Debates

WEEKLY HANSARD

SEVENTH ASSEMBLY

Legislative Assembly for the ACT

11 NOVEMBER 2009

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Wednesday, 11 November 2009

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The Assembly met at 10 am.

(Quorum formed.)

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

Education Amendment Bill 2009 (No 2)

Mr Doszpot, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR DOSZPOT (Brindabella) (10.03): I move:

> That this bill be agreed to in principle.

Mr Barr: Mr Speaker, on a point of order: I seek your ruling under standing order 136 that this matter is in fact the same in substance as the bill which I introduced and which was debated in this Assembly only in the last sitting. Under standing order 136, the Speaker may disallow such a matter if it is brought on in the same calendar year. Given that all that Mr Doszpot has done is to take out my name and insert his own and make one other change to the bill, it is exactly the same in substance as what we debated three weeks ago. And in fact the specific change he made is an amendment that the Assembly considered at that time.

MR SPEAKER: Thank you, Mr Barr. I am aware of standing order 136. However, neither you nor I have actually seen the bill yet. Yes, we now have the bill physically in front of us. I am not in a position to make an immediate ruling on that. I will hear Mr Doszpot's introductory speech. I will consider the bill and I will make a ruling at a later time, before the bill comes back for debate.

Mrs Dunne: On the point of order: I would like to point out that it is up to the Assembly whether or not we debate this. The Assembly can suspend standing orders, if we so choose. And that is something that you need to have in mind when you are making your decision.

MR SPEAKER: That is my understanding of the standing orders. On the advice of the Clerk, I will consider the bill. I will consider whether it breaches standing order 136. I will then give my ruling to the Assembly, at which point, if I rule the bill out of order, Mr Doszpot or you will be allowed to move a suspension of standing orders to proceed with the bill. That is an option that you can pursue if I find that the bill breaches standing order 136.

MR DOSZPOT: The bill sets out to provide autonomy for our principals and parity with other jurisdictions when it comes to suspension powers. For the record, in

response to an erroneous article in the *Canberra Times* today, there is no such thing as plagiarism in legislation, only precedent. The minister is well aware of this but once again has chosen to misinterpret my intent. If anything, the minister should recognise that we have given due credit to the work undertaken by his department and that we agree to the fundamental premise of empowering our principals. There is no need to reinvent the wheel.

I will also note for the record that Mr Barr and Ms Hunter have both been in possession of a draft copy of this bill since Friday last week, and there should be no argument that we have not given the minister time to address with me directly any concerns he may have had. Yet, even as late as yesterday morning, he was quoted as saying that he had not read the bill.

The bill I present today is an important bill and one that we, the opposition, felt should not be ignored and left for introduction at a later date next year. It is important to introduce this bill now and give principals that extra autonomy and the power to make decisions as they see fit. This Assembly has the power to make this decision over the next few weeks and I would ask both the government and our Green colleagues to reconsider their position.

I have criticised this minister previously for his high-handed, my way or the highway approach to his portfolio, and there is no better example than this reprehensible attempt at avoidance of debate. What is even more amazing is that the legislation that the minister has stated that he will try to block is totally based on Minister Barr's own bill.

When this issue was last before the Assembly, the Canberra Liberals proposed an increase in the powers our principals have to deal with antisocial issues. Mr Barr and the Greens voted against that proposal. Then Mr Barr criticised the Greens and the Liberals for delaying this bill for 12 months and delaying the process of change.

Minister, we are back in three weeks and the ball is in your court to put your credentials out there for all to see. Are you going to oppose for the sake of opposing or are you willing to accept that we have made compromises in good faith and now we and, more importantly, the community are looking to you to join with us in moving forward?

The education minister, Andrew Barr, indicated through the media all day yesterday, even before he had looked at our bill, that he will refuse to even talk about giving school principals stronger suspension powers and intends to use a parliamentary loophole to block this legislation that would give ACT principals the same powers as their New South Wales counterparts and the principals of independent schools in the ACT.

