a copy of the report to members today.

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

Human Rights Act 2004
Paper

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (3.21): I present the following paper:

> Human Rights Act 2004—The First Five Years of Operation—A report to the ACT Department of Justice and Community Safety, prepared by the ACT Human Rights Act Research Project, the Australian National University, dated May 2009.

I move:

> That the Assembly takes note of the paper.

On 18 November 2003, the former Attorney-General, Mr Stanhope, introduced into the Assembly the Human Rights Bill 2003. In doing so, the ACT became the first Australian jurisdiction to take human rights seriously. The bill was passed in March 2004 and commenced operation on 1 July 2004 as the Human Rights Act 2004. It was the first human rights charter in Australia and a model for other Australian jurisdictions, including Victoria, whose charter of rights commenced operation more than two years later, on 1 January 2007.

The success of the territory's Human Rights Act is a demonstration to the rest of Australia that the system of government that we enjoy, including the rule of law and the separation of powers, will not collapse by enacting principles that nobody can legitimately deny, that should be, indeed, part of responsible and accountable government. This is so, even if we do not always agree on the mechanism for delivering this.

As a member of the government, I have found that the translation of our policies into law has sometimes required modification to meet the necessary human rights standards and to achieve a high level of compatibility with human rights principles. This is how it should be.

The enactment of a human rights charter has demonstrated that, even in a nation such as Australia, which is relatively alert to the protection and promotion of civil and political rights, governments should be accountable and test legislation against international human rights standards. The charter of rights, like our Human Rights Act, ensures that the actions of government do not unnecessarily or unreasonably place limitations on human rights.

Section 44 of the Human Rights Act requires that, after five years of the act's operation, a review of the act must be undertaken and a report presented to the Assembly. Today I am tabling that report.

The report that I am tabling is an assessment of the first five years of operation of the act and makes recommendations in relation to the human rights regime against the original policy direction of the government when first implementing the act. The report is not merely a snapshot but the product of five years of research.

The research that produced this report has also contributed to many academic and learned works on the ACT's human rights regime. The research was made possible under an Australian Research Council linkage grant and the work carried out under a partnership agreement between the Australian National University and the Department of Justice and Community Safety.

The ACT Human Rights Act research project was led by Professor Hilary Charlesworth, a renowned human rights lawyer and academic, and Professor Andrew Byrnes, currently a professor of international law at the University of New South Wales and formerly of the ANU. Professor Charlesworth, as many members will know, was the chairperson of the ACT Bill of Rights Consultative Committee which was established to inquire into the question of whether the ACT should adopt a bill of rights and what form it might take. She and her colleagues are highly qualified to examine and assess where we are now as a human rights jurisdiction of five years standing.

I am particularly pleased to table this report which recognises the significant research undertaken by the ACT Human Rights Act research project team over the last five years. Most particularly, the report represents an independent but informed view on the implementation of human rights in the territory.

In general, the research findings are that the act has been successful in what it has set out to achieve. The research findings show:

> One of the clearest effects of the HRA [Human Rights Act] has been to improve the quality of law-making in the Territory, to ensure that human rights concerns are given due consideration in the framing of new legislation and policy.

The report identifies, however, that the dialogue model may not always have been as successful as perhaps intended. The findings suggest that the public sector over the last five years has been slow to fully develop a culture of human rights. As acknowledged in the report, the commencement on 1 January this year of a duty on public authorities will test this.

Already there has been evidence of a marked shift in the way that departments undertake their work and many agencies, particularly those with a service delivery focus, are exploring the opportunities to better serve the community through human rights compliant and sensitive measures. I commend those public authorities on the steps they are taking.

The report also expresses disappointment in the limited extent to which the legal profession has entered into the dialogue about human rights and concluded that the legal profession has not, with some exceptions, taken up the opportunity to discuss human rights principles in court proceedings. These findings may provide additional opportunities for the identification of improvements and, again, new duties on public authorities, and a direct right of action to the courts for alleged breaches of human rights will undoubtedly change the direction of these findings over coming years.

The report highlights areas where there may be capacity to progress and advance the human rights cause, building on the successes to date. Recommendations include, for example, increasing resourcing for training and public awareness to promote human rights work. At the heart of these recommendations is the need for government to clarify the evolving and changing role of public institutions that promote and underpin the territory's human rights regime. This includes recommendations for legislation making, for example, by extending compatibility assessments to private members bills, amendments to bills made on the floor of the Assembly and subordinate legislation.

In 2006, the government committed to also consider the inclusion of economic, social and cultural rights, or ESC rights, in the territory's human rights regime. Consideration of ESC rights was outside the scope of the work undertaken by the ACT Human Rights Act research project and so is not addressed in the report.

To this end, a second Australian Research Council linkage grant has been awarded to examine the possible inclusion of ESC rights in the territory's human rights system. This grant is under a partnership agreement between the ANU, the University of New South Wales and my Department of Justice and Community Safety. The project has commenced under the leadership of Professor Charlesworth and Professor Byrnes and will assess whether the ACT Human Rights Act should be amended to include economic, social and cultural rights; and, if so, what impact this is likely to have on governance in the ACT.

Undoubtedly, the arguments for protecting economic, social and cultural rights are strong. It was apparent, from submissions received in the one-year review of the act, that this is an area of wide interest. When I tabled the report of the first year of operation of the act in August 2006, I noted that there had been no serious attempt to incorporate these rights into bills of rights in New Zealand, Canada or the United Kingdom. In fact, the only other legislatively comparable country with a human rights system that includes these rights is South Africa.

Economic, social and cultural rights remain largely untried and untested when it comes to legislative human rights frameworks. The government decided to defer consideration of these rights until the five-year review, when it was thought that perhaps other jurisdictions would provide a model by having had a closer look at expanding legislative regimes beyond civil and political rights. This has not been the case. The inclusion of economic, social and cultural rights would make us exceptional amongst comparable human rights jurisdictions.

It has become apparent, in giving consideration to these rights, that there needs to be further research into the potential impact of extending the protection of the Human Rights Act. Investigation and research into the ramifications of such a course of action need to be properly considered.

Decision making in relation to economic, social and cultural rights can only be made when issues about the scope and enforceability of these rights have been adequately teased out. It is anticipated that the new project will generate the first comprehensive Australian study of the potential impact of the protection of economic, social and cultural rights in a legislated bill of rights. The research and consultation will be undertaken over the next 12 months, with a report expected in the latter half of 2010.

In relation to these rights, I was privileged to have recently met with Madam Justice Yvonne Mokgoro. Justice Mokgoro is a longstanding judge of the Constitutional Court of South Africa and chair of the South African Law Reform Commission. The focus of Justice Mokgoro's visit to Australia was to talk to interested Australians about human rights and, in particular, the South African experience of economic, social and cultural rights. Her visit to Australia was organised by the Human Rights Law Resource Centre in Melbourne and her Canberra leg, which included speaking with a range of people, was facilitated by the new economic, social and cultural rights project team. I understand that Justice Mokgoro also met with Father Frank Brennan from the National Human Rights Consultation Committee.

The status of economic, social and cultural rights, alongside civil and political rights, is notably an item on the agenda of Australian human rights discussion and debate. I look forward to receiving a report next year on the findings of the research project, which will meet the government's commitment to consider economic, social and cultural rights in the context of the territory's Human Rights Act.

Returning to the report on the first five years of the act's operation, its recommendations require community consultation. I have asked my department to undertake a broad consultation process over the next couple of months on the recommendations that the report makes and to examine opportunities to improve the human rights regime that we have in the ACT.

To this end, I am publicly calling for written submissions which address the issues raised in the report or any other valuable contributions that people may wish to make on the further development of the Human Rights Act 2004. My department will also be consulting with human rights experts, legal practitioners, public authorities, including government departments, and others to consider the recommendations that have been made and prepare a response and possible action plan for the government's consideration.

While the government's commitment to human rights is strong, we should not rest on our laurels. I anticipate that not all of the recommendations contained in the report will have support nor be agreed to by government. In an economic downturn, recommendations such as those made by the project team will need to be considered in the context of competing priorities. I am, however, encouraged that the report is a fair and independent assessment of how we are travelling as a human rights jurisdiction.

The review work of the project has provided guidance and direction as to where the government might seek to invest its energies and resources in considering advancing the work of the Human Rights Act and improving the overall outcome for individual rights in the territory. Further consultation will ensure that the government's future work on human rights is well informed and undertaken strategically on the basis of evidence and community support.

In tabling the work of the ACT Human Rights Act research project, I wish to acknowledge the other members of the project, including Gabrielle McKinnon, the project's research fellow and director, and Renuka Thilagaratnam, who replaces Ms McKinnon in this role and will continue with the work on the ESC rights project, and the students and others who contributed to the research. I wish to also acknowledge members of the reference group who facilitated the conduct of the research. I commend the report to the Assembly.

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

Paper

Mr Corbell presented the following paper:

> ACT Criminal Justice—Statistical Profile 2009—June quarter.

Public Accounts—Standing Committee
Report 15––government response

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (3.34): For the information of members, I present the following paper:

> Public Accounts—Standing Committee—Report 15—*Auditor-General's Report No 4 of 2005: Courts Administration*—Government response.

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

Papers

Mr Corbell presented the following papers:

Occupational Health and Safety Act, pursuant to subsection 228(3)—Operation of the Occupational Health and Safety Commissioner—Half-yearly reports for the periods—

1 July to 31 December 2008.

1 January to 30 June 2009.

Education Act 2004
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (3.35): I present the following papers:

Education Act, pursuant to section 118A—

Non-Government Schools Education Council—Advice, dated 15 June 2009.

Response to Advice, dated 28 July 2009.

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

Leave granted.

MR BARR: I have received advice from the Non-Government Schools Education Council in relation to four key areas, including the provision of leadership and mentoring by principals and other staff in non-government schools, what is being done to improve the literacy and numeracy skills of students in non-government schools, and teacher quality and support for non-government school students with disabilities. I am also tabling my response to NGSEC's request for further information about my strategic vision for non-government schools. In doing so, I would like to take this opportunity to share with the Assembly the government's vision for education in government and non-government schools in the territory.

Simply put, my vision is this: everyone learns; the poor kid keeps up; the bright kid is challenged; and every kid becomes their best. How does the government help? It is by making hard decisions and changing for the better; by reforming teacher quality; by paying our best classroom teachers $100,000; by having more teachers and smaller classes; by building new libraries, gymnasiums and classrooms in every ACT school;

and by building new schools where they are needed most. That is my vision for education in our city—government and non-government.

The Non-Government Schools Education Council has asked me about the role of the non-government education sector and the government's aspirations for this sector over the next three years. On the role of the non-government education sector, I have said repeatedly that the old public-private debate is over. I am the minister for all students in all schools. My fundamental view on the role of the non-government education sector is a simple one: to provide excellent education for all the children who choose to learn in non-government schools. Everyone learns, Madam Assistant Speaker.

On the government's aspirations for the sector over the next three years, I have two key aspirations: that the sector is fully independent and that it is fairly funded. To give a practical example of what I mean by full independence, I have made it abundantly clear in this place that the government opposes any plans by the Liberal Party's spokesman to use the Human Rights Act as a way for the government to take over non-government schools. That will never be my policy. Indeed, I support a strong and independent non-government school sector which collaborates with the government sector in the best interests of every child. For example, I recently agreed to a request from the Catholic Education Office, the Association of Independent Schools and the Association of Parents and Friends of ACT Schools to include non-government schools in the Shaddock review into special education in the ACT.

Schools are also collaborating to ensure the safety of all students in all ACT schools. I have recently offered non-government schools the opportunity to join in the work of the ACT safe schools task force, and I will be making further announcements in this area in due course. In addition, as the Chief Minister has outlined in the spring legislation program, we will be bringing forward an amendment to the Education Act so that principals have stronger disciplinary powers. I can advise the Assembly that Catholic schools are also interested in this initiative and intend to join with government schools in implementing this reform.

In relation to capital works and building the education revolution, we have cut red tape to allow ACT schools to build new classrooms, libraries and gymnasiums. Over half a billion dollars has been invested in all ACT schools from federal and territory Labor governments. Let us not forget while we are on this subject that territory and federal Liberals voted against every single cent of that expenditure.

Another example of this collaboration between government, Catholic and independent schools is in physical education. That is why over 13,000 students from 47 ACT primary schools in the government and non-government sector are participating in the minister's inaugural physical activity challenge. There were more than 13,000 students in 2008 and there is a similar number in this year's challenge. The Children's Physical Activity Foundation was established to provide grants for sporting equipment and programs to assist both government and non-government schools in the delivery of high quality physical education.

In addition, government and non-government schools will finalise the implementation of the preschool to year 10 ACT curriculum framework—every chance to learn—by

the end of 2010. The structure and nature of this curriculum framework allows non-government schools to tailor a wide range of teaching strategies to the culture and ethos of their schools. There is no doubt that the diversity of ACT schools is one of the key strengths of our education system. It provides parents and students with greater choice.

I turn now to transparency national testing and the Australian Curriculum Assessment and Reporting Authority. With more transparency and better reporting of student and school results through the national assessment program for literacy and numeracy, NAPLAN, and the Australian Curriculum Assessment and Reporting Authority, ACARA, through its website, parents and students will be able to make more informed decisions. This information will let students and parents know where they stand in relation to their peers and in relation to their schools. Just as every student knows whether he or she can swim 100 metres or can kick a goal, students will know where they stand in maths and English. They will know whether it is spelling or grammar that they need to focus on, and parents will be able to help their sons or daughters improve. Whilst the non-government school sector remains fully independent, all schools in the ACT will be working together on these important reforms.

My second aspiration for the non-government school sector is fair funding. The ACT government funding of Catholic and independent schools is at a record high. Since being elected, the Stanhope Labor government has increased funding support for non-government schools by over 35 per cent. To give a practical example of this fair funding, the government has created a $4 million non-government school equity fund. This 2009-10 budget initiative will increase funding for students with special education needs in non-government schools. It is worth noting again that the Liberal opposition voted against this initiative in the recent territory budget. They voted against giving more funding to students in non-government schools. They voted against supporting students who have learning needs and students from socioeconomically disadvantaged backgrounds.

The government has also delivered $2.1 million to provide all parent groups and associations in both government and non-government schools with a one-off grant of $15,000 and grants of $1,500 for preschool parent associations. This initiative has given all school communities autonomy and independence, and it has inspired innovative solutions and programs in our schools. Some $2.5 million has also been invested to further increase information and communication technology in non-government primary schools. All ACT non-government schools with primary students will receive at least $5,000 per school under this scheme and will be able to purchase a range of new ICT; for example, new smart boards and computers. That is fair funding and full independence for the non-government sector, but, most importantly, everyone learns.

I would like to thank the Non-Government Schools Education Council for their advice. They are busy doing some big-picture thinking about their strategic plan for the next three years. I look forward to hearing about these plans. As the minister for all schools and all students, I want to assist ACT schools to provide the best possible education for all ACT children. I look forward to working with all principals, teachers, parents, students and the community to achieve this vision.

I move:

That the papers be noted.

MR SESELJA (Molonglo—Leader of the Opposition) (3.45): Madam Assistant Speaker, this was essentially a ministerial statement without notice. I would like to just put that on record. I suppose we know why the minister did not want to give us notice, because there were so many falsehoods in what he was trying to convey to the Assembly there. We do not quite know where to start, but no doubt once this is adjourned the shadow education minister will have the opportunity to come back. I think there is actually a reason why he did not want to give us notice that he was going to be in effect making this ministerial statement.

First and foremost, he made some wild claim about the Liberal Party using the Human Rights Act to take over non-government schools. I just say for the record that that is absolute rubbish, without any foundation. This government's record on non-government education and its attitude to non-government education speak for themselves. No amount of spin by this minister and no amount of pretending to be committed to non-government education in the ACT will change that fact.

The fact is that non-government education in the ACT still suffers from some of the lowest levels of government funding in the country. That is indisputable. We have a situation where, under this government, we have seen these low levels of funding continue year after year, to the extent where parents in non-government schools in the ACT are forced to pay—as a combination, it must be said, of lower relative levels of funding from the commonwealth and low levels of funding from this ACT government—far more in school fees than they would have to if the levels of funding were reasonable.