My intention was to bring forward legislation supporting our teachers and principals before the end of this year so that our school principals can start the new year with the new provisions in place. Mr Barr's threatened action will mean that may not happen. However, the loophole he has indicated that he will use will only last until the end of the year and, if his obstinacy continues and the bill is blocked by him, I will most certainly bring it forward again in the new year.

Then Mr Barr will have to debate the issues and tell the community why he will not support our principals. He will have nowhere left to hide. We have no intention of giving up on this important reform for our school principals or be blocked by pathetic processes of avoidance.

We have to acknowledge that the government and the opposition agree on the fundamental premise of this bill. This we cannot argue. We both agree, unlike the Greens in this instance, that the passage of this bill will make a difference to the day-to-day operation of our schools. This bill is totally based on Minister Barr's Education Amendment Bill.

There is an incredible irony in this exercise. Should Minister Barr choose to vote against this bill, then he will be voting against about 15 clauses that he himself presented to this Assembly a few weeks ago. There are only two changes that we have made, changes that are relevant.

The one element we disagree on is the maximum number of days a student can be suspended, which seems like a ludicrous point of difference on the surface. The bottom line, and the reasoning behind the opposition recommending the maximum of 20 days, is that this will provide parity between the ACT and New South Wales and parity between government and non-government schools.

Consider the following dichotomy. In Queanbeyan a government school principal has the authority to make a decision as he sees fit. In a Canberra government school the principal does not. On the other hand, an independent school principal in Canberra has the same ability as his New South Wales government school principal counterpart has.

Minister Barr, why the double standard? Why do you not trust our school principals in the government schools in Canberra? The government are quite content for us to have parity with New South Wales on many policies and laws. However, only when it suits them. The minister has chosen in this instance to be belligerent and dig in his heels, to the detriment of the ACT.

It is good enough for the government to use the argument of providing an equal playing field and argue that the states should be united when it comes to the Education Participation Bill, as he did yesterday. Only yesterday in this chamber he was telling us the benefits of parity with other states, and we agreed with him. We supported his Education (Participation) Amendment Bill, and not through gritted teeth, minister.

Minister Barr, you have the opportunity to work together with us again this morning for the benefit of the ACT. Or you can confirm that it is the government who are opposing for the sake of opposing, to coin a phrase. It is the government who steadfastly refuse to acknowledge that we may have a point, that it may be worth while for us to be in line with the policy in New South Wales, that it makes sense to have the same autonomy within Catholic and government schools as independent schools in the ACT.

Currently, the Education Act 2004 has a different provision for suspension powers within independent schools. Principals at these schools already have the ability to

suspend a student for up to 20 days. The bill the opposition is introducing today will also afford the same autonomy to both Catholic and government schools that is already afforded to independent schools.

We can say it again and again but the reality is that suspension for a maximum amount of time will be rarely used. But again it is the principle of the issue. If the need arises, the school itself is best placed to find a way forward—and in some cases it may be the only way to move forward—and that is to have a circuit breaker, at the discretion of the principal.

Suspension is certainly not the only answer to antisocial behaviour in ACT schools but it is a valuable tool that should be made available to the principals who are at the coalface. They and they alone are best placed to ascertain the necessity and the efficacy of this tool. However, when suspensions are sanctioned for a significant length of time, they should be accompanied by guidelines that provide support for both the student and the school community and ensure the best possible outcomes for the suspended student to be reintegrated into the school community.

After my consultation with the relevant stakeholders, the bill today includes a provision for the department to set out guidelines for principals to ensure that the re-entry of a student is as supportive and streamlined as possible. These guidelines will be set down by the department and will no doubt incorporate some of the policies that already exist within the system.

The difference is that the focus will now be on these policies, and the requirement for guidelines will ensure that these policies are formalised and acknowledged as best practice for principals. The requirement for guidelines will ensure that all parties are aware that the re-entry of a student will be supported, consultative and as smooth as possible for everyone—for the student and his or her family as well as the school and the school community.

This topic has generated considerable interest in the community and we have had a lot of support from parents who are urging us to take a stand on their behalf. An example of the feelings in the community is also exemplified by the following letters to the editor in Monday's *Canberra Times*. I quote from two letters under the heading "School discipline":

> Trevor Cobbold ("Get tough policies … " November 5, p15) may be right in saying that increasing periods of suspension is counterproductive for the individual student. However, periods of suspension no doubt give the other 30 students in the class, and the teacher, much needed respite and a chance to get on with learning. Surely, the other children deserve some consideration in the management of disruptive students.

That was from a C Thomas of Deakin. The other letter was:

> While Trevor Cobbold rightly recognises that schools could do more to address student misbehaviour, he appears unsympathetic to the immediate problem that schools face in meeting the conflicting goals imposed on them.

> Schools are charged with the task of teaching those who wish to learn and rehabilitating those who disrupt.
>
> The desire for longer suspensions reflects the frustration, felt in many schools, that the time and energy required to attempt to rehabilitate a relatively small number of recalcitrant students is presently done at the expense of the ability of teachers to meet the educational and social needs of the majority of students.
>
> A public debate about how to achieve an acceptable balance between these expectations is overdue.

That was from Mr Schwarzer of Turner.

The question is: should our principals have the autonomy and the ability to determine appropriate actions for students in their own schools? The answer is yes, they should, and my colleagues in the opposition and I stand here today ready to champion this right.

I commend this bill to the Assembly and encourage the government to reconsider its previous position and vote to give parity to ACT principals both within our own ACT education sector and across most Australian jurisdictions. I also encourage the ACT Greens to reconsider their position and listen to what the principals and educators are telling them, that this is not about whether a child should be suspended at all; it is about trusting the judgement of our principals and ensuring that they have every possible opportunity to address issues as they arise in their schools.

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

Civil Partnerships Amendment Bill 2009

Debate resumed from 26 August 2009, on motion by **Mr Rattenbury**:

> That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.17): The Labor government will stand firm today on its commitment to the removal of discrimination against gay and lesbian people in our community and will be supporting this bill. I will be moving some small yet significant and supportive amendments to the bill which I will deal with in some detail later in my speech.

Most members will be aware that the government's record on same-sex relationships and on removing discrimination against same-sex relationships is a strong one and that this bill which we are debating today contains the same provisions that were in place in the government's 2006 bill, which was threatened on a number of occasions with disallowance by the commonwealth. The ACT agreed to a compromise on that occasion to allow same-sex couples to register their relationships and to have an optional ceremony that would, sadly, have no legal recognition. This compromise was

accepted with great reluctance by the government, as we had proceeded on the basis of the commonwealth's then assurances that it would allow state and territory governments to decide their own position on the issue of recognition of same-sex relationships.

To date, the rationalisation provided by the commonwealth for its opposition to our 2006 bill, the Civil Partnerships Act, has been the repeated but unsupported assertion that the legislation was inconsistent with the commonwealth's Marriage Act. Our disappointment in the commonwealth position has been compounded by a lack of logical argument presented against the 2006 act which, as we all now know, was finally found to be acceptable to the commonwealth only when it had been sufficiently watered down.

The much vaunted federal review of legislation to remove discrimination against same-sex couples has made some significant gains. However, as we all suspected at that time, that belated recognition of rights was qualified, once again, to isolate same-sex couples from the rest of the community. The commonwealth government, quite deliberately, did not allow same-sex couples to attain truly equal rights under law for relationships, surrogacy, adoption or IVF conception. The reforms were, in the terms of the recognition of the rights of all citizens, only windows; an exercise in well-intentioned yet adverse discrimination. They gave same-sex couples greater access to legal rights but did not do this across the full spectrum of rights. More importantly the reforms did not acknowledge or respect same-sex relationships as being equal in our society to opposite-sex relationships, and that is, in our view, a fundamental element of the legal recognition of civil partnerships.