No amount of spin will change that. When we had this debate prior to the last election, we put forward more money on the table for non-government schools, to recognise some of that funding shortfall, some of that underspend. We had an odd statement from the minister, I think on the day that it was actually announced, in the *Canberra Times*, when he essentially said, "Anything they spend we are going to spend."

But it was not in their policy. He tried to give the impression that they were matching what we had announced, and they were not. They were not matching it; they were continuing to deliberately underfund the non-government sector. Fundamentally, it is because there is a deep-seated hostility to non-government education within the ACT Labor Party. We have seen it time and time again with the ACT Labor Party. There is some conflict—I would not say that every member of the ACT Labor Party is hostile to non-government education—but there are large chunks, indeed large chunks of this party room, which are fundamentally hostile to non-government education.

We see it come out from time to time from Mr Barr when he refers to blazer schools and uses the pejorative terms that we saw in the past. He is now going to try and pretend that he is the best friend of non-government schools. I suppose he can see the numbers. He can count; he can see that there is a hell of a lot of voters who send their kids to non-government schools. They do so for a variety of reasons. Some do it for

religious reasons; some do it because they see something different in the non-government sector. Most non-government parents do not do it because they think the government sector is in any way terrible; they make their choices, and we respect those choices.

This is a government whose record on non-government education has been an extraordinarily poor one. It has been a government and a party—the Labor Party in the ACT—who are fundamentally hostile to the funding of non-government schools and giving them adequate funding. They say, "We are into fair funding." What is fair funding? Fair funding under this mob is lagging well behind the rest of the country in terms of funding for non-government schools. It goes to the fact that many of them do not believe that it is even legitimate that there be any funding for non-government schools—that there be any government funding. They believe that they should be totally self-funded.

It was the Liberal Party nationally that, with opposition, made the decision to fund church-run schools initially. We had that debate a long time ago. The Labor Party at the federal level claims to have left this battle behind, but we know that, if it rages anywhere within political parties today, it certainly rages in the ACT Labor Party. Ask Ms Gallagher what she thinks about funding for non-government schools. Ask Mr Corbell what he thinks about funding for non-government schools. In their minds, they would like to see as little funding as possible—preferably none. The only reason they do not do it is that politically they know they cannot get away with it.

We believe fundamentally that we want to see a strong government sector and we want to see a strong non-government sector. We believe in reasonable and decent levels of funding, because we fundamentally believe in their right to exist. When, like many members of the Labor Party, you do not believe in their right to any funding, you will always look for ways to underfund. You will not respect the work that is done within these schools.

From the reports we get, we know about some of the comments that Mr Barr makes in private about non-government schools. He is hostile to non-government schools. He can pretend now that he is not, because the right of the ALP more broadly has not been as hostile as the left on this issue. He can pretend that that is the case, but we know the truth. In the end, they will be judged fundamentally on their funding and what kind of support they give to the non-government sector. Because of this deep-seated hostility to funding for non-government schools which exists within large elements of the Labor Party, I fear that we will see this funding decrease in real terms.

Mr Barr can scoff when we say this, but we do not have to go back very far to go to an ALP conference where it was a tied vote.

Mr Barr: It wasn't a tied vote.

MR SESELJA: It was a tied vote. The first vote was, I think, 89-all. I think it barely got voted down in the end. Roughly half of the Labor Party in the ACT supported this motion, which is fundamentally hostile to the funding of non-government schools.

That is where the Labor Party exist on this issue. They are torn on the issue. We know that a number of members of this caucus voted for that motion. They voted for a motion that was hostile—deeply hostile—to funding of non-government schools. It actually questioned their right to any sort of funding. It claimed that they were divisive—that having funding for ethnic and religious schools was in some way divisive.

We take a different approach. We believe in their right to exist, and that is reflected in our policies. We take exception to Mr Barr's spin on this issue—pretending to be a friend of the non-government sector when the record of this government over a number of years has been anything but. Mr Barr will find it very difficult to convince the parents of children in non-government schools that he is genuine about this. The only way he will be able to convince them that he is in any way genuine is if they start matching this latest rhetoric—this new-found love of non-government schools—with some commitment to actually support them.

We know that politically they have to give them some support, but it seems to me that they give them only the amount of support that they absolutely have to give—not a cent more, not a cent more than they can get away with politically. They know that to get rid of it completely would be politically disastrous for them, so they keep it. They put up with the non-government sector; they put up with some funding despite the fact that at least half the party believe that they should not be getting any funding. So we question sincerely their commitment. But we will see—

Mr Barr: You are telling us more about your thinking on the public system actually, Zed. I think we have just got an insight into what the Liberal Party room is like on public education.

MR SESELJA: Katy Gallagher used to refer to herself as the minister for public education, I think, but Mr Barr is now questioning our commitment to government education. As education minister, the one and only policy that he came up with in education was a copy of ours. The only policy he could come up with was a copy of the Liberal policy. We are so hostile to the government sector that our policy was seen as so good that the Labor Party had to match it. They had to match it. It was groundbreaking; it was leading. And they followed.

Our record on both the government sector and the non-government sector is strong. Unlike the ALP, we fundamentally believe in their right to exist. At least half the ALP does not. That has been reflected in policy over a number of years here in the ACT.

Before I sit down, I will also just make the point that it would have been useful if the convention in place had been followed—I can understand why he did not—and the minister had provided this ministerial statement, which is essentially what it was, ahead of time so that Mr Doszpot would have had the opportunity to look at it.

MR DOSZPOT (Brindabella) (3.56): I echo Mr Seselja's sentiments and express my disbelief that Mr Barr has the gall to make the statements that he has just made. Minister Barr, we sat here; we stood here. You ranted and raved about issues. We kept asking you why the non-government schools were excluded from the Shaddock review. I asked you that question in April; you could not answer, apart from getting

onto a personal vilification of individuals. I asked you the question in May; you could not answer. I asked you the question in June; you had no logical answer to give as to why the Shaddock review did not include non-government schools. I asked you, under the ACT Education Act, which specifically states the rights of individuals, of children—

Mr Barr: Say it, Steve; you can say it. You asked under the Human Rights Act.

MADAM ASSISTANT SPEAKER (Mrs Dunne): Order, Mr Barr!

MR DOSZPOT: Yes, of course. I asked you under the Human Rights Act why you were excluding—

MADAM ASSISTANT SPEAKER: You have had your turn, Mr Barr.

MR DOSZPOT: Under the Human Rights Act, there is no way for anyone, including children with special needs, to be excluded from any advantage that is given to the government sector. That is why I was asking. Your duplicitous statements are galling—the fact that you twist those words. They are in *Hansard*; all you have got to do is check what I asked for and what you have just stated. Minister Barr, the fact that you have to state to this Assembly—

Mr Barr: On a point of order, Madam Assistant Speaker: the member should direct his comments through the chair.

Mr Seselja: Does it hurt that much?

MADAM ASSISTANT SPEAKER: Mr Doszpot, you should direct your comments through the chair.

MR DOSZPOT: I am obviously affronting my learned colleague—that I am speaking to him—but I cannot believe the duplicity that my colleague the minister has expressed in his monologue. "Fairytale" is closer to the question of what was actually said. What we have been trying to do is get equality for the children with special needs, in government and in non-government schools.

Mr Barr: So why did you vote against the funding in the budget?

MADAM ASSISTANT SPEAKER: Order, Mr Barr! Mr Barr, you were heard in silence; be quiet.

MR DOSZPOT: We were asking for equality for children with special needs in government and in non-government schools. It took us 3½ months of badgering this minister for him to make an absolute about-face and agree to include children in special needs categories in non-government schools in the Shaddock review—the Shaddock review which, by the way, we totally agreed with.

My final word on this is that I find it incredible that we have a minister who has to state that he is the minister for government and non-government schools. I do not think it is believed in the community.

Question resolved in the affirmative.

Territory plan—variation No 288
Papers and statement by minister

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

> Planning and Development Act, pursuant to subsection 79(1)—Approval of Variation No 288 to the Territory Plan—Changes to Residential Zones Multi Unit Housing Development Code Part A(5) and Residential Zone Changes for Blocks 3 and 4 Section 69 Lyons and Block 8 Section 47 Lyons, dated 11 August 2009, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.
>
> Planning, Public Works and Territory and Municipal Services—Standing Committee—Report 2—*Draft Variation to the Territory Plan No 288*—Government response.

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

Leave granted.

MR BARR: Variation No 288 to the territory plan proposes to rezone blocks 3 and 4 section 69 and block 8 section 47 Lyons from medium density residential to high density residential. The variation also allows for a higher building of up to 10 storeys on the corner of Melrose Drive and Launceston Street in Lyons. Additionally, the variation amends the Residential Zones Multi Unit Housing Development Code part A(5) to allow for increased building heights above three storeys up to a maximum of six storeys in all future high density residential zones provided that specific rules or criteria are met.

The Lyons site was originally developed in the mid-1970s and consisted of mainly single-bedroom public housing. Due to a range of management issues the complex was demolished in 2001. A joint venture was formed in 2005 comprising the Department of Disability, Housing and Community Services and Hindmarsh to redevelop the Lyons site.

The joint venture requested a variation to the territory plan to provide a greater diversity of housing types and forms, which is anticipated to increase the number of persons per dwelling and hence the population density close to the Woden town centre. This will enable greater use of existing commercial and social facilities and services and encourage the use of public transport, walking and cycling in accordance with the objectives of the Canberra spatial plan and the sustainable transport plan for the ACT.

As part of the variation, the ACT Planning and Land Authority took the opportunity to review building height limits for the high density residential zone to differentiate it from the medium density residential zone. Until this variation commences, the medium and high residential zones have the same building height limit of three storeys. Where high density residential zoning applies in existing residential areas the allowable building height provisions in the territory plan will be retained to maintain residential amenity.

Draft variation No 288 was released for public comment in July 2008 and attracted 34 public submissions, including a petition signed by 53 people. The main issues raised in the public submissions related to the increase in height from three to six storeys across the site; the 10-storey height limit at the corner of Melrose Drive and Launceston Street; the need for tall buildings; height transitions; and the impact of the development on the character of Lyons. Issues relating to pedestrian safety and traffic and parking impacts on local streets were also raised.

The proposed location of the taller buildings was questioned in terms of potential overshadowing and passive solar access for other dwellings. Impacts on privacy and possible wind tunnel effect were also raised. The sustainability of tall buildings in terms of carbon footprint and resource consumption as well as affordability and the social sustainability of such buildings as retirement dwellings were questioned.

Lastly, concerns were expressed regarding the consistency and accuracy of information provided by the proponent, especially relating to building heights on site. An issue in gaining access to the planning report during the public consultation period was also raised.

A report on consultation was prepared by the Planning and Land Authority responding to the issues raised in the submissions. A copy of that report is included with the documents I have tabled. The variation was not amended as a result of public consultation. The Lyons site has been determined as suitable for rezoning from RZ4 medium density to RZ5 high density residential.

I referred the draft variation under section 73(2) of the Planning and Development Act 2007 to the planning, public works and territory and municipal services committee for consideration. The committee released its report No 2 on 23 July 2009 in which it made 10 recommendations. These recommendations propose that the key elements of the variation proceed, including the rezoning of the Lyons site; the revised height limits for the high density residential zone, subject to the revision of a criterion to better protect the solar access of any existing development on site and a provision allowing up to 10-storey development on the corner of Melrose Drive and Launceston Street in Lyons.

In relation to the recommendation of the committee to protect the solar access of any existing development on site, I directed the ACT Planning and Land Authority to consider this matter. Consequently, the Planning and Land Authority revised the territory plan variation accordingly.

The government has considered the issues that the planning, public works and territory and municipal services committee has raised and has prepared a government response that addresses the committee's recommendations. The deputy chair of the committee, Ms Le Couteur, has provided additional comments and recommendations.

I will now provide a brief outline of the government's response to the report No 2 of the standing committee. Responses to the issues raised by Ms Le Couteur are set out in the government response, which I have tabled.

The committee's first recommendation is that the Planning and Land Authority commission all planning studies itself and that, where a territory plan variation is initiated by a request from a proponent, the proponent be required to fund the cost of the study. The recommendation is agreed in part. The government does not agree that ACTPLA should commission all planning reports, especially where they are proponent driven. This is because ACTPLA scopes planning reports and then assesses these reports independently. If ACTPLA were to commission and assess planning reports, it may result in a perceived or actual conflict of interest. ACTPLA does require planning studies to be funded by a proponent.

The committee's second recommendation is that criteria C25(d) of the Residential Zones Multi Unit Housing Development Code be amended to protect the solar access requirements of developments on the same land, in addition to protecting adjacent land. This has been agreed. To address the committee's concern, the variation has been amended consistent with my ministerial direction by inserting an additional part into criterion 25 to ensure the protection of solar access on the same land as well as developments on neighbouring sites.

The government noted the committee's third recommendation, that the proposed changes to rule R25 and criterion C25 of the Residential Zones Multi Unit Housing Development Code part A(5) proceed, and the fourth recommendation, that the proposed variation to the territory plan to rezone blocks 3 and 4 section 69 Lyons and block 8 section 47 Lyons to RZ5 high density residential zoning proceed.

The committee's fifth recommendation is that the Planning and Land Authority increase the density allowances in the lease and development conditions for blocks 3 and 4 section 69 Lyons to enable real densification on the site. This recommendation is agreed in principle. The joint venture, comprising DHCS and Hindmarsh, has advised that it will seek a lease variation to increase the dwelling yield for the site. In this regard the Planning and Land Authority will consider any such lease variation when an application is made.

The committee's sixth recommendation is that the proposed variation to the territory plan to include rule R27A allowing development of up to 10 storeys on part of block 4 section 69 Lyons should proceed subject to recommendation 5 being agreed. This is agreed, subject to my previous comments regarding recommendation 5.

The committee's seventh recommendation is that ACTPLA, in its review of the Residential Zones Multi Unit Housing Development Code, as part of the ACTPLAn initiative, take into account the need to improve the energy efficiency of multi-unit buildings, including the possibility of increasing the minimum solar access requirements. This is noted and agreed in part. ACTPLA is already undertaking a broad review of the territory plan as a part of the ACTPLAn initiative and this will involve reviewing the multi-unit housing development code, including solar access requirements. I can advise that this work is also proceeding in response to the parliamentary agreement with the Greens party. Energy efficiency is addressed differently and is controlled by the Building Code of Australia.

The committee's eighth recommendation is that ACTPLA does not combine multiple planning and zoning issues into a single draft variation in future unless all issues are

specific to a single zone type, block, section or group of blocks. Territory-wide variations to zoning requirements should be promoted as such. Again, this is agreed in part. Wherever feasible, ACTPLA will endeavour to keep variations to the territory plan to single matters or issues. ACTPLA will also better explain and promote variations of this type in the future where they combine both zone and site-specific issues.

Variation 288 incorporated two components, being changes to the general provisions for all high density residential zones and site-specific changes, including the rezoning of the Lyons site. As both components had implications for the Lyons site, to assist public understanding it was considered important that the two related matters be dealt with in a single variation to the territory plan. Processing requirements for variations to the territory plan are set out in the Planning and Development Act. The decision to process the components of this variation together, rather than in separate variations, better utilises ACTPLA's resources and those of the Legislative Assembly.

The committee's penultimate recommendation is that future draft variation documentation includes additional information on the current territory plan provisions to assist the community to better understand the implications of the variation. This is noted and agreed.

The committee's final recommendation is that in future ACTPLA ensure that all relevant documentation is available to the public during the statutory draft variation consultation period and that ACTPLA check that website links to those documents work. This is again noted and agreed. I advise the Assembly that ACTPLA now runs daily checks on the links to ensure that all documents on its website are accessible.

I thank the committee for its consideration and report in this very important variation. I am pleased to table the approved variation to the territory plan No 288.

Planning and Development Act 2007—schedule of leases
Paper and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation): For the information of members, I present the following paper:

> Planning and Development Act, pursuant to subsection 242(2)—Schedule—Leases granted for the period 1 April to 30 June 2009.

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

Leave granted.

MR BARR: Section 242 of the Planning and Development Act 2007 requires that a statement be tabled in the Legislative Assembly each quarter outlining details of leases granted by direct sale. Section 458 of the Planning and Development Act 2007 as amended by the Planning and Development Regulation 2008 also provides transitional arrangements for all direct grant applications made under the Land (Planning and Environment) Act 1991, now repealed, to be decided under the repealed act.