I would now like to turn to some of the elements of this debate, and the first is issues around the application of the Marriage Act. The commonwealth Marriage Act clearly intends to cover the field in relation to relationships of marriage between a man and a woman. That may have been a debatable motion before 2004, but any doubt about the matter was removed by the then Howard government's amendments to the Marriage Act, which now states that "marriage" means the union of a man and a woman to the exclusion of others voluntarily entered into for life.

Former Attorney-General Philip Ruddock said in his explanatory memorandum:

> The purpose of the Marriage Amendment Bill 2004 … is to give effect to the Government's commitment to protect the institution of marriage by ensuring that marriage means a union of a man and a woman and that same-sex relationships cannot be equated with marriage.

It is important in this debate that we understand the significance of those amendments and, in particular, the debate that is now occurring in the commonwealth parliament to remove those discriminatory provisions from the Marriage Act, which is currently being considered by a Senate select committee.

The local bill restores provisions to the Civil Partnerships Act that allow a formal ceremony to take place. That is no more inconsistent with the Marriage Act than is the process of registration itself, and the commonwealth government has been

unforthcoming about its assertion that a ceremony equates with mandatory provisions for solemnisation of a marriage. However, the government believes there is a need to make that distinction between marriage and civil partnerships even more plain. On the basis of legal advice which the government received from two eminent QCs, including the current commonwealth Solicitor-General, Stephen Gageler QC, in 2008, it is clear that the provisions for a ceremony are available to a man and a woman who wish to enter into a civil partnership, but the bill might be argued to be inconsistent with the Marriage Act on the basis that the proposals in the bill for a civil partnership contain some of the indicia of a marriage—that is, a marriage-like ceremony involving a man and a woman.

The Marriage Act does not, however, address relationships between same-sex couples, and it cannot now be argued that it does. Hence, it is arguable that an act providing for the recognition of a relationship between same-sex couples, whether or not that relationship is recognised by a ceremony, is not inconsistent with the Marriage Act. Indeed, our advice from counsel is that the matter is removed from all doubt by the amendments made to the Marriage Act in 2004 by the coalition government. In simple terms, a civil partnership with a ceremony between people of the same sex cannot be marriage, because marriage under the commonwealth Marriage Act is defined as being between a man and a woman. Therefore, these amendments and the provision for a ceremony do not offend the Marriage Act.

This new bill, when coupled with the amendments that I will be proposing, will make that argument of inconsistency unavailable to the commonwealth. Whilst maintaining and reinforcing the original intentions of the bill, the government will propose amendments that will avoid any inconsistency with the Marriage Act that might arise by allowing a ceremony to take place when the parties are a man and a woman. It is important to remember that currently a civil partnership regime is available in its entirety to heterosexual couples also. The effect of the first government amendment will be that a man and woman may not declare their relationship in a ceremony, but they may apply for registration. The option to undertake a ceremony would, therefore, only be available to same-sex couples. Although this amendment may appear discriminatory in nature, any element of discrimination is, unfortunately, made necessary by the commonwealth's affirmation of the discriminatory nature of the Marriage Act.

It is important to remember that a man and a woman have other options under the Marriage Act, and the government amendment takes away from them nothing that they had before. It simply does not positively confer on them the ability to undergo a ceremony under the Civil Partnerships Act. This is being done to avoid any inconsistency with the Marriage Act.

Turning to the issues around discrimination, as members are aware, positive discrimination is a form of affirmative action designed to directly redress the disadvantage that groups of people have experienced in the past. It is based on the premise that discrimination is appropriate in some situations to achieve equity within our community. The ACT Discrimination Act, as well as the commonwealth act, provides for special measures, or positive discrimination, to improve the situation of a group whose rights have been ignored in the past.

It is quite clear that the amendments to the commonwealth Marriage Act in 2004 operate in a discriminatory manner by specifically referring to a union between a man and a woman. The consequence of a definition framed in these terms is quite deliberately to expressly exclude same-sex couples, suggesting that the former coalition government feared that they might otherwise have been included in the Marriage Act. The effect of the current definition in the Marriage Act is that a sufficient number of Australian citizens are left without the full range of legal rights and protections that are conferred by marriage solely on the basis of their sexuality or gender.

To avoid any inconsistency with the Marriage Act, therefore, the government has been left with no choice but to move amendments that will positively discriminate in favour of same-sex couples in order to gain an appropriate and previously absent recognition of their rights. The current discriminatory provisions of the Marriage Act convey a message that same-sex relationships are inferior and not deserving of the same respect and recognition as relationships between heterosexual adults. Same-sex couples should, in the government's view, have access to choices similar to those enjoyed by heterosexual couples for the recognition of their relationships.

Now, of course, the other issue at play here is the right of this place and this territory to make laws for same-sex couples and to provide for legal recognition and equality before the law. The issue at stake is the power vested in the Assembly to make laws for the governance of the people of the territory, subject to the understood position that only the commonwealth may legislate in relation to some matters. Marriage is only one of those matters. The recognition of civil partnerships is not one of those matters if legislation to legally recognise those relationships does not take the form of an ACT marriage act.

The Greens have indicated the importance of their bill in maintaining pressure on the commonwealth to promote equality for gay and lesbian people in the ACT. The Labor Party welcomes the Greens' support for and commitment to this process, a process that we have championed for a long time. In addition, this bill will also place political pressure on the commonwealth to acknowledge our right as a self-governing territory and to acknowledge the power vested in the Assembly to make laws for the governance of the people of the ACT. The people of the ACT are responsible through their elected representatives for their own governance, and this bill should be allowed to stand when it is passed today.

Those are the essential elements of the government's reforms and the government's amendments to this bill. The government believes strongly that there is a need to ensure that at all steps those who are in same-sex relationships are not discriminated against in our community and that, equally, where there is an opportunity to provide for legal recognition of the important and solemn act of choosing to enter into a relationship with another before friends, family and the community at large, it should be able to be made available through a legally recognised and binding ceremony. The government will be supporting this bill today and supporting it with the amendments that I have outlined to the Assembly.

MRS DUNNE (Ginninderra) (10.29): It will come as no surprise that the Canberra Liberals will be opposing this bill today. The Canberra Liberals have been consistently in a position that the creation of ceremonies to solemnise civil partnerships creates a marriage-like occurrence which offends against the commonwealth Marriage Act. The Canberra Liberals believe in marriage as defined in that act, and stand by the principle in that act that marriage represents the exclusive union between a man and a woman voluntarily entered into for life.

When this matter was first dealt with in 2006, we held the view that the civil unions law was flawed because it was a breach of the commonwealth Marriage Act. Section 51(xxi) of the Australian constitution gives the commonwealth the power to legislate in respect of marriage. This is a point that other members in this place have failed to understand over the years. Twice since 2006, commonwealth attorneys-general of both stripes have dealt robustly with the ACT on these matters. I cannot see that anything we do here today will change that situation, and we can fully expect another intervention from the commonwealth in relation to this matter.

It was interesting to note, in passing, a constituent saying to me only recently that if we have done this twice already and the commonwealth has knocked down the provisions, why are we doing it again? I think this is an important question that the government, in particular, must ask. Why is the ACT again putting itself in a situation where it is robustly in opposition to the commonwealth, knowing what the commonwealth would do in this matter, when there are serious matters that we want to deal with with the commonwealth?

It is interesting, for instance, that just this year we have approached the commonwealth for a review of the self-government act and some of the provisions in that, and that seems to have been turned down. While we are in a position where we should be negotiating about the constitutional basis of this territory, it is unfortunate that, for a third time, we will run this argument up the flagpole only to have it knocked down by the commonwealth.