The schedule I now table covers the seven leases granted for the period 1 April 2009 to 30 June 2009. This included the holding lease for blocks 7, 28 and 29 of section 52, Belconnen, to Westfield Management Ltd that will deliver a new public transport facility to the territory and also provide for the expansion of the Belconnen mall. The territory received $12.9 million for the sale. In addition, 88 single-dwelling house leases, one of which was a land rent lease, was granted by direct sale for the quarter.

Cotter reservoir
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Children and Young People, Minister for Planning and Minister for Tourism, Sport and Recreation) (4.15): For the information of members, I present the following papers:

> Enlargement of the Cotter Reservoir and associated works—
>
> > Environmental Impact Statement Assessment Report—Revised Environmental Impact Statement, dated June 2009.
> >
> > Environmental Impact Statement (2 volumes), dated February 2009.

I move:

> That the Assembly takes note of the papers.

MR BARR: Actew Corporation Ltd proposes to build a new dam to increase the volume of the Cotter reservoir from four gigalitres to 78 gigalitres. The resulting inundation area will be 282 hectares. The enlarged Cotter Dam has been identified as a key component of the government's strategy for sustainable water resource management in the ACT to ensure long-term water security to the territory. The Cotter Dam project was announced by the ACT government in October 2007 as one of the initiatives to secure the regional water supply, together with increased water transfer from the Murrumbidgee River to the Googong Dam and a demonstration water purification plant at the lower Molonglo water treatment facility.

The project was identified as requiring assessment under the impact track as a triggered item mentioned under schedule 4 of the Planning and Development Act. A scoping document outlining potentially significant impacts was issued by the ACT Planning and Land Authority on 30 June 2008. The proponent then undertook an environmental assessment and produced an environment impact statement, or EIS, in accordance with section 123B of the Planning and Development Act. The EIS contains mitigation measures and commitments to manage the effects of the construction, inundation and operation of the proposed dam. The EIS is included in the documents that I am tabling.

The draft EIS was publicly notified in October and November last year, and 47 representations were received throughout this period and Actew's concurrent consultation process. The key issues raised included the resulting impacts of increased traffic along Cotter Road, the impact on endangered fish species, construction impacts and process, the impact on recreational facilities and activities, and public involvement and consultation.

In February 2009 a revised EIS was submitted by the proponent. This was assessed by the Planning and Land Authority, whose findings are summarised in an EIS assessment report that I have tabled today. In its assessment, ACTPLA determined that there were a number of matters that needed to be addressed further and, therefore, a notice to address these matters under section 224 of the Planning and Development Act was issued. This section 224 notice and the proponent's response are both included in the documents I have tabled. The purpose of the EIS assessment report is to determine if the revised EIS has addressed the requirements of the scoping document.

The EIS was assessed in a draft and revised form, including the additional information provided in response to the section 224 notice. Key issues raised during the assessment related to addressing the matters in the scoping document against the heads of consideration; assessment of the residual risk levels; consideration of significant fish species—namely, the Macquarie perch, the Murray cod, the Murray River crayfish and the two-spined blackfish; development of the construction environmental management plan and its subsequent required approvals; traffic management, in particular, in relation to the use of Cotter Road on sensitive noise receivers and user groups; blasting time frames and noise and vibration impacts on nearby residents; downstream issues, including the impact on water quality; and recreational issues, including impacts on users of the Cotter reserve and the locations of sensitive receivers.

The EIS assessment report concluded that the majority of the requirements of the scoping document have been addressed. There were no significant issues outstanding that would require an inquiry panel to be established. I determined, based on information provided to me in the EIS assessment report, that the EIS was a thorough assessment of the potential environmental impacts associated with the project and satisfactorily addressed the requirements of the scoping document. I therefore declared it complete and advised ACTPLA that no further action was required. At this point, I would like to point out that the EIS for the enlarged Cotter Dam is one of the first environmental impact statements to be declared complete under the new Planning and Development Act.

Once the EIS was completed, the proponent was able to lodge a development application. This was submitted on 7 July 2009. This development application is currently undergoing assessment by ACTPLA. Due to the likelihood that the project would have an impact on matters of national environmental significance, including the vulnerable plant species, the vulnerable pink-tailed worm lizard and three species of fish, including the endangered Macquarie perch, the vulnerable Murray cod and the endangered trout cod, a referral was made to the commonwealth Department of the Environment, Water, Heritage and the Arts, also known as DEWHA.

The proposal was classified as a controlled action by DEWHA and required assessment by public environment report, or PER, under the Environment Protection and Biodiversity Conservation Act, also known—because we do not have enough acronyms—as the EPBC Act. Approval is required under the EPBC act before construction can commence. The draft PER was submitted to DEWHA by the proponent on 16 April 2009 and is currently being publicly notified. DEWHA has a time frame of 40 business days from receipt of the final PER.

This project is the largest infrastructure project to be undertaken in the ACT since the construction of the new Parliament House. So it is for that reason that I felt it important to table both the completed EIS and the EIS assessment reports in the Legislative Assembly. In addition to this, I have also requested that the Planning and Land Authority include a copy of both documents on its website. I believe that it was in the public interest that the reports be made available for public scrutiny. This is also a demonstration of the transparency of the decision-making process associated with the project and, in fact, for all projects for which an EIS is required.

I believe it is imperative that the community has confidence in the integrity and robustness of the statutory environmental assessment process and the decision the government makes in relation to major infrastructure projects such as this Cotter Dam project. I do believe that this is an example of the successful operation of the relatively new Planning and Development Act. The assessment of this project through the rigorous EIS process outlined in the Planning and Development Act has provided an outcome that is exemplary of the checks-and-balances approach to ensure that the impacts on the environment have been minimised and that the environment has not been compromised for development. The outcome of this process is the demonstration of the government's commitment in this area.

I table this significant enlarged Cotter reservoir environmental impact statement and associated EIS assessment report, although I do note that I think they are available for members in CD form.

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

Papers

Mr Barr presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Agents Act—Agents Amendment Regulation 2009 (No 1)—Subordinate Law SL2009-34 (LR, 30 June 2009).

Agents Act and Court Procedures Act—Attorney General (Fees) Amendment Determination 2009 (No 2)—Disallowable Instrument DI2009-99 (LR, 18 June 2009).

Agents Act; Associations Incorporation Act; Births, Deaths and Marriages Registration Act; Business Names Act; Civil Law (Wrongs) Act; Civil Partnerships Act; Classification (Publications, Films and Computer Games) (Enforcement) Act; Consumer Credit (Administration) Act; Cooperatives Act; Court Procedures Act; Dangerous Substances Act; Emergencies Act; Guardianship and Management of Property Act; Instruments Act; Land Titles Act; Liquor Act; Machinery Act; Occupational Health and Safety Act; Partnership Act; Pawnbrokers Act; Prostitution Act; Public Trustee Act; Registration of Deeds Act; Sale of Motor Vehicles Act; Scaffolding and Lifts Act; Second-hand Dealers Act; Security Industry Act; Trade Measurement (Administration) Act; Workers Compensation Act—Attorney General (Fees) Determination 2009—Disallowable Instrument DI2009-116 (without explanatory statement) (LR, 29 June 2009).

Architects Act—Architects (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-136 (LR, 30 June 2009).

Betting (ACTTAB Limited) Act—Betting (ACTTAB Limited) Rules of Betting Determination 2009 (No 1)—Disallowable Instrument DI2009-100 (LR, 18 June 2009).

Board of Senior Secondary Studies Act—

Board of Senior Secondary Studies Appointment 2009 (No 1)—Disallowable Instrument DI2009-130 (LR, 29 June 2009).

Board of Senior Secondary Studies Appointment 2009 (No 2)—Disallowable Instrument DI2009-131 (LR, 29 June 2009).

Building (Prudential Standards) Determination 2005—Building (Master Builders Fidelity Fund Assets) Determination 2009—Disallowable Instrument DI2009-92 (LR, 18 June 2009).

Building Act—Building (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-138 (LR, 30 June 2009).

Building and Construction Industry Training Levy Act and Financial Management Act—

Building and Construction Industry Training Levy (Governing Board) Appointment 2009 (No 1)—Disallowable Instrument DI2009-155 (LR, 15 July 2009).

Building and Construction Industry Training Levy (Governing Board) Appointment 2009 (No 2)—Disallowable Instrument DI2009-156 (LR, 15 July 2009).

Building and Construction Industry Training Levy (Governing Board) Appointment 2009 (No 3)—Disallowable Instrument DI2009-157 (LR, 15 July 2009).

Building and Construction Industry Training Levy (Governing Board) Appointment 2009 (No 4)—Disallowable Instrument DI2009-158 (LR, 15 July 2009).

Building and Construction Industry Training Levy (Governing Board) Appointment 2009 (No 5)—Disallowable Instrument DI2009-159 (LR, 15 July 2009).

Casino Control Act—Casino Control (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-94 (LR, 18 June 2009).

Children and Young People Act—Children and Young People (Work Experience) Standards 2009 (No 1)—Disallowable Instrument DI2009-166 (LR, 16 July 2009).

Civil Law (Sales of Residential Property) Act—Civil Law (Sale of Residential Property) Energy Efficiency Rating Guidelines Determination 2009 (No 2)—Disallowable Instrument DI2009-124 (LR, 29 June 2009).

Community Title Act—Community Title (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-139 (LR, 30 June 2009).

Construction Occupations (Licensing) Act—Construction Occupations Licensing (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-129 (LR, 30 June 2009).

Court Procedures Act—Court Procedures Amendment Rules 2009 (No 2)—Subordinate Law SL2009-32 (LR, 29 June 2009).

Drugs of Dependence Act—Drugs of Dependence (Cannabis Handling, Destruction and Preservation Protocol) Determination 2009 (No 1)—Disallowable Instrument DI2009-168 (LR, 17 July 2009).

Education Act—

Education (Government Schools Education Council) Appointment 2009 (No 5)—Disallowable Instrument DI2009-126 (LR, 29 June 2009).

Education (Government Schools Education Council) Appointment 2009 (No 6)—Disallowable Instrument DI2009-127 (LR, 29 June 2009).

Education (Non-government Schools Education Council) Appointment 2009 (No 3)—Disallowable Instrument DI2009-128 (LR, 29 June 2009).

Electoral Act—Electoral (Fees) Determination 2009—Disallowable Instrument DI2009-105 (LR, 30 June 2009).

Environment Protection Act—

Environment Protection (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-110 (LR, 25 June 2009).

Environment Protection Amendment Regulation 2009 (No 1)—Subordinate Law SL2009-29 (LR, 22 June 2009).

First Home Owner Grant Act—First Home Owner Grant Amendment Regulation 2009 (No 2)—Subordinate Law SL2009-33 (LR, 29 June 2009).

Gaming Machine Act—Gaming Machine (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-95 (LR, 18 June 2009).

Gas Safety Act—Gas Safety (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-149 (LR, 30 June 2009).

Government Procurement Act—Government Procurement Appointment 2009 (No 1)—Disallowable Instrument DI2009-104 (LR, 22 June 2009).

Health Act—Health (Fees) Determination 2009 (No 2)—Disallowable Instrument DI2009-107 (LR, 29 June 2009).

Health Professionals Act—Health Professionals (Fees) Determination 2009 (No 3)—Disallowable Instrument DI2009-115 (LR, 25 June 2009).

Legal Aid Act—Legal Aid (Commissioner—Law Society Nominee) Appointment 2009—Disallowable Instrument DI2009-106 (LR, 23 June 2009).

Legal Profession Act—Legal Profession (Barristers and Solicitors Practising Fees) Determination 2009—Disallowable Instrument DI2009-147 (LR, 29 June 2009).

Legislative Assembly (Members' Staff) Act—

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2009—Disallowable Instrument DI2009-117 (LR, 29 June 2009).

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2009—Disallowable Instrument DI2009-118 (LR, 29 June 2009).

Legislative Assembly (Members' Staff) Variable Terms of Employment of Office-holders' Staff 2009 (No 1)—Disallowable Instrument DI2009-148 (LR, 30 June 2009).

Lotteries Act—Lotteries (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-98 (LR, 18 June 2009).

Nature Conservation Act—

Nature Conservation (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-108 (LR, 25 June 2009).

Nature Conservation (Fees) Determination 2009 (No 2)—Disallowable Instrument DI2009-153 (LR, 7 July 2009).

Occupational Health and Safety Act—

Occupational Health and Safety Council (Acting Employee Representative) Appointment 2009 (No 1)—Disallowable Instrument DI2009-119 (LR, 29 June 2009).

Occupational Health and Safety Council (Member) Appointment 2009 (No 1)—Disallowable Instrument DI2009-121 (LR, 29 June 2009).

Occupational Health and Safety Council (Member) Appointment 2009 (No 2)—Disallowable Instrument DI2009-120 (LR, 29 June 2009).

Planning and Development Act—

Planning and Development (Fees) Determination 2009 (No 2)—Disallowable Instrument DI2009-141 (LR, 30 June 2009).

Planning and Development (Land Development Agency Board) Appointment 2009—Disallowable Instrument DI2009-135 (LR, 30 June 2009).

Planning and Development (Land Rent Payout) Policy Direction 2009 (No 1)—Disallowable Instrument DI2009-162 (LR, 16 July 2009).

Planning and Development Amendment Regulation 2009 (No 7), including a regulatory impact statement—Subordinate Law SL2009-31 (LR, 23 June 2009).

Planning and Development Amendment Regulation 2009 (No 8)—Subordinate Law SL2009-35 (LR, 30 June 2009).

Planning and Development Regulation—

Planning and Development (Change of Use Charge on Disused Service Station Sites) Policy Direction 2009 (No 1)—Disallowable Instrument DI2009-140 (LR, 9 July 2009).

Planning and Development (Reduction of Change of Use Charge) Policy Direction 2009 (No 1)—Disallowable Instrument DI2009-137 (LR, 9 July 2009).

Public Baths and Public Bathing Act—Public Baths and Public Bathing (Active Leisure Centre Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-151 (LR, 30 June 2009).

Public Place Names Act—

Public Place Names (Bonython) Determination 2009 (No 1)—Disallowable Instrument DI2009-165 (LR, 16 July 2009).

Public Place Names (Crace) Determination 2009 (No 2)—Disallowable Instrument DI2009-163 (LR, 16 July 2009).

Public Place Names (Gungahlin) Determination 2009 (No 1)—Disallowable Instrument DI2009-160 (LR, 15 July 2009).

Public Sector Management Act—Public Sector Management Amendment Standards 2009 (No 6)—Disallowable Instrument DI2009-134 (LR, 29 June 2009).

Race and Sports Bookmaking Act—

Race and Sports Bookmaking (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-96 (LR, 18 June 2009).

Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2009 (No 3)—Disallowable Instrument DI2009-164 (LR, 16 July 2009).

Road Transport (Dimensions and Mass) Act—

Road Transport (Dimensions and Mass) 6.5 Tonnes Single Steer Axle Exemption Notice 2009 (No 2)—Disallowable Instrument DI2009-132 (LR, 29 June 2009).

Road Transport (Dimensions and Mass) B-Double, 4.6 Metre High Vehicle and 14.5 Metre Long Bus Exemption Notice 2009 (No 2)—Disallowable Instrument DI2009-133 (LR, 29 June 2009).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2009 (No 3)—Disallowable Instrument DI2009-97 (LR, 18 June 2009).

Road Transport (General) (Pay Parking Area Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-150 (LR, 2 July 2009).

Road Transport (General) (Vehicle Registration) Exemption 2009 (No 2)—Disallowable Instrument DI2009-122 (LR, 26 June 2009).

Road Transport (General) (Vehicle Registration) Exemption 2009 (No 3)—Disallowable Instrument DI2009-161 (LR, 16 July 2009).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2009 (No 1)—Disallowable Instrument DI2009-145 (LR, 30 June 2009).

Road Transport (Safety and Traffic Management) Regulation—Road Transport (Safety and Traffic Management)) Parking Authority Declaration 2009 (No 2)—Disallowable Instrument DI2009-123 (LR, 30 June 2009).

Roads and Public Places Act—Roads and Public Places (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-146 (LR, 30 June 2009).