Currently, the Civil Partnerships Act allows couples wishing to enter into a civil partnership to apply to the registrar for registration of their partnership. The bill we are debating today, the Civil Partnerships Amendment Bill, seeks to extend that arrangement so that a legally binding partnership can be established upon the declaration of that partnership in a ceremony. The bill provides that a couple, regardless of their sex, can make that declaration. There are, as the attorney said, amendments afoot that will change that emphasis somewhat. This ceremonial declaration of a legally binding civil partnership is in much the same manner as a marriage ceremony under the commonwealth Marriage Act 1961, in which a man and a woman solemnise their relationship in a legally binding declaration.

As I have said before, the ACT government attempted similar provisions in 2006, at which time the federal coalition government rejected it on the basis that under the Marriage Act 1961 a "marriage" is defined as a union between a man and a woman. The federal government has continued to make it clear that it will not support legislation that challenges the Marriage Act.

Some time after the ACT's provisions were knocked down by the previous government, the ACT sought legal advice on further amendments to the legislation. In essence, that legal advice, which only came to light well over a year after it was written, says that the problem with the proposed ceremonial declaration of a civil partnership is that it allows a heterosexual couple to make that declaration and that that is the thing which offends against the Marriage Act. Furthermore, in doing so, it also allows same-sex couples to make that declaration. Thus, by extension, these arrangements challenge the definition under the Marriage Act.

I wonder whether the proponents of the bill from the Greens have questioned the attorney as to why it has taken so long for this advice to see the light of day. If this advice had been available when the government last proposed this issue or when the government fell foul of the now Attorney-General, Mr McClelland, it surprises me that it did not come to light at that stage. Why has it taken so long for the government to act on what they seem comfortable with at the moment?

Having read the advice and having sought advice on the advice, I think that we are in a situation where the government is not really very confident about its own advice, and there are some tendentious matters in that advice which I will address when we deal with the amendments. There are matters here which go to the heart of the Australian constitution. It has been the view of the Canberra Liberals that we should not be trespassing on the rights of the commonwealth in this matter, because it needlessly creates fights and undermines the relationship of the ACT with the commonwealth. It is the view of the Canberra Liberals that there are greater things at stake in our relationship with the commonwealth than this matter, which is being tried for the third time.

Suffice to say, the government, in their amendments, are seeking to get around what they understand are the constitutional issues by amending the Greens bill to exclude heterosexual couples from being able to participate in a ceremonial declaration of a civil partnership. The reason for doing that is that they would be able to undertake a ceremonial declaration under the Marriage Act. Regardless of the form that the civil partnership finally takes, a ceremonial declaration still closely resembles that of a marriage, and on that basis it will offend against the Marriage Act. It is almost certain that the commonwealth will intervene, and the government's under-the-counter approach to circumventing the Australian constitution will not fool the commonwealth government.

A civil partnership ceremony still looks like a marriage, it still sounds like a marriage, it still feels like a marriage, therefore it probably is a marriage. As such, it will challenge the commonwealth's Marriage Act. This is the main reason why the Canberra Liberals will be opposing this legislation.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (10.37): In responding to Mrs Dunne's contribution and in speaking in support of this bill and the proposed government amendments, I think it is worth placing on the record some key statements of principle that need to be aired in this debate.

I have been on the record as saying I have had some concerns that there was a lot of politicking going on in relation to this issue. I would like to take this opportunity to put on the record my view that those issues have been addressed and that I have been very pleased with the change in the tone of this debate from when it was first raised as some sort of internal Labor Party issue about the relationship between the ACT branch of the Labor Party and the federal branch of the Labor Party and how that would play out. This debate has turned to what it should be about—that is, recognising relationships across our community. And recognising the strength of same-sex relationships, and recognising and supporting loving, caring relationships, regardless of the sexuality of those involved, is what this debate should be about. I am very pleased that that is the direction it has taken.