Surveyors Act—Surveyors (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-142 (LR, 30 June 2009).

Taxation Administration Act—

Taxation Administration (Amounts Payable—Eligibility—Home Buyer Concession Scheme) Determination 2009 (No 1)—Disallowable Instrument DI2009-113 (LR, 29 June 2009).

Taxation Administration (Amounts Payable—Eligibility—Pensioner Duty Concession Scheme) Determination 2009 (No 1)—Disallowable Instrument DI2009-111 (LR, 29 June 2009).

Taxation Administration (Amounts Payable—Thresholds—Home Buyer Concession Scheme) Determination 2009 (No 1)—Disallowable Instrument DI2009-112 (LR, 29 June 2009).

Taxation Administration (Amounts Payable—Thresholds—Pensioner Duty Concession Scheme) Determination 2009 (No 1)—Disallowable Instrument DI2009-114 (LR, 29 June 2009).

Taxation Administration (Rates) Determination 2009 (No 1)—Disallowable Instrument DI2009-101 (LR, 22 June 2009).

Taxation Administration (Rates—Fire and Emergency Services Levy) Determination 2009 (No 1)—Disallowable Instrument DI2009-103 (LR, 22 June 2009).

Taxation Administration (Rates—Rebate Cap) Determination 2009 (No 1)—Disallowable Instrument DI2009-102 (LR, 22 June 2009).

Trade Measurement Act—Trade Measurement (Prepacked Articles) Amendment Regulation 2009 (No 1)—Subordinate Law SL2009-30 (LR, 22 June 2009).

Training and Tertiary Education Act—Training and Tertiary Education (Fees) Determination 2009—Disallowable Instrument DI2009-152 (LR, 1 July 2009).

Unit Titles Act—Unit Titles (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-143 (LR, 30 June 2009).

Utilities Act—Utilities Exemption 2009 (No 3)—Disallowable Instrument DI2009-144 (LR, 29 June 2009).

Water and Sewerage Act—Water and Sewerage (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-125 (LR, 30 June 2009).

Water Resources Act—Water Resources (Fees) Determination 2009 (No 1)—Disallowable Instrument DI2009-109 (LR, 25 June 2009).

Waste—management
Discussion of matter of public importance

MADAM DEPUTY SPEAKER: Mr Speaker has received letters from Ms Bresnan, Ms Burch, Mr Coe, Mr Doszpot, Mrs Dunne, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja and Mr Smyth proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker has determined that the matter proposed by Ms Bresnan be submitted to the Assembly, namely:

The importance of the ACT's waste strategy.

MS BRESNAN (Brindabella) (4.25): Now is a key time for the Assembly to discuss the ACT's future waste strategy. Australia's landfills are getting fuller. The threats of climate change are more urgent and the imperative to curb our waste production is more acute than ever. The ACT's no waste by 2010 strategy will wind up this year but so far the government has done nothing to replace it.

Now is a crucial time to consolidate what we have learned, conquer the challenges that hold us back and aim for the highest of goals. The Greens, like many in the community, are very concerned that this is not the direction in which the government is headed.

Before going further, I want to acknowledge that there is much to be proud of in our waste management history. The foundation has been the no waste by 2010 strategy. It was introduced in 1996. In the decade following, the ACT's resource recovery rate

increased by 315 per cent. The amount of waste going to landfill decreased by 27 per cent and in the 2005-06 financial year, the rate of resource recovery peaked at 75 per cent. Those figures were great. The ACT was a waste policy pioneer. The no waste goal was visionary and it attracted international respect.

More than 250 communities, local governments and state governments have now declared zero waste policies. Community groups formed around the no waste goal. Even international businesses such as Toyota and DuPont signed on to the zero waste concept. That is in the past. Unfortunately, the last few chapters of our waste history have been bleaker. The ACT appears to be retreating from the no waste goal. Its funding of waste strategies has waned. It has stopped pursuing the new necessary waste initiatives that will bring us into the future. In this situation the government justly deserves some scrutiny and criticism. We do not want the ACT to fall to the back of the pack.

To begin, take a look at the waste reduction figures. Since our 75 per cent waste recovery peak, the rate of diversion from landfill has fallen. Last year the rate was two per cent lower. More waste is now going to landfill. Despite this, this year's budget paper shows that the government has settled for a business-as-usual approach. Instead of changing its practices to overcome the hurdles, it has set the same waste target. This is a figure derived by looking at the current figures being achieved. In fact, the government's waste diversion targets have also declined. In 2007-08, it was 77 per cent. It has decreased to 75 per cent and stayed there.

The Chief Minister has pointed out that the budget figures reflect the department's estimation of what it can achieve based on government funding. So the question is: what priority has the government given to waste reduction through its budget funding? The answer is: not a lot. Funding has dipped in recent years. Contrast this to the warning given by the authors of the independent review of the no waste strategy that the government commissioned in 2008. It stated:

> … faced with growing total quantities of wastes … it is an unacceptable expectation that the ACT Government can consider reducing, or even containing at current levels, the recurrent budget …

The review also said that government budget data has considerably under-forecast the demand for forward capital expenditure in waste management. But nothing changed in this year's budget. The funding will not get us to where we need to go. It is not just environmental reasons that can tell us to aim at zero waste. These strategies will lead to wonderful long-term economic and social impacts. The earlier we invest in resource recovery, the greater the rewards will be.

The independent review commission established by the government agrees. It analysed the costs and benefits of waste reduction efforts and concluded that the net benefit will be the greatest if the government makes efforts to increase recovery beyond 90 per cent. The Greens certainly agree that waste recovery must increase to these kinds of numbers. We want the community to enjoy the environmental, employment and intergenerational rewards that come with this increase.

The government's recent statements on waste do not inspire confidence. Many in the community have expressed concern that it will abandon its zero waste target. Other Australian jurisdictions are going the other way. Most recently the country's largest local council, Brisbane, declared a zero waste policy. Our own Chief Minister recently said that we will never achieve a situation where no waste is reduced to landfill. On the radio recently, he called people advocating for this target "zero waste zealots".

The Greens believe that we are facing serious waste and environmental challenges and what we actually need to conquer them is zero waste zealots. We do not need people who are content with business as usual.

Mr Coe: Andrew, are you a zero waste denier?

MS BRESNAN: Possibly.

Mr Barr: Mate, at least I believe in evolution.

MS BRESNAN: It is unhelpful to go breaking down the zero in zero waste to some infinitesimal degree. Perhaps, technically, we could only reach, say, a 99 per cent reduction in waste right now, but zero waste is a goal and an inspiration we cannot lose.

In Boulder, Colorado, for example, you can see local buses with signs that say, "Zero waste—or darn near it!" We need policies that truly strive for zero waste. Incremental changes based around existing technologies will not achieve what we need. We need to be dedicated to a zero waste strategy to generate innovative solutions.

As the government often points out, we cannot recycle asbestos in the territory right now. That does not mean we will never be able to. Technology has reportedly been developed in the USA that can convert asbestos fibres into inert material that can be used for road base. If we abandon zero waste as a concept and we philosophically resign ourselves to being a wasteful society, maybe we will never make the effort to find and use these innovative solutions.

I also want to stress that the government must take responsibility for waste issues. Mr Stanhope recently answered questions about our declining waste achievements by talking about personal responsibility. This ignores the key role played by government. The policies and actions of a government that is 100 per cent committed to sustainability will give people the desire and courage to change the way they manage their lives.

You just need to look at the many inspiring stories from around the world. Everyday people in everyday cities have engaged with ambitious recycling policies and they have worked. The Opotiki district in New Zealand, for example, followed the ACT by announcing a zero waste target in 1998. With close cooperation from government, it was only a few years before they were consistently diverting 90 per cent of their waste from landfill. There is no reason why that cannot happen in the ACT.

It might also be time for the government to review how much responsibility it defers to contractors, particularly in light of recent failures, and whether the government

itself should re-engage with the whole waste reduction process. This means confronting the hard decisions. For example, it was eight years ago that the government conducted a valuable trial of organic waste collection in Chifley. But then this work stagnated. With some energy and political commitment we could have tackled the crucial problem of organic waste. The Greens are calling on the government now to actually do this.

The Greens believe that the ACT's waste story can get back on track. We need to have the right attitude to make the right efforts and take the right decisions. In addition to embracing a better philosophy, setting better targets and re-engaging, we need to progress some new specific initiatives. Organic waste needs to be near the top of the list. Almost 50 per cent of the ACT household waste is made up of food and compostable waste. Twenty-five thousand tonnes of organic waste goes to landfill annually, just from domestic household collection. In addition to domestic organics, a further 30,000 tonnes comes from the business sector. None of that is collected for recycling.

In the landfill, all this buried food breaks down to produce methane, one of the worst greenhouse gases, 23 times as potent as carbon dioxide. Although the ACT's landfill uses a methane gas capture system to convert methane to energy, these systems capture only a fraction of the toxic gases. As an aside, I also note that a private business makes money from the capture of landfill methane in the ACT. I hope that this is not a part of the reason we are not making better efforts to keep organics out of landfill.

The amazing thing is that organic waste is not even really waste. It could be processed into another valuable product—compost. Re-sequestering this organic material could reduce landfill emissions and greatly improve the capacity of the soil. Merely increasing by 0.5 per cent the organic carbon in two per cent of Australia's agricultural land would sequester all of Australia's greenhouse emissions. Yet we are filling our landfills with these nutrients.

Recent trials around New South Wales such as the city-to-soils and groundswell projects have demonstrated that in the right environment the public will source separate organics with very low levels of contamination. Our neighbours in Goulburn and in Queanbeyan participate successfully in this.

Many jurisdictions around the world are now recycling organic waste. Even in North America, which is often considered a recalcitrant recycler, a number of major cities recycle organic scraps. San Francisco, Seattle, Portland and Toronto—all much bigger cities than Canberra—collect organic waste and divert it from landfill to recycling facilities. The compost is then sold as organic fertiliser.

A second area that we need to take action in is the area of extended producer responsibility or EPR. EPR means requiring industry to take responsibility for and to better manage the waste it produces. Landfills are the graveyard of sustainability, and if we want to keep materials from them we need to manage how things are made and ensure proper product stewardship. The original no waste strategy envisaged this. This concept is often called a cradle-to-grave approach. It looks at the environmental impacts of a product beginning with the materials that comprise the product to its manufacturing, to its use and finally to its disposal.

The ACT has not been active when it comes to EPR. It has waited for a national approach or blamed cross-border issues. I expect that government speakers will mention the current federal discussion on e-waste management and the resolution by environment ministers to act on this. I will point out that in 2002 environment ministers also agreed that action was needed in relation to electrical and electronic equipment. Yet, we still have the same problem. The ACT could have taken some action. Even the New South Wales Waste Avoidance and Resource Recovery Act requires the regular assessment of waste streams and allows the minister to put producers responsible on notice that they must address the issues or face mandatory EPR schemes.

The reality is that there was plenty we could have done as a single jurisdiction to enact extended producer responsibility schemes. We could have mandated compliance obligations on recyclers and importers of electrical goods or we could have implemented a fee for recycling services at the point of sale. Those are just two options. When it comes to new policies, it often takes one state or territory to lead so that others follow.

By now we should even be thinking about transcending the cradle-to-grave attitude to recycling. Today, dedicated recyclers are promoting a concept called cradle-to-cradle. These items are designed and manufactured so they can be perpetually recycled in a way that emulates nature's patterns of renewal. The components are recyclable synthetic materials or biological nutrients which degrade naturally. Ford even developed a cradle-to-cradle car called the model U. Cradle-to-grave is an important concept but it still acknowledges that we are a society that takes, makes and wastes. Cradle-to-cradle is about eliminating the concept of waste altogether. It is a true zero waste approach.

In conclusion, dealing with the outputs of society is about much more than just making Canberra a tidy and attractive town. It is about more than preserving our land from ever-growing landfills. Our relationship with waste is fundamental in the battle against climate change. Dealing properly with it allows us to conserve our resources, and reduce the release of greenhouse gases. It is about our relationship with the planet, how lightly we tread on its environment and how we exploit its limited resources.

The Greens say that it is time to take a new, committed approach to waste management. Like the 208,000 tonnes of waste that went into Canberra's landfill last year, this is something that is not going to go away.

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 thank Ms Bresnan for raising this matter of public importance for discussion this afternoon. Waste management is one of the key strategic areas for creating a sustainable city and is closely linked and aligned to a range of other sustainability practices adopted by the government, including moving towards a carbon neutral Canberra.

For that reason, the government considers waste policy to be a significant priority. I was therefore surprised to hear some of the comments by Ms Bresnan in her speech

which I think really did fail to properly acknowledge the quite comprehensive and detailed policies that the government already has and the work and the funding it has committed to progress those into the future.

First, let me turn to the issue of the ACT no waste strategy. That strategy was adopted in 1996, with a target of no waste by 2010. Since the inception of the policy, there have been significant increases in the annual levels of total resource recovery. Canberrans are very good recyclers in the home environment, with more than 95 per cent of Canberrans involved in the practice and 40,000 tonnes of recyclable material being saved from landfill each year.

Overall, the no waste by 2010 policy has achieved an improvement in recycling rates in the ACT, from 42 per cent in 1996 to 74 per cent last year. While these recycling trends are good—indeed, they are the best in the country—the amount of waste to landfill did increase slightly between 2006-07 and 2007-08. And this is largely a factor of the relative affluence of the ACT and the levels of consumption that go with that relative affluence. Indeed, this is a factor that has been recognised as significant in studies on this issue, both on waste and on greenhouse gas emissions.

With the significant progress in reducing domestic waste to landfill and in resource recovery from the construction and demolition waste sectors, the greatest gains in the future are likely to be made in the commercial and industrial sector. And this is where the ACT government is focusing its efforts.

Let me look at these sectors. The commercial sector in the ACT includes retailers, businesses, offices and restaurants. Reducing waste to landfill from the commercial sector is a priority because this sector generates over half of all waste to landfill, that is, 110,000 tonnes in 2007-08; significant food waste; and specific waste items such as electronic waste, computers, televisions and so on.

For that reason, the ACT government allocated $483,000 in the most recent budget for a commercial waste scheme to address the issue of commercial waste and to develop a future waste scheme to replace the current ACT waste strategy, no waste by 2010. So the government is responding by developing a new policy framework to move forward and certainly not the picture portrayed by Ms Bresnan.

Businesses are responsible for arranging their own waste and recycling services through commercial providers. The funding provided in the budget will enable the government to work collaboratively with businesses and the waste recycling industry to investigate why businesses are not recycling more, as well as to clarify the obstacles to increasing the recovery of recycling from the commercial waste stream.

To this end, just last week I was very pleased to launch the ACT BusinessSmart and OfficeSmart programs to meet the specific needs of businesses and offices across the territory and region in relation to commercial recycling. The BusinessSmart and OfficeSmart programs have also been deployed in the Legislative Assembly. Indeed, you can see that the bins in the chamber have been tagged with the logos of that scheme. I thank the Assembly and, in particular, the Speaker for his support for the Assembly becoming a member of and a participant in this ACT government scheme.

This scheme was designed to help businesses and offices become more effective recyclers on their premises. We have committed, as a government, $233,000 in this financial year to address the specific needs of businesses and offices across the territory and region as part of our waste strategy.

The Department of the Environment, Climate Change, Energy and Water has developed a best practice guide of information to educate participants implementing the program. It provides assistance to track initial and end-result waste audit information, including reductions of waste to landfill. Not only will the business and office sector be given the tools to reduce their impact on the environment but they will also find that they are able to reduce their costs as sending waste to a recycling centre is cheaper than tipping at the landfill.

I am delighted that a large number of organisations have already agreed to sign up to the OfficeSmart and BusinessSmart programs. The launch was held at the National Convention Centre. The International Hotels Group, which runs the Crown Plaza Hotel in the city and the Convention Centre itself, has already signed up to BusinessSmart and has reduced its waste significantly through its participation.

I am pleased to say that my department has also secured the support and the commitment of Westfield. Westfield Belconnen and Westfield Woden have both agreed to sign up to OfficeSmart and BusinessSmart to help reduce waste in their shopping centres. That is not just Westfield itself but all the businesses that operate in those centres. These are major gains. They should not be underestimated and should not be dismissed as lightly as Ms Bresnan did in her speech.

As I have indicated, the government has provided funding to develop a future waste strategy to replace the current no waste by 2010 strategy. This will provide an overarching framework that ensures the management of waste streams is utilising the latest waste-to-energy technologies and continues to improve as Canberra grows. It is important to state that the government retains the objective of no waste to landfill. Indeed, this will be absolutely essential if we are to achieve zero net emissions for our city.

We are applying the waste hierarchy that underpins best management practice for managing waste. The hierarchy employs strategies which aim, firstly, to avoid products becoming waste, which is about reducing and reusing; secondly, to find an alternative use for waste, recycling and recovery; and, lastly, safe and appropriate disposal as a last resort. As well as retaining the visionary goal of no waste to landfill, the government is also looking at how waste strategies will contribute to zero net emissions for our city.

One particularly interesting element of this work being undertaken at my request by my department is the feasibility of energy from waste technologies as part of developing a strategic approach to energy recovery from waste. This will provide an important component once traditional sorting and recycling options have been optimised. Benefits from using such technology include renewable energy and the potential for carbon sequestration.

This work is ongoing by my department, and I look forward to providing advice to the Assembly soon on how we can use waste-to-energy technologies to deal with some of our challenges not only in terms of waste but also in terms of renewable energy sources.

I would also like to mention that the government is engaged in national approaches to waste management. I represent the territory on the Environment Protection and Heritage Council, which is the council of environment ministers from around Australia that meets regularly. As a member of that council, we are seeing the development of a national waste policy which will set the strategic direction for waste management in Australia to the year 2020.

The national waste policy will set out the respective roles of each level of government and the basis for collaboration between states and territories. As such, it is an important policy process that will be integrated as a development of our own future waste strategy in the ACT.

The national waste policy will encourage Australians to manage waste as a resource for better environmental, economic and social outcomes and will complement the ACT's own waste strategy by encouraging industry stewardship whereby manufacturers take greater responsibility for the recovering of resources once their products have been utilised; drive innovation in waste minimisation, particularly through packaging; dispose of necessary waste in a safe and environmentally sound manner; and better educate consumers on the environmental consequences of their consumption choices.

The national policy will also identify approaches for handling organic, electronic and hazardous wastes and encourage broader benefits from managing waste, including climate change and sustainability. It is worth highlighting that on the weekend we had the very successful, free e-waste drop off program at a number of outlets around the ACT and Canberrans responded very positively to that initiative which was organised by ACT No Waste and supported and funded by Apple Computers. That activity on the weekend is really a precursor of what is going to become a national e-waste scheme.

The Environment, Protection and Heritage Council, environment ministers from around the country, have agreed that we are going to have a national e-waste recovery scheme which will be funded through a small levy on the cost of the purchase of electronic devices. That small levy, that small increase in the total cost of electronic devices, will be used to pay for the recovery of those devices at the end of their life.

The scheme will be supported and funded by the manufacturers, the people who make these products. That funding will be transferred through to private organisations, to non-government organisations or, indeed, to local and, in this case, territory government, potentially to run the government e-waste recycling scheme. That sort of measure is what is needed to deal with some of these more difficult waste types such as e-waste, and I am pleased to say that this work is well progressed. Environment ministers have given it their support and it is now moving forward with detailed implementation policies.

I would also like to mention the issue of plastic bags. The reduction in plastic bag use is a priority for the government. In 2009-10 the government allocated $85,000 to undertake consultation with the community about the best approach in the ACT to reduce the use of plastic bags, consistent with our commitments in the parliamentary agreement between the government and the ACT Greens to provide for a trial levy on the use of plastic bags.

That consultation process started yesterday, with detailed telephone calls being made to a random sample of the ACT community to seek their views on how to tackle the issue of plastic bags in the community and whether there is support for a levy, whether there is support for a ban or whether there is support for voluntary measures. It will also provide us with greater information on the public's view about plastic bags, how significant a priority they rate it and how they believe the issue needs to be tackled as well as how people use plastic bags. That telephone survey will be followed up by a range of other consultation options, including shopping centre surveys and other stakeholder consultation and focus group discussions in the coming month.

Community consultation will explore the extent to which people see plastic bags as a problem or concern and the reason for this concern. As I have said, it will explore support for measures to reduce the use of plastic bags, including voluntary and mandatory levies and/or a ban.

I think you can see, Madam Assistant Speaker, that the government is undertaking a broad range of measures to tackle the issue of waste in our community. We are recognising that through the development of a new waste strategy to take us past 2010 and by recommitting government and non-government players to the goal of achieving no waste.

We recognise that no waste is part of achieving zero net emissions for our city. We recognise that the greatest gains are in the non-residential sector, in the commercial sector, in the office sector and in the hospitality sector, and that we need new programs and initiatives that tackle those. We have started that work, through OfficeSmart, through BusinessSmart and through our commitment to national schemes such as the national e-waste recovery arrangements.

We are committed to tackling this issue. We have a strong foundation to build on and strong levels of public support. Now we have funding and policy from the government to move forward and tackle the issue of waste and help build a more sustainable community. I thank Ms Bresnan for raising the issue today for discussion and hope that that information helps members in their understanding of the government's approach.

MR COE (Ginninderra) (4.53): The current state of the ACT waste strategy is a result of a failure of leadership at the highest levels of the ACT government. The ACT government spin doctors are happy to say one thing to the public and media whilst they know that they are not committed to achieving results.

On Wednesday, 21 January, the Chief Minister said that a government slogan that cannot be achieved is still an appropriate one to use. He said:

> Almost all slogans have an aspirational purpose … it will never ever be achieved. I think it was an appropriate slogan and an appropriate target.

He knows, we the opposition know, the Greens know and the community knows; so why does he continue to hide behind a slogan nobody can believe? It is because he is a Chief Minister who is more concerned about perception than reality. The ACT government has never been serious about implementing policies to meet the target of no waste by 2010.

This MPI is being discussed today because in January the government flagged a possible green waste initiative in this year's budget as part of the parliamentary agreement with the Greens. No such initiatives are present and, instead, the budget reveals a waste strategy that has no direction, is expensive and has no sign of improving. We have a landfill approaching capacity and a government with no ideas for meeting the ACT's future waste management challenges.

A quick glance at the budget figures reveals that waste management has not been taken seriously by the Stanhope government. The operational cost of landfill has risen significantly over the last two years—by $11.70 per tonne in 2007-08 to $16.20 per tonne in 2008-09, with another rise to $17.40 over 2009-10.

I am concerned that the cost of green waste processing will no longer be measured. I am astounded that, after measuring it and setting targets for the cost of green waste processing, in this year's budget papers, this appears:

> … it cannot accurately be measured as weighbridges are not in operation for green waste.

It speaks volumes of Stanhope and his government that they set a target for something they know they could not measure in the first place.

In contrast to the Stanhope-Gallagher government, the Canberra Liberals have a practical plan for green waste processing. Our green bins policy provides for the collection and recycling of Canberra's organic waste. Instead of business as usual, the Canberra Liberals will provide Canberrans with an easy way to recycle their household waste.

The government continues to ignore the fact that most household waste in Canberra can be recycled and that by recycling this waste we can take a significant amount of waste out of landfill. Almost half of Canberra's domestic garbage is comprised of food and other compostables and a further almost 10 per cent is green waste. Through the green bins policy, we can halve the amount of domestic waste going to landfill and reduce the overall amount of rubbish in landfill by 20 per cent. The organic recycling will produce compost that can cover vast areas of land, enrich soils and improve the health of vegetation. In addition to providing green bins to households, Canberra's businesses and government buildings will be part of the green bin service.

Where does the Stanhope government stand on the green bins policy? In fact, in 2001 one of the first acts of the incoming Stanhope-Gallagher government was to scrap the

green waste trial which was put underway by the previous Liberal government. The Canberra Liberals stand for practical waste management solutions, in stark contrast to the inaction of the current government and the lack of direction or any offering of practical or realistic solutions.

Before I close, I would like to briefly touch on the situation surrounding Aussie Junk. The situation regarding Aussie Junk is highly regrettable. The ACT government failed the community on the contract with Aussie Junk from the very start. The government has failed to answer questions relating to the allegation that it knew about problems at Aussie Junk before the contract was entered into.

The minister needs to show some leadership to resolve the ongoing issue regarding resource recovery services in the absence of Aussie Junk. The government has been aware for some months now that Aussie Junk was having difficulties, and yet we still cannot get access to these services at the resource recovery centre. Both the current minister and the former minister, Mr Hargreaves, have failed to meet their responsibilities in this area. Minister Hargreaves, I think, should be challenged to clear his name and to clarify what he knew and when he knew it. I think Mr Stanhope should do the same.

In closing, I thank Ms Bresnan for raising this issue and giving the Assembly the opportunity to highlight the Stanhope government's waste management failures.

MS LE COUTEUR (4.58): First, I would like to say that I strongly agree with the comments that Ms Bresnan has already made. As she said, we need to retain the zero waste philosophy and fully embrace it. We need better annual reduction targets; we need long-term targets for the next five, 10 or more years. And those who are actually doing it need support from adequate funding. We need a re-engagement in the zero waste fight.

Before I go on to say more, I would like to rebut a couple of the comments that Mr Corbell made at the beginning of his speech when he was basically saying that we were doing well with waste. Unfortunately, that is not true. I want to quote from a report prepared for ACT NOWaste a year ago, in July 2008:

> … during the last ten years the amount of waste generated in the ACT increased at an average annual rate of around 6.8%—outstripping both the population growth rate and the growth in Gross State Product …

And it concluded in its summary:

> … the high early gains in reducing disposal has continued through to 2005/06 when the trend was halted with an increase in waste disposal; and indications from 2007/08 are that this increase in disposal is continuing.

The minister said, "The problem is that Canberra is an affluent community; that is why we have more waste." I really think that is a very defeatist solution.

Mr Stanhope: It's an observation; it's a truth.

MS LE COUTEUR: If that is the truth as the government sees it—

Mr Stanhope: It is a truth; it's not an excuse.

MS LE COUTEUR: how is the government planning to deal with this truth?

Mr Corbell: Didn't you hear the rest of my speech?

MS LE COUTEUR: I was here; I did hear the rest of your speech, Mr Corbell.

Mr Corbell: You must not have been listening then.

MS LE COUTEUR: Given that you see affluence as being the issue here, I pose this question: do you see the solution? Is there a solution apart from reducing affluence? We would really like—

Mr Stanhope: We have the best results in Australia. What do you say about that?

MS LE COUTEUR: What I want to say about this is that they were better and they could be better. We would like to see the government seriously commit to zero waste and work towards that. We believe that it is a goal that, from an environmental point of view, we need to work with.

Ms Bresnan went through the bigger picture. I am going to talk some more about some of the more specific waste management issues. I am going to start off principally by talking about the disposal of hazardous material such as batteries and light globes.

Waste is a community problem, and we all have a part to play. But the government has a significant part to play in ensuring that there are adequate facilities for waste to be disposed of correctly and in the most environmentally friendly way.

With agreement from the states and territories, the federal government has commenced the phase-out of incandescent light globes. The Greens support this move as a sensible and practical measure to reduce energy consumption. Fluorescent light bulbs are expected to last four to 10 times longer than incandescent bulbs.

There are expectations that between 50 and 60 million bulbs will be consumed or disposed of across Australia each year. This amounts to an incredible 10,000 tonnes of mercury in these bulbs which could potentially be dumped in landfill across the country each year. If exposed to the environment, mercury can have toxic effects on people, wildlife and habitats. These tubes are simply unsuitable for disposal in landfill. Those of us who remember the phrase "mad as a hatter" may be interested to know that the mad part referred to mercury, because hatters used to use mercury in the processing of their hats.

Professor John Buckeridge, Head of the School of Civil, Environmental and Chemical Engineering at the Royal Melbourne Institute of Technology, recently told *Ecos* magazine that the public health effects of having millions of mercury-contaminated fluorescent tubes dumped in landfill would be disastrous, with possible severe environmental and health costs, including mercury poisoning of animals and humans.

And without proper recycling and education, the government is merely swapping one environmental problem for another.

Another common but toxic household waste item is batteries. Batteries are made up of heavy metals and other toxic elements, including nickel, cadmium, mercury, nickel metal hydride and lead acid. It is these elements that can threaten our environment if they are not properly discarded or disposed of and recycled. Unfortunately, batteries tend to end up in landfill and incinerators and leak into the environment, causing serious health risks to humans, animals and vegetation.

Each year Australians discard about 8,000 tonnes of used batteries. According to the Australian Bureau of Statistics, batteries are the most common form of hazardous waste disposed of by Australian households, with 97 per cent of these being disposed of by the usual household rubbish collection. That is, in the ACT they are going to end up in our landfill.

So no-one here should be surprised that the Greens are arguing that the government needs to make recycling points available for fluorescent lights and batteries at government shopfronts and libraries. At the moment the only places to take these for proper recycling are the Mugga Lane or the Mitchell resource centres. This really is not adequate. I do not think many people are driving or bicycling down to these centres to recycle their light bulbs or batteries. I have also been told that the staff at these centres do not always appreciate that recycling exists there and tell people, "No, it does not happen; it just goes on landfill."

We need readily accessible recycling points in places people can access, such as libraries. We are very surprised that the Chief Minister earlier dismissed this suggestion, saying that the hurdles to be overcome are too great. There are plenty of other locations that do in fact recycle batteries and light globes without problems. Beacon Lighting has recently completed a trial of recycling collections for light bulbs in its retail premises in Heidelberg in Melbourne. It simply used a four-foot fluoro-tube box and some high-top wheelie bins in the store. Coles has done it as well. And a quick internet search will reveal that many local councils and state governments, as well as other retail businesses such as IKEA, have introduced recycling points.

That is also the case with batteries. A battery recycling program has recently been established at the ANU, where batteries are collected, labelled and recycled. They have 20-litre plastic bins at the site. When they are full, the bins are sealed and returned to ANUgreen, which then transports them to MRI in Sydney. I am sure that Canberra, in general, can do as well as Coles, ANUgreen, IKEA et cetera.

Turning to e-waste, I am very pleased that Mr Corbell mentioned that earlier. Our statistics on recycling e-waste are pretty appalling. If you look at Australia as a whole, in 2008 there were seven million PCs available for recycling. Of those, only half a million were actually recycled: 1.6 million went to landfill and the remaining 5.4 million are collecting dust in people's garages.

There was a great response on Saturday to the e-waste initiative. I had already heard about the national scheme that COAG is looking at for producer responsibility, and I totally agree that that is probably the long-term solution. However, we know how long COAG takes to do things; it will be a long-term solution. In the short run, given the success of last weekend, I call on the ACT Labor Party to implement its election policy, which says:

> A re-elected ACT Labor Government will introduce a new $1.9 million initiative for ACT households and businesses to make it easier for them to recycle electronic waste through free drop-off facilities for electronic items such as computers, IT equipment and televisions. This free scheme will replace the current pay-to-drop-off scheme.

That was at least some good thinking.

Last, I would like to very briefly touch on another matter. There was a recent tender on the procurement website which appeared to be talking about the possible combustion or incineration of ACT waste. I would like to know how that fits into our waste strategy and our greenhouse gas strategy. It may be that that is what Mr Corbell was referring to when he talked about a waste for energy plant, and it may possibly have some positive outcomes, but at this stage, just on the face of it, it is hard to see how it fits in with the greenhouse gas strategy or a sense—*(Time expired.)*

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) (5.08): I will not speak for too long on this but I do welcome the opportunity to make a small contribution to a discussion around waste management in the ACT, if for no other reason than to provide context and perspective for the discussion and some of the commentary that has been made. The context in relation to that is that, of any major jurisdiction in Australia, the ACT has the best recycling and re-use record of any major metropolitan area or jurisdiction in Australia.

In the context of any debate on any major issue of policy, it would, I think, be relevant for those who stand to address issues that face the community to start with an acknowledgement that we as a jurisdiction, as a metropolitan centre, have the best record of any city in Australia—by far. With over 74 per cent of all waste being diverted from landfill, the ACT leads Australia and leads almost the entire developed world in its commitment to recycling and re-use and the diversion of waste from landfill.