This is the third time, in my short period in this Assembly, that I have had the opportunity to speak in support of legislation that makes a significant difference to the lives of many Canberrans. I am frustrated on one level that we have to come back here again and debate this matter. I said, in May 2008, when the compromise civil partnerships legislation was passed, that it was just that—a compromise. It was something that caused a great deal of angst and pain for those of us who championed this reform going back over many years. I first moved a resolution in ACT Young Labor in the year 2000 to start this law reform process.

So, on one level, there is a tremendous amount of pride in what has been achieved over the course of this decade, in that so many territory laws, and now so many federal laws, have changed. I do want to acknowledge the contribution that has been made by Mr Stanhope as Attorney-General and Mr Corbell locally, and the support of the Greens party, and indeed the Democrats when they were in this place, towards that significant law reform process. It is something that I know was personally difficult for some members, but they stuck through all of the hatred and all of the insults that are thrown at progressive members of parliament who seek to make this social change.

I have said many times before in this place that good governments seek to lead on important social issues, that good governments set the agenda for their communities and that they govern as leaders, not as followers. So I am very proud to be a member of a government, and indeed very proud to be a member of a parliament, that believes that all loving and committed relationships deserve to be treated equally and to be celebrated.

I think it is a matter of considerable pride that this parliament has taken that action and continues to support loving, caring relationships. Strong relationships deliver important benefits to us all. I think we all define ourselves in some way by who we choose to share our lives with, and that love, trust, intimacy and commitment are found at the heart of all good relationships. I am very proud to live in a community that encourages, empowers and protects couples who want to make their relationships loving, who want to make them long term, stable and committed.

I am proud that this parliament today will send that signal that my relationship with Anthony is equal to any other in this city. But I am frustrated that, in November 2009, there is still a debate and we still have to compromise on achieving full legal equality.

Civil partnership is not a wedding, and the laws that hopefully we will pass today have been framed to avoid conflict with the commonwealth Marriage Act. I am left wondering why it is that same-sex partners are not able to stand up in front of their family and friends and to receive the formal blessing of the state for their union.

Gays and lesbians are part of our community. We are not nameless, faceless people. We do not live on the margins of society. We deserve respect and the same dignity that is afforded to others. And we deserve equality. Legal equality is not only functional and practical but it is highly symbolic. It allows us to hold our heads up high as equal members of the community and to celebrate our relationships. Fundamentally, it is about dignity. I can see no good argument for allowing only opposite-sex couples to formalise and celebrate their relationships and then to deny that right to same-sex couples.

Those who oppose gay marriage or civil partnerships frequently talk about its alleged dire effect on families. I think this ignores the fact that gay men and women have families too. We are sons and daughters, we are brothers and sisters, we are cousins, we are aunts, we are uncles—indeed, we are parents. So let me say how pleased I am that this parliament will seize the opportunity to support family and to plainly say that no-one deserves to be excluded simply because of his or her sexual orientation.

This is about drawing a line in the sand. It is about standing up for your principles. What I find remarkable in the contribution from Mrs Dunne is that there was no real comment on the principle at stake here. On one level I just wish the Liberal Party would clearly state their view on the substance of the issue and not seek to hide behind politicking around the relationship between the ACT and the commonwealth. That is a pretty weak position to adopt. The relationship between the ACT and the commonwealth is robust enough to survive this sort of debate, and principles are what matter. In the end, I think the commonwealth government will respect the fact that this parliament and this government are prepared to stand up for those principles.

Before closing, I must say let us hope that today is not the final word on the recognition of same-sex relationships in Australia. As I said at the beginning of my speech, a lot has changed, and it has been really positive. But this represents only one part of this country, and it is still the case, in the amendments that the Attorney-General will be moving, that there is a distinction between marriage and civil partnerships. I know there are many who will continue to campaign for full legal equality and for the definition of marriage to be opened up to all couples in this country. That fight will continue. I think that the decisions we take today send an important message not only to the Canberra community but to the rest of the country that these issues will not go away. The direction of social change is only going in one way, and I think that is another thing to take from today's debate.