Any debate or any conversation in relation to this issue really needs to start from that particular point or perspective. It seems to me to be a pity, or regrettable, that those who stand and berate government and point to perceived shortcomings, lack of effort or lack of commitment do not acknowledge that. Certainly we can do better, but just under 75 per cent of all waste generated in the ACT is diverted from landfill. That is the best in Australia, almost the best in the world.

If you do not acknowledge that—if you do not acknowledge how far we have travelled and point the finger at the government's lack of commitment to zero waste

or the continued diversion of waste from landfill—it seems to me that you create essentially a picture or a scenario that is not reflected in the truth and that makes it harder to address as a community. You berate, deny the effort, deny the success, deny the will and deny the application of considerable resources.

The outstanding results in relation to waste and diversion of waste that we have achieved as a government—and successive governments and as a community—are an achievement, an outcome, that has been achieved only through significant investment. I do not have comparative numbers with me, but that achievement would not have been possible or realised without the ACT government consistently resourcing waste collection and the diversion of waste from landfill at a level equal to or higher than most other metropolitan cities or jurisdictions within Australia.

It is relevant as we look to that last 25 per cent and it becomes incrementally more difficult. It is fair to say that the first yard is the easiest. It is the last yards in relation to the diversion of waste from landfill that are the hardest. We are at 75 per cent; we are at a higher level than any other place in Australia.

We are at the hard and difficult end of diversion of waste. We are at the expensive end of the issue, and, in the context of available resources, a pie that has to be spread across all of the government's policy responsibilities and responsibilities to the community. It is a pie which, for all policy issues beyond health, diminishes year on year, because our application to the health needs of the community grows year on year, to a point where the entire budget that health will consume within a few years—up to 30 per cent of the entire budget: an incremental, almost percentage, increase a year, year on year, in terms of that increasing exposure to the healthcare cost and need.

We have done particularly well, but there are not unlimited resources. There is a whole range of initiatives that have been proposed and suggested. They are all ideal. The government made a number of commitments in the last election campaign, most particularly commitments which we will meet. We began that process.

The minister for the environment has announced initiatives that were pursued as recently as within the last week. The government made a significant investment in waste management through the last budget in relation to a project that will of itself, through an additional, incremental increase in funding provided in our last budget, reduce another 20,000 tonnes of waste a year from landfill through initiatives funded in this year's budget just two months ago—another 20,000 tonnes diverted from landfill as a result of that initiative.

But these are recurrent costs; these are operational costs and they are significant costs. Those things need to be understood and acknowledged. Without understanding and acknowledging them, we cannot progress.

There is the issue that Ms Le Couteur thinks is irrelevant, an acknowledgement of the nature of our community. I think Ms Bresnan went to the same issue: that it is not relevant to acknowledge—it is a cop-out or it is defeatist to suggest that—that we, as a relatively prosperous community, with a very large footprint, are generating waste at a level higher than any other place in Australia. Why do we do that? Because we are necessarily or intrinsically wasteful? No: because we are prosperous and we buy more,

because we have household disposable incomes of in the order of $1,000 a fortnight more than the rest of Australia. We spend more, we buy more, we generate more waste and we create an issue.

It is appropriate that we acknowledge where all this waste comes from and some of the numbers that Ms Le Couteur refers to in the context that this increase, this never-ending increase, in waste that is being generated here—and a government that has already invested heavily and is having to invest even more heavily to keep up with the fact that we, as residents of Australia, are generating waste at a far faster rate and higher rate than anywhere else in Australia.

The numbers I have are interesting. I am just trying to interpret them. As I have just said, there has been a significant and continuing increase in the amount of total waste generated in the ACT, representing an average increase of 5.7 per cent per annum—that is the increase per year—in the generation of waste, averaged over the last 10 years. That is the scenario that we are dealing with.

We have, and this is relevant, increased resource recovery and recycling levels from 184,000 tonnes, or 42 per cent of waste generated in 1995-96. This is the scale of the issue; this is the scale of the response. In 1995-96, we as a community were actually re-using or recovering 184,000 tonnes, or 42 per cent, of waste generated in the ACT. In 2007-08, that had increased from 184,000 tonnes to 590,000 tonnes, an increase of 400,000 tonnes in 14 years. That is a 300 per cent increase in waste recovery over 14 years, increasing from 42 per cent of waste to 74 and a bit per cent of waste.

That is the record; that is the record of achievement. There has been an increase in waste recovered from 184,000 to 590,000 tonnes, but in an environment where waste generated has increased by 5.7 per cent a year over the last 10 years, or 57 per cent—a 57 per cent increase in waste generated just in the last 10 years.

This is an issue the government take seriously. We take it deadly seriously. We are prepared to invest; we are prepared to be innovative; we are prepared to do what we can do; we are prepared to adopt best practice. And we will. We have made those commitments and we will carry them through.

We do have a target of zero waste. The comments that I have made in relation to no waste by 2010 were quite simple and, again, factual. It is 2010 next year. We have adopted, employed and pursued a no waste, or zero waste, policy in government for 2010.

What do we do in 2011 when everybody here knows that we will still be taking waste to landfill? Is it seriously being suggested by the Greens and the Liberals that we should have maintained as our slogan, as our aspiration, in 2011 a slogan of no waste by 2010? *(Time expired.)*

MADAM DEPUTY SPEAKER: The discussion is concluded.

Road Transport (Mass, Dimensions and Loading) Bill 2009

Debate resumed.

MR COE (Ginninderra) (5.19): I rise to speak on the Road Transport (Mass, Dimensions and Loading) Bill 2009. The bill seeks to implement the national model, the compliance and enforcement package, from the National Road Transport Commission. It is an important step forward in incorporating the ACT's heavy vehicle laws with those of other states and territories. The ACT is currently the missing link between those states that have implemented it so far: Victoria, New South Wales, Queensland and South Australia. I note also that Western Australia has some legislation in draft form.

This bill provides the chain of responsibility rules for mass, dimensions and loading limits. The bill will also provide for a reasonable-steps exception to offences under the act. This scheme applies to heavy vehicles and heavy combinations with a gross vehicle mass of 4.5 tonnes or more. Penalties under the new scheme will increase to $1,000, up from $500. Authorised officers will be able to issue warnings, improvement notices, directions to stop and rectify or to move and rectify.

The bill defines the reliability of consigners, packers, loaders, operators, drivers and consignees. As the Liberal Party and the National Party have done in other states, the Liberal Party in the ACT supports this legislation but will propose some amendments, which I will discuss later.

The chain of responsibility will ensure that liability for an offence under the heavy vehicle road law will be applied to the appropriate person who may commit an offence. The reasonable-steps exception is an important component of the scheme. It means that for anyone at any point in the chain—be it a packer or driver—who takes reasonable steps to comply with the road law or if there were no steps that a person could have been expected to take to comply, an offence under that act will not apply to them.

The ACT draft varies in some ways to fit in with our human rights scheme. Changes include changing absolute liability to strict liability, a reasonable steps exception instead of defence, full derivative use immunity, time limits and ACT search provisions.

My first amendment that I will move today changes the logbook to a work diary. This is to ensure that the legislation is in line with the national scheme, which replaced the logbook nationally with work diary some years ago. Amendment 1 is to subclause 10(1)(a), and amendment 2 is to clause 19, example 4.

The third amendment is a minor amendment to clause 137(3) to better describe the circumstances in which an authorisation may be conditional. Whilst the explanatory statement did explain this, the bill did not. The amendment is consistent with the other provisions in the act.

The fifth amendment is a short amendment to clarify clause 200(3) to require the officer or person who is warning a person to ensure that they believe on reasonable

grounds the matters in clause 200(3) are applicable. This will ensure the warning section is consistent with other parts of the act.

Amendments 4, 6 and 7 give effect to an extension of the defence of the reasonable-steps exception to include if a defendant complies with all relevant standards and procedures under a registered industry code of practice. Amendment 4 provides for a new clause 185A, which describes a compliance with industry code exception. Amendment 6 includes a definition of industry codes of practice, guidelines for codes of practice and the registration of industry codes of practice. Amendment 7 inserts "registered industry code of practice" and refers to the new section 222 inserted under amendment 6.

The compliance with codes of practice defence, which is included in the national model, is a notable absence from the bill before us today. In his presentation speech, the Minister for Transport said the ACT would copy New South Wales in not registering industry codes of practice and including, as a relevant defence, conduct in accordance with the registered code of practice. The amendments I propose today insert provisions into the bill to provide for the authority to issue guidelines for the preparation of relevant industry codes of practice, for the registration of them and for compliance with them to be a defence under the act.

The national package was not developed overnight. The National Road Transport Commission has spent considerable time and resources developing the package in partnership with industry and all other jurisdictions. The chain of responsibility model adopted by this package is designed to ensure that those that are responsible for the mass, load or dimension breach are found liable. The reasonable steps exception is essential in this framework to ensure that those at certain points working in the industry are able to say that they fulfilled their duty appropriately.

One clear way government can give guidance on this is through codes of practice. Codes of practice are a useful way of promoting best practice and ensure that experts and professionals in the industry can drive best practice through industry codes of practice. They are an industry's way of ensuring the most efficient and effective mode of operation. Codes of practice are also a way for industry to develop processes and procedures that are safer and avoid unexpected or dangerous outcomes in a timely manner.

The heavy vehicle industry is one such industry that operates through codes of practice. The people who work on the ground in the industry know what the risks and challenges are in their industry. Codes of practice both aid and facilitate better compliance within the industry. As part of the reasonable-steps exception, compliance with the code of practice enhances the effectiveness of this legislative suite and is an important part of it. The Australian Trucking Association, the peak body in Australia for our state-based organisations and our biggest trucking companies, does considerable work on codes of practice in the areas of safety and technical issues.

The legislation will not have the desired outcome unless the government works in partnership with the industry. We should not create the liability that this act will impose without a clear indication of what the reasonable steps are to avoid the imposition of an offence. Codes of practice are one such way of ensuring that those

who do take reasonable steps make an effort in good faith and strive toward industry best practice.

MS BRESNAN (Brindabella) (5.26): This bill is the ACT government's implementation of a national project, conducted by the National Road Transport Commission, to regulate the management of loads for heavy vehicles on Australian roads. In essence, this bill needs to put in place regulations and enforcement provisions consistent with the regime now in place across Australia. There are some differences in the ACT regime, particularly in the definition of a number of offences, some limitation on powers of inspection and some increase in the range of defences available to people subject to prosecution.

We are the last jurisdiction to come into place with this regime. When it comes to managing business and trade across jurisdictions, Australia has a history of inconsistency. At least we all drive on the left-hand side of the road, and most road rules are more or less consistent these days. Railway gauges, famously, are not consistent across Australia but, in this case, consistency is not an issue.

Transport is more and more a national endeavour; so it is important that we take a national approach to its regulation. It is both impractical and unsafe to allow different regulatory regimes and different practices to be followed by businesses based in different states. Most importantly, we need a national regime which can hold all industry participants to account for matters of safety and good practice over which they have control and responsibility.

There is a chain of responsibility in the road transport industry, and the different players all make a contribution to that. This bill is the ACT component in a national system which seeks to ensure that all the parts work seamlessly together. The recent decision by the Shell petrol company to abandon storage in the ACT and to shift its fuel transport from rail to road, making us dependent on a just-in-time fuel delivery system, which is more perilous, more uncertain and more climate-change damaging, emphasises the importance of this regime.

The road transport reform project is consistent with the approach that has been put in place over the past few years in other safety-related areas, including work safety and the control of dangerous substances. Employers, managers, contractors and professionals increasingly have a legal responsibility to follow safe procedures, to meet statutory requirements of responsible action and behaviour and may need to demonstrate to authorities or the courts that they have done so. This is an approach that the Greens have broadly supported.

Speaking generally, it is about extending our duty to accept legal responsibility for the wellbeing of others where our work, or decisions we take in our work, can impact on them. But to give some legal weight to these everyday responsibilities, it has been necessary to give a range of people some authority in scrutinising, testing and assessing whether we are fulfilling that responsibility.

The way in which those authorities are exercised need to be carefully established, which is why, in legislation such as this, issues of the nature of offences, how they are established, what people are obliged to do, are important. Some of the debate on what

constitutes an offence can seem quite arcane but it is important. In general, the ACT often does better in these things than other jurisdictions, partly because of our history as a small, new and fairly progressive jurisdiction and now the impact of the ACT Human Rights Act.

So it is worth noting that one of the differences between this ACT bill and the national model legislation is the use of strict liability rather than absolute liability as the standard offence. In the context of a human rights jurisdiction, absolute liability offences are not preferred as they provide almost no defence for an accused in any circumstance. Not only is the matter of intent irrelevant, even the mistake of fact is irrelevant. Strict liability, however, does provide some defence, although it is limited.

In addition, the explanatory statement for this bill points to a reasonable-steps exception which allows the accused to establish they took reasonable steps to do the right thing. In this bill, then, the standard of proof for that particular defence is less onerous than the legal standard required under the model legislation. I commend the department for these considerations. However, the underlying principle of our criminal law is that the severity of the crime reflects the guilty mind of the offender and, where strict liability offences are defined, making the guilty mind irrelevant, a rationale ought to be provided.

The scrutiny of bills committee raised a number of concerns in this regard in its analysis of the bill. The continuing plea from that committee is that the ACT government ought to consistently provide a clear rationale for strict and absolute liability offences when it resorts to them.

On occasions the relevant departments would revisit their explanatory statements, define the use of the offences more carefully and/or reject the requests for more careful explanations. One would have thought that by now some kind of convention in explaining and dealing with these offences would have been arrived at.

Indeed, for exactly this reason, the then legal affairs committee, on 6 December 2005, advised the Legislative Assembly that it would inquire into and report on:

> the merit of making certain offences ones of absolute or strict liability;
>
> the criteria used to characterise an offence, or an element of an offence, as appropriate for absolute or strict liability.

The committee report was tabled in the Assembly in February last year. This debate is not the place to go into that in depth but it is unfortunate that the ACT government has not yet responded to that report nor implemented in any systematic way its recommendations, the key recommendation being No 3:

> The committee recommends that the Office of Parliamentary Counsel develop and implement guiding principles for the drafting of offence provisions in legislation.

As it is, we have had a fairly complex exchange of views on these offence provisions in this bill through the scrutiny of bills process where a more systemic approach would have been helpful. Perhaps the most serious concern raised by the scrutiny of bills committee was in regard to clause 331 which was whether, when it came to

investigative powers, the right for someone to be protected against self-incrimination is compromised by the provisions in this bill where they can be directed to provide information, records and comments that can be used in evidence against them. This is a question of proportionality.

Most of the bill deals with a regulated industry that involves voluntary participants who, presumably, know what they are committing to. Secondly, the directions to industry participants in the bill must be related to the compliance purposes set out in clause 307 and cannot be used to get at other actions of the participants. And finally, the directions are restricted to documents pre-produced by the industry participant. In other words, they already exist and are a record of business operations.

In the end, it is reasonable to give such powers to investigate and force to authorities so as to ensure that the responsibilities of industry participants are clear. The notions of rights and freedoms are inevitably compromised in ensuring industry participants accept the responsibilities this legislation gives them.

There are numerous other instances in this legislation, which is of course by necessity a lengthy bill, where requirements and responsibilities of people working in the industry are specified in great detail. It ensures that everyone in the chain of responsibility of mass road transport can be held accountable, should that be necessary, for what they are responsible for.

I will address the amendments proposed by Mr Coe in the detail stage.

MS BURCH (Brindabella) (5.35): Over the years a lot of effort has been expended by key stakeholders with an interest in heavy vehicle transport in developing the National Road Transport (Compliance and Enforcement) Bill, which has provided the model for the bill before the Assembly. The National Transport Commission, the road transport agencies of all jurisdictions, transport industry peak bodies, the police, the TWU and off-road parties with an involvement in the transport of goods and individual heavy vehicle transport operators all deserve congratulations for the time and effort they have put in to develop a legislative model which all states have endorsed in the strong expectation that road safety and the broader economy will benefit from its introduction nationally.

Just to give you an idea of the effort that went into crafting this legislation, I would like to set out a chronology of the development of the model legislation. It begins in 1995 when the then National Road Transport Commission, now known as the National Transport Commission, released a discussion paper entitled *Principles, objectives and strategies*, which set out a detailed legislative framework and approach to enforcing the national road transport laws. A series of workshops across Australia followed to promote an understanding and discussion.

In 1997 the NRTC released two further documents for comment and discussion. The first document was the Road Transport (Compliance and Enforcement) (General) Bill, which was in draft form. The second document was entitled *Increased mass limits: compliance and enforcement issues*, which set out various approaches to combating the overloading of vehicles operating at higher mass limits.

During 1998 a series of informed discussions occurred with transport industry representatives, including on-site visits to various loading operations, which led to the development of a draft policy paper entitled *Penalties for gross overloads (severe risk overloads)*, which set out a penalty framework and draft legislative provision for severe risk overloading.

In 1999 the NRTC followed up with another draft policy proposal entitled *Compliance and enforcement: mass, dimension and load restraint*, which was circulated nationally for two months, during which time workshops were conducted to promote discussion. This consultation phase resulted in the development of the draft policy proposal entitled *Compliance and enforcement: mass, dimension and load restraint*, together with a regulatory impact statement for consideration by stakeholders. By the year 2000, following comments received, the NRTC refined the proposal, which the Australian transport ministers supported in principle.

In 2002 the national model, the Road Transport (Compliance and Enforcement) Bill, was released for public comment. The NRTC conducted further information sessions for government and industry representatives and held a special briefing for key stakeholders and those with specific concerns. On 3 November 2003, the national model bill was approved by the Australian Transport Council for implementation nationally.

Mr Speaker, you can see from this chronology of events that the national heavy vehicles provisions are soundly based, having been thoroughly evaluated by the key stakeholders with an interest in the transport of goods by roads. The national model provisions were not drafted as template legislation as it was recognised that this national regulatory framework would need to be accommodated within state and territory legislative and legal policy frameworks.

Given this, some aspects of the national model scheme were classified as desirable rather than essential for nationally consistent outcomes. Whilst the desirable elements were included in the national model to provide a best practice legislative compliance and enforcement scheme, jurisdictions were free to adopt only those elements that can be accommodated within their criminal law and human rights policy framework. The ACT Road Transport (Mass, Dimensions and Loading) Bill 2009 has been drafted to achieve such an outcome.

New South Wales and Victoria implemented the model legislation in 2005. South Australia introduced the legislation in 2007 and Queensland in 2008. I understand that Western Australia will soon introduce these heavy vehicle laws. The transport industry will tell you that one way to improve efficiency of their operations is to have consistent road transport laws across the nation. The passage through the Assembly today of the Road Transport (Mass, Dimensions and Loading) Bill 2009 will provide a step closer in achieving that outcome. I commend the bill to the Assembly.

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) (5.40), in

reply: This bill, the Road Transport (Mass, Dimensions and Loading) Bill, seeks to implement the national model heavy vehicle road transport compliance and enforcement scheme in the ACT. The ACT will follow New South Wales, Victoria, South Australia and Queensland in implementing the national scheme. Before I get into the detail of the bill, I wish to provide members with a little background to provide the context of why all jurisdictions have endorsed this scheme.

Prior to the development of the legislation, jurisdictions relied on their existing compliance and enforcement processes to enforce the national standards in relation to heavy vehicle loading practices. There was a lack of consistency between states when it came to compliance management and enforcement, leading to significant variations between the jurisdictions on such basic matters as who is held liable for a breach of the standard and the penalty to be imposed for the breach.

In 2000, transport ministers got together and tasked the then National Road Transport Commission with the development of a national approach to address this inconsistency between jurisdictions and also other areas of concern which were evident at the time. These other concerns included public acceptance of heavy vehicle traffic levels. At that time there was evidence to suggest that the freight task would double by 2020. It was considered important that heavy vehicles and other road users interacted positively, especially given that congestion was likely to worsen as the number of heavy freight vehicles on the roads grew to meet the increasing freight demand.

Pressure from the public to restrict heavy vehicle access to parts of the road network due to road safety and congestion concerns would be detrimental to efforts to increase the productivity of the road transport industry and broader economy. It was considered that the way to avoid that scenario was to have a nationally consistent and effective regulation of the heavy vehicle transport industry. Having sound enforcement deterrent measures will ensure high levels of compliance and enhance road safety and general good industry practice, which are essential if the public is to recognise and accept the need to share the road with heavy vehicle transport.

The road transport industry, of course, is highly competitive and is characterised by minimum entry requirements. There are many small operators and low profit margins are common. A significant feature in the supply and demand side of the industry is the power imbalance that exists, with large numbers of small operators dealing with large corporations with substantial market power. An effective enforcement regime with appropriate sanctions for any party that encourages or induces non-compliant behaviour is seen as essential to ensure that a high level of compliance is achieved and maintained.

Given the substantial competitive pressures at play in the industry, maintaining equity between industry players is an important consideration. Inadequate or uneven enforcement of regulatory requirements can create a situation where compliant companies and individuals suffer competitively in comparison with those who habitually contravene the regulations. The compliant operators recognise that if future government concessions to improve productivity are to be gained the sector needs to be seen as law-abiding. To this end the compliant transport operators support a greater level of enforcement and harsher sanctions to deter the cowboy element that gains an unfair commercial advantage by overloading vehicles.

There is also a strong perception of an excessive enforcement focus on heavy vehicle drivers, owners and operators. Under the existing national regime only these entities may be found guilty of breaching the vehicle loading regulations. The imposition of liability on the driver, owner or operator does not address the role of others in the transport chain, including off-road parties who might influence the mass or dimension of a load or the manner of restraining that load. The concept of the chain of responsibility under the national compliance and enforcement scheme seeks to spread legal responsibility for unsafe practices in the transport industry beyond those who have traditionally borne the brunt of liability.

Noncompliance with the heavy vehicle mass, dimension and load restraint requirements raises significant road safety and infrastructure protection concerns. Vehicles loaded beyond their safety rating impose serious threats to road safety and threaten substantial infrastructure investment in roads, bridges and other road assets. For example, overloaded vehicles are less safe as they are more difficult to steer and braking is less effective. They are also usually slower, adversely impacting on traffic flow, increasing traffic congestion and frustrating other drivers. These vehicles also cause excessive road wear and increase the risk of infrastructure collapse, particularly bridge structures. The consequences can lead to inconvenience, road hazards and additional costs in maintaining the infrastructure.

Exceeding dimension limits for loads also has road safety and road infrastructure implications. Excess height can raise a vehicle's centre of gravity, making the vehicle less stable when cornering or swerving to avoid an obstruction. Infrastructure such as overhead powerlines and low underpasses can be hit, causing obstructions leading to severe traffic disruption. Excess width generally intimidates other road users on multi-lane roads and can present a severe hazard. Excessively wide loads can also damage power poles and other street furniture. Excess length also presents a safety hazard to road users and infrastructure, particularly when cornering or turning.

As for load restraint, if a load is not properly secured, it can shift, making the vehicle less stable and increasing the likelihood of the vehicle overturning and injuring other road users. A lost load can disrupt traffic, create a safety hazard and damage road infrastructure if sufficiently heavy.

To address all these concerns, transport ministers directed that a legal framework be developed that would provide a model nationally consistent and best practice legislative scheme to improve compliance with, and enforcement of, the road transport laws. The outcome was the Road Transport Reform (Compliance and Enforcement) Bill, which was developed by the National Road Transport Commission in conjunction with representatives from federal, state and territory road transport agencies, the police, the heavy vehicle transport industry, the Transport Workers Union, occupational health and safety organisations and road user organisations. Australian transport and roads ministers then approved the national model Road Transport Reform (Compliance and Enforcement) Bill in November 2003.

The national model provisions were not drafted as template legislation as it was recognised that this national regulatory framework would need to be accommodated within state and territory legislative and legal policy frameworks. With this in mind

some aspects of the national model scheme were classified as desirable rather than essential for nationally consistent outcomes. Whilst the desirable elements were included in the national model to provide a best practice legislative compliance and enforcement scheme, jurisdictions are free to adopt only those elements that can be accommodated within their criminal law and human rights policy framework. The ACT Road Transport (Mass, Dimensions and Loading) Bill has been drafted to achieve those outcomes.

In the remaining time I will turn to some of the details of that bill. I think it is important, and, of course, interesting, that the legislation that we are debating today forms part of a very full suite of ACT road transport legislation made up of a number of acts relating to alcohol and drugs, driver licensing, public passenger services, safety and traffic management, third party insurance and vehicle registration. In order to achieve the outcome we wish with the current bill, the Road Transport (Dimensions and Mass) Act 1990 will be repealed on enactment of this bill.

The primary objectives of the bill, which is concerned with heavy vehicles and heavy combinations with a gross vehicle mass greater than 4.5 tonnes, are to improve road safety, minimise the adverse impacts that heavy vehicle road transport has on road infrastructure, the environment and public amenity and make a demonstrable positive change in the on-road behaviour of those involved in the road transport industry.

The legislation, with its extended accountability to parties in the road transport supply chain and stronger enforcement powers and sanctions, has the potential to bring about a positive cultural change in how the heavy vehicle transport sector operates, including safer loading practices such as reduced instances of overloading and improved contract arrangements between vehicle operators and receivers—for example, receivers refusing to accept overloaded vehicles at their depots. Improved road safety is expected to be a significant outcome benefiting all road users.

The bill pertains to situations where the vehicle load is, or may be, a factor in a breach of the heavy vehicle road laws. This bill does not change the existing national maximum weight, height, width and length of loads for different categories of heavy vehicles and combinations. It simply endeavours to create a framework that facilitates effective compliance with these vehicle load standards.

I will go into some of the details of key elements of the legislation. An important feature of the bill is the introduction of a risk-based categorisation of breaches of the mass, dimensions and load restraint standards. Breaches are assessed as minor, substantial or severe based on the degree of appreciable risk to safety, road infrastructure, the environment and public amenity, having regard to the nature and severity of the breach, the consequences or likely consequences of the breach and any other relevant factors.

This approach recognises that not all offences pose the same degree of risk. The penalties in the bill increase in proportion to the level of risk associated with the offence. Breaches in the minor and substantial category may be dealt with by way of a fine. However, offences in the severe category, given the potential serious consequences of the breach, will be dealt with by the courts.

There are special provisions in relation to the transport of freight containers as this is an activity that has a history of frequent overloading and mass inaccuracy. The major concerns in this area are the incorrect description of shipping documentation or unevenly distributed freight within containers.

Overweight containers, when accompanied by shipping documentation that understates their weight, place an unfair burden on drivers and carriers as they may only first become aware of the problem when the container is actually placed on the vehicle or when the vehicle is weighed at a weighbridge. In recognition of this, the bill provides a defence in cases where the driver or carrier has relied in good faith on the accuracy of the information set down in the container weight declaration only to find that they are carrying a load that breaches the mass limits.

A key feature of the national scheme is the chain of responsibility concept, where parties who affect heavy vehicle road transport compliance are made accountable for their acts and omissions. These parties include not only the driver and vehicle operator but also off-road entities such as consignors, packers, loaders and receivers. Criminal liability may also extend to executive officers of corporations, partners in partnerships and managers of unincorporated associations where a person in a position to influence conduct did not take reasonable precautions or exercise due diligence to prevent a breach of the heavy vehicle road laws.

New evidentiary and mutual recognition provisions are included that will facilitate investigations of large transport companies that operate across jurisdictions and that breach the heavy vehicle road laws. Jurisdictions will enter into agreements to allow investigations that commence in one jurisdiction to continue cross border to enable appropriate evidence to be gathered to ensure successful prosecution.

The scheme includes special enforcement responses, such as the issuing of formal warnings and improvement notices. For example, our on-road inspectors, when intercepting a vehicle that is in minor breach, may issue a formal warning rather than a fine if the driver can demonstrate that he or she took reasonable steps to prevent the failure to comply and was unaware of the breach.

The bill also provides for significant fines for loading breaches and a range of sanctions to enable the courts to impose a punishment that best fits the offence, such as a commercial benefits penalty, a supervisory intervention order, a prohibition order and a compensation order. These sanctions and higher fines will act to deter those operators who deliberately overload for economic benefit to the detriment of the honest operator, thereby creating a more level playing field in what is a highly competitive industry.

I mentioned earlier that the national model legislation was not designed as template law and that jurisdictions were free to modify provisions to satisfy their legislative and legal policy frameworks. Briefly, the key changes to the national approach that were necessary to achieve compatibility with ACT criminal law and human rights policy relate to the following elements of the bill:

- the two-tiered penalty structure;

- the application of absolute liability for offences against the mass, dimension and loading requirements;

- the reasonable steps defence afforded to alleged offenders;

- enforcement powers that extend to conducting a search of premises and vehicles;

- the extended period for commencing prosecutions for breaches of the mass, dimension and loading requirement;

- the protection and confidentiality of information;

- embargo notices and the return of forfeiture of seized things; and

- protection from self-incrimination.

I will mention briefly some of the detail in relation to some of those departures because I know the extent to which members focus on some of these issues in their consideration of legislation.

The model tiered penalty structure, which provides one penalty level for first offenders and another for repeat offenders, is considered to interfere with the discretion of the courts to deal with each case according to all the circumstances, particularly where there may be several fault element offences. In place of the tiered structure a single maximum penalty is to apply for heavy vehicle road law offences. In terms of quantum the national model infringement and maximum penalty amount for offences has generally been adopted, with the maximum penalty representing double that of the tiered approach for a first offence.

The bulk of contraventions under the national model arrangements apply absolute liability as the standard for offences. The ACT bill departs from this approach by applying strict liability for minor and substantial breaches of the mass, dimensions or loading requirements. In the case of severe breaches, a greater penalty than the 50 penalty unit maximum usually applied to strict liability offences in the ACT is considered necessary and for severe breaches the penalty is related to the degree of criminal intent or responsibility involved in the offence. For example, in a case involving a severe mass breach the maximum penalty is 100 penalty units where negligence is a factor in the offence; 150 penalty units and six months imprisonment where recklessness is involved and 200 penalty units and six months imprisonment where there is an intention to offend.

This departure from the national approach has been adopted because, as a general rule, in order to prove a criminal offence the prosecution must prove two key elements: an actus reus and, of course, a mens rea. When an offence is a strict or absolute liability offence, the prosecution is only required to prove an actus reus, or physical element, and not the fault element as well. I remember all that well, Mr Speaker, as I am sure you do. It has been a pleasure to actually provide some additional detail in relation to this bill. If time permitted, there is a lot more that I could let you know.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR COE (Ginninderra) (5.56), by leave: I move amendments Nos 1 to 7 circulated in my name together *[see schedule 1 at page 3287]*.

MS BRESNAN (Brindabella) (5.57): With regard to amendments Nos 1 and 2, the Greens will be supporting these two amendments. We will also be supporting amendment No 3 and Liberal amendment No 5. We will not be supporting amendments Nos 6 and 7.

MR SPEAKER: Members, we need some procedural assistance here. Mr Coe has moved them as a group, and it seems that we may need to vote on them individually or in shorter groups.

Ordered that the amendments be divided.

MR SPEAKER: The question now is that amendment No 1 be agreed to.

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) (5.58): Mr Speaker, I had proposed earlier to table an amended explanatory statement. I am not sure if I have done that already or if it is appropriate that I do it now.

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

Adjournment

Vietnam Veterans Day

MR HANSON (Molonglo) (6.00): Today, along with the Chief Minister, I attended a commemoration for Vietnam Veterans Day, it being 18 August, which commemorates the Australian commitment in the war in Vietnam from 1962 to 1973.

Some 521 Australian lives were lost in that war and approximately 60,000 Australians served. It is certainly a significant commitment and it is an important part of Australia's history as well. Arising from that conflict over the 10 years were not only those killed in action but also many wounded. Many Vietnam veterans still carry the physical and emotional scars arising from a horrific war.

The ceremony today was made more emotional by the presence there of the family of David Fisher. Private David Fisher, 3 Squadron SASR, was lost, missing in action,

when, in a "hot extraction" from a helicopter, he fell from the helicopter. He was recovered last year and returned to Australia last year after 40 years. To have his family there was quite significant.

The remaining two missing in action from Vietnam, as you would probably be aware, have been found recently—Flying Officer Herbert and Pilot Officer Carver. It is great news that they will be returned to Australia in December. In some ways, that closes a chapter on that conflict, but many people are still living with the after-effects.

I would like to congratulate the Vietnam Veterans Association for the conduct of the ceremony today. It was very well run. In particular I mention Jan Properjohn and Pete Ryan, who did a very good job.

The war itself is littered with tales of individual and collective heroism. Coming from the military, I can say that it is certainly part of the Army's folklore. In battles such as Long Tan, battles in the Long Hai hills and the battles of Binh Bah and Coral and Balmoral—the list goes on—there were tales of incredible heroism and courage and of dedication to duty.

There is no finer history than that of the Australian Army Training Team Vietnam. They were the first unit into Vietnam and the last unit out, serving for more than 10 years in that conflict. In the time they were there, over 1,000 Australians served in the Training Team Vietnam. It is the highest decorated unit of that conflict and includes all four Victoria crosses which were awarded to the Australian Defence Force in the Vietnam War. The Training Team Vietnam and the Training Team Iraq—I am very proud to say that I went to Iraq with the Training Team Iraq—have essentially formed a collegiate association, so their history lives on. Indeed, the Training Team Vietnam's legacy has lived on in Iraq. When I was there, the Training Team Iraq named its two bases after people who served in Vietnam, one after the first commanding officer of the Training Team Vietnam, the other, Camp Blackhurst, after one of its members who was killed in action in Vietnam.

There is a shame attached to Vietnam, though. That is the shame of the way that the veterans were treated for many years after their return. Criticism can be levelled broadly across the community for this, certainly for the way that the soldiers were treated. They did their duty. The politicians sent them there—it was a decision made in parliaments—but the soldiers, the sailors and the airmen, the ones who bore the brunt, were labelled baby killers and made to feel guilty. As much as I would like to criticise the left, who certainly were part of that, I acknowledge that other elements of the community did not welcome Vietnam veterans back as well as they should have—including, at that stage, some elements of the RSL who should have been more accommodating.

I think that we have learnt much as a society and as a community. I would like to acknowledge the pain that has been suffered by the Vietnam veterans and the lessons that have been learnt by us as the Australian community. The veterans of Iraq, which was another unpopular war, have all been treated exceptionally well by the community. We as Australians have learnt to separate an unpopular political decision and an unpopular war from those who fight in it.

I commend the Vietnam veterans to everyone in the chamber, who I am sure would agree with my sentiment. Vietnam veterans, on your special day we salute you.

Sri Lankan refugees

MS BRESNAN (Brindabella) (6.04): Today I would like to congratulate two young men from Sydney, Seran and Vishna, for their courage and commitment in walking from Sydney to Canberra to highlight the plight of 300,000 refugees in Sri Lanka living in appalling conditions in camps in that country. I met Seran and Vishna and both of these young men's parents this morning. Both of them have been personally affected by the conflict in Sri Lanka and now there is the terrible situation of the treatment of refugees in the camps. These refugees are internally displaced persons, people who have been forced to flee their homes as a result of armed conflict and violations of human rights.

International law states that the government concerned holds the responsibility for providing assistance and protection during displacement and during resettlement. All governments around the world should be supporting the calls from groups such as Amnesty International to immediately allow the people in these camps freedom of movement and for those who wish to leave to be allowed to do so. The camps should be placed under civilian management and not under the management of the military. Aid agencies, journalists and human rights observers should be given full access to the camps. There should also be a commitment to the closure of the camps.

The Secretary-General of the United Nations has spoken out against the conditions which these refugees now find themselves in. In this situation, we are talking about innocent people with ordinary lives who have been caught in a conflict and are now existing in unliveable conditions. These people should be given all the assistance they need to be able to return to their homes. They should be able to do this without fear of being treated inhumanely either in the camp or when they return home.

I applaud Seran and Vishna for what they have done. In bringing attention to the situation in Sri Lanka, their actions speak louder than words. The 300 kilometres they have walked represents the 300,000 lives they want to highlight the plight of. The world should be doing all it can to save these 300,000 lives by urging the Sri Lankan government to abide by democratic and humanitarian obligations and resettle the people displaced by the conflict in Sri Lanka.

Ms Lydia Almeria Pattugalan

MR DOSZPOT (Brindabella) (6.07): During the recent winter break of the Assembly, on Saturday, 18 July, I attended a mass of thanksgiving and celebration for the life of Lydia Almeria Pattugalan at St Michael's church in Kaleen. Lydia was the mother and mother-in-law of friends of our family. It was felt by many within the Filipino community that Lydia was also a spiritual mother of the Filipino community in Canberra. As testified to by the large gathering of her immediate family and the Canberra community, we were there to celebrate her life.

Lydia Pattugalan was born in Manila in the Philippines on 4 December 1927. She arrived in Australia in May 1972 with her husband, Maximo Pattugalan, who took up

a position with the Philippines embassy in Canberra. Lydia soon started a career in the federal public service, working in the Attorney-General's Department, legal aid, the Deputy Crown Solicitor's Office and the department of immigration.

Lydia retired from the Australian public service in 1992 at the age of 65. By all accounts, she was far from happy to be forced to retire. But her energies soon found an outlet in numerous community volunteer projects. She became one of the founders of the Philippine-Australian Senior Citizens Organisation and served as its president from 1996 to 1999.

Lydia completed many projects, including a booklet in Filipino, "Care for older persons". Last year she also published a compilation, under the title *Age of Wisdom 2*, in collaboration with her daughter, Theresa De Castella. This was a book of stories of friends and was the second book named *Age of Wisdom*. It contained further life stories of members and friends of the Filipino community in Canberra. The first book was so well received and found to be so interesting that several contributors and many readers pressed Lydia to produce this update.

Lydia received a Filipino-Australian Women Achievement Award in 2001 and a Chief Minister's Lifetime Achievement Award in 2006. She was a state finalist in the 2008 Australian of the Year Award.

Lydia's life story is a story of courage and love of family, of a mother who converted adversity into energy and made a strong impression in her adopted homeland by contributing to the many lives she touched in the community. Lydia, like many newcomers to this proud land, found peace, freedom and opportunities, while her direct contribution was her energy, work ethic, values and traditions.

Lydia passed away on 14 July 2009. We offer our condolences to her children—Marilyn, Ariel, Grace, Jesse, Max, Theresa, James and Kenneth—to her children's spouses—John, Jean, Azlan, Leanne, Helen, Robert, Kym and Symone—and to her 12 grandchildren—Keith, Kevin, Krissan, Keldon, Alana, Caleb, Mitchel, Alycia, Isabella, Nikita, Nikolai and Sophia.

Aid for Jade

MRS DUNNE (Ginninderra) (6.10). Mr Speaker, last Friday night I had one of those great pleasures that one has as a member of the Canberra community—going to an event where one sees real heart and real soul and real commitment to community. On this occasion it was a hugely spectacularly successful fund raiser under the moniker Aid for Jade.

Jade Murrell is a two-year-old Canberran who has liver cancer and who has spent many months in Ronald McDonald House. Her father, Peter, and many of his friends clubbed together on Friday night to raise funds for Ronald McDonald House at Westmead Children's Hospital. It was a spectacular evening.

My team, consisting of Theo, two Keiths—two very formidable Keiths—Bob, Clinton, Libby, Lyle and Luke, did manage, as we aspire to do, to win—

Mr Barr: As usual.

MRS DUNNE: It is very unusual that we do not—to win the quiz night. But we were probably only nine or 10 of 400 people who turned up to the Southern Cross Club on that night to support the Aid for Jade campaign. In addition to that, the event was mainly sponsored by the Royals rugby club who, on the previous Saturday, had an Aid for Jade home match where everyone wore yellow socks. All the players wore yellow socks in support of the program.

I need to pay tribute to the wide number of donors who donated so generously to this campaign. There was a very successful silent auction and live auction. The prizes for the winners of the competitions throughout the night were very generous indeed and they were all supplied by ACT businessmen and operators of businesses and other sporting clubs across the town.

I need to pay tribute to the organising committee, which was headed by our own Jeremy White, who used to work for me, and to the master of ceremonies, Ross Solly. It was a spectacularly successful night. I received an email from Jeremy yesterday afternoon which said that so far they had raised $35,000 from a quiz night, which I think is a testament to the community spirit of the people of the ACT. It is a fantastic result for the organisers. I congratulate them most heartily.

Redline racing team

MS BURCH (Brindabella) (6.12): I want to highlight the wonderful electorate of Brindabella, where I live, and to draw the Assembly's attention to a team at Trinity Christian School—the Redline racing team.

The Redline racing team is a dedicated team of five year 10 students from Trinity Christian School in Wanniassa. They won the ACT state and the Australian national finals of the F1 in Schools Technology Challenge in 2008. They are currently preparing to represent Australia in the international F1 in Schools Technology Challenge to be held in London in September of this year.

For those of you who are wondering what an F1 in schools formula is, it is a technology challenge aimed to excite and challenge high school-aged students about the possibilities of careers in engineering, science, marketing and project management. The international competition requires teams of three to six students to conceive, design, manufacture, race and market a miniature formula 1-style model racing car that is propelled down a 20-metre track powered by a jet from a compressed CO_2 canister. They travel at an average speed of around 80 kilometres per hour and they are indeed a very smart, snazzy little machine. A machine has been built and developed from go to whoa by a team of year 10 students from Trinity school.

This is the second season that the school has been racing and the Redline racing team is determined this year to bring home gold. They came second in the international competition last year, but this year they are committed to bring home first place. They have already progressed through the state and national finals and have emerged champions once again. They have won this opportunity to represent Australia and

fight for the international crown. That has brought them to an elite level, competing against 40,000 students and 12,000 teams from 34 countries from around the world.

I think it is a great opportunity for local students to really think about their careers but also to think about how they can think outside the square in their schoolwork. The F1 in schools competition gives students an opportunity to apply their classroom knowledge to practical situations while enhancing their skills in engineering, science, marketing and project management through collaboration with experienced professionals and relevant industries. In all of this, while they are having fun, they also learn what teamwork really does mean—time management, organisation and, probably most of all, patience.

I have been out to Wanniassa to see these students in action and to see the vehicle that we are hoping will take out first prize in the international competition. It is very smart to see these kids in front of a computer, working up a design of a vehicle using software on a computer, then pulling that to a milling machine and turning it into this snazzy little vehicle. They paint it, decal it and throw it down a 20-metre track doing in excess of 80 kilometres an hour.

I actually have all faith that this year they will bring home first place. They are in London. If they do win, the winner will be visiting Buckingham Palace. I am sure the folk in Wanniassa are a little bit excited about that. I just wanted to share with you some of the wonderful activity that your young folk in Brindabella are up to. I wish them all the best.

Education—student union fees

MR COE (Ginninderra) (6.16): Earlier this year I spoke in the Assembly about the Rudd government's plan to introduce compulsory student union fees. The Rudd government broke an election promise and proposed that universities could set a compulsory fee up to $250 to be indexed annually for the provision of so-called student services.

Compulsory student fees were abolished by the Howard government in 2005. I was very pleased to learn that a few hours ago, the Senate voted down the Rudd government's Student Fees and Amenities bill. Today the Senate voted for common sense, for freedom of choice and for the welfare of tertiary students. It means that students are able to decide how to spend their limited money on what goods and services they want and need. It is a vote of confidence in students' ability to make decisions.

The Senate voted against a thinly veiled attempt to reintroduce funding to unresponsive student organisations that use student money to fund their political careers. The Senate voted against a ridiculous and paternalistic scheme that is blind to the needs of students. Far from helping the poorer students, it actually penalises them the most because it is a regressive tax. It does not matter if students cannot afford the charge, use the services or not or do not subscribe to the same political views. It is a tax.

Even just yesterday a friend told me that they were now in favour of VSU because the university world did not fall apart as the Labor stooges warned that it would in 2005. Labor had used scare tactics to warn people about the tragedies that would come in post-VSU. Well, they did not eventuate and many people that perhaps were somewhat sceptical have appreciated the freedom and extra money they have enjoyed over recent years and are now advocates of VSU.

Good student services not only survived but thrive under VSU because they are popular with students. The only services provided by compulsory student unionism are those popular with student union leaders. It is a Young Labor and Labor students' slush fund.

There are numerous examples of extravagant and reckless spending and corruption under the old regime of compulsory student unionism. There was, for example, the effigy of the then Prime Minister, John Howard, at the ANU market day in 2004 for anyone who wanted to take a hit. In Victoria there was the "Bomb the White House" stickers produced at Monash University. They are just a couple of examples of the many distasteful political acts of Labor student hacks funded by compulsory student union revenue.

In addition to the inequity to local students, a growing number of part time and external students in Australia who do not even get the opportunity to use union services are severely affected. It is nonsensical that they are charged for these services. Students must balance the demands of buying text books, paying for rent, paying for food, parking, et cetera. A new tax that goes towards sporting, cultural, welfare or so-called advocacy would do nothing to help students meet these basic essential needs.

Senator Fielding is absolutely right when he says the bill is morally flawed because it removes a person's right to choose and it is a tax on the poor. I congratulate him and other senators for voting down this legislation. I would like to congratulate Alex Butterworth, the newly elected president of the Australian Liberal Students Federation. Alex coordinated a national campaign of Liberal students to stop this tax. New and innovative campaign methods through the www.stopstudenttaxes.com website meant that students from around Australia were able to contact senators and voice the concerns they held about the Rudd government's proposal.

New media, including Facebook and Twitter, will enable more and more people to re-engage in politics and have their opinion heard. Students, especially in this uncertain economic environment, where job security is lessened and costs are increasing, do not need another tax to pay. The Senate was right to reject the proposed legislation in what is a victory for students in Canberra and across Australia.

The Assembly adjourned at 6.21 pm.

Schedule of amendments

Schedule 1

Road Transport (Mass, Dimensions and Loading) Bill 2008

Amendments moved by Mr Coe

1
Clause 10 (1) (a)
Page 7, line 27—

omit

log book

substitute

work diary

2
Clause 19, example 4
Page 17, line 3—

omit

a log book entry

substitute

a work diary entry

3
Clause 137 (3)
Page 48, line 6—

omit clause 137 (3), substitute

(3) An authorisation may be conditional if the police officer or authorised person believes on reasonable grounds that particular conditions are necessary to minimise an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.

4
Proposed new clause 185A
Page 90, line 3—

insert

185A Reasonable steps exception—compliance with industry code

(1) This section applies if a defendant for a heavy vehicle road law offence has the benefit of the reasonable steps exception for the offence.

(2) It is evidence that the defendant took reasonable steps to comply with the heavy vehicle road law if the defendant complied with all relevant standards and procedures under a registered industry code of practice, and with the spirit of the code, in relation to matters to which the failure to comply relates.

Note 1 ***Registered industry code of practice***—see s 222.

Note 2 The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) However, subsection (2) is not available unless the defendant gives notice of intention to establish the matters mentioned in subsection (2) to the prosecution at least 28 working days before the day when the matter is to be heard.

5
Clause 200 (3)
Page 100, line 23—

omit

if the officer or person believes that—

substitute

if the officer or person believes on reasonable grounds that—

6
Proposed new division 2.5.4
Page 117, line 2—

insert

Division 2.5.4 Registered industry codes of practice

222 Meaning of *registered industry code of practice*

In this chapter:

registered industry code of practice means an industry code of practice that is registered by—

the road transport authority under section 224; or

a corresponding road transport authority under a corresponding heavy vehicle road law.

223 Guidelines for industry codes of practice

(1) The road transport authority may issue guidelines about the preparation and contents of an industry code of practice.

Note Power to make an instrument includes power to amend or repeal the instrument (Legislation Act, s 46).

(2) The guidelines may make provision in relation to—

(a) the review of a registered industry code of practice; and

(b) the period for which registration, under section 224, of an industry code of practice remains in force (unless sooner revoked).

(3) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

224 Registration of industry codes of practice

(1) This section applies to an industry code of practice prepared in accordance with the guidelines under section 223.

(2) The road transport authority may register the industry code of practice.

(3) The registration of an industry code of practice may be conditional.

(4) Registration of an industry code of practice remains in force (unless sooner revoked) until the earlier of the following:

(a) the end of the period of effect (if any) stated in the instrument of registration;

(b) the end of the period (if any) stated in the guidelines.

(5) The registration of an industry code of practice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(6) The registration instrument must include the industry code of practice being registered by the instrument.

7
Dictionary
Proposed new definition of *registered industry code of practice*
Page 248, line 2—

insert

registered industry code of practice—see section 222.