I am thrilled that the Tasmanian government is taking further steps to recognise same-sex relationships in their jurisdiction. The changes that they propose have greater constitutional protection than we have as a territory, and that is important. I called 18 months ago for Victoria and Tasmania, as the two other leading jurisdictions in this country, to take further steps, and both governments, both Labor governments, have, and it is to their great credit.

I think same-sex couples elsewhere in Australia will rightly feel disappointed that their state governments in Queensland, New South Wales, South Australia and Western Australia are not following the lead of the ACT, Victoria and Tasmania. That, of course, remains unfinished business in those jurisdictions.

Finally, may the message we send today resonate across this country that this issue will continue to be fought for, that we will continue to argue for full legal equality. I thank members very much for their support of this legislation and, in particular, Mr Rattenbury for bringing it forward and the Attorney-General for his considered amendments. I think it is a triumph for the progressives over the conservatives, and that can only be good for Australian society.

MR RATTENBURY (Molonglo) (10.48), in reply: In rising to make this speech in reply, I would like to acknowledge the support for this bill by those members in this chamber who are here today to help us to move forward and end discrimination. I would particularly like to acknowledge the attorney's efforts in working with the Greens to find the best way forward on this bill, and to also acknowledge Mr Barr's very articulate and quite personal contribution to the debate, which I think summed up the issues we are discussing very well.

I am deeply saddened that there are those in this place who are happy to sit back and allow discrimination to continue, that there are those in this place who are not prepared to help end the prejudice and that there are those in this place who are not able to articulate a good reason as to why they take that position.

This is a bill to introduce legally recognised ceremonies into the Civil Partnerships Act 2008. A legally recognised ceremony will ensure that appropriate weight is given to the public act of entering into a civil partnership. This bill will ensure that all couples, regardless of sex, have access to a ceremony.

Under the amendments foreshadowed by the government, heterosexual couples have access to ceremonies under the Marriage Act, and under this bill all other couples in society will have ceremonies under the ACT Civil Partnerships Act. This is a step forward for same-sex couples in the ACT. It is not marriage equality for all couples. It should not be seen as a substitute for marriage equality but it is a step forward.

Society places great importance on publicly officiating on the most important occasions in a lifetime. Entry into a civil partnership is one such life-changing moment and deserves the full recognition possible under ACT law. The provisions of the bill give full legal weight to a public declaration of love and shared commitment.

Providing equal access for all couples to legally recognised ceremonies is about equality, decency and respect. Equality—in providing all couples, regardless of gender, with access to a legally recognised ceremony. No longer will heterosexual couples have access to a ceremony under the Marriage Act while same-sex couples are confined to a paper-based registry process. Decency—in that we are removing the current unfair and confusing situation where a couple are free to hold a celebratory ceremony but one which has no legal effect. And the bill is about respect and dignity

in acknowledging that there is a legitimate place for all couples in society and making a place for them. It is about the respect, love and shared commitment that all couples have, and allowing for that to be publicly demonstrated, formalised and celebrated.

Before concluding, I feel I must comment on some of the topics raised in the debate today, particularly those raised by Mrs Dunne. The question has been: "Well, why try a third time? This has been knocked back by the federal government twice already." The fact that it has been knocked back twice already is not a good reason to not keep trying. Nothing ever happens if you do not keep striving for change. Only those who strive for change achieve change.

The Greens felt that now was the right time to make another attempt because the world has moved on. Unlike the Liberal Party, the world has moved on. There is an acceptance in Australian society that we should have equality for all couples who want to enter into a loving and committed relationship, and that is why we should keep striving. We should not be cowed by the federal government; we should do what is the right thing, and this is the right thing to do. That is why we should keep striving to do it.

The other comment I would like to touch on is this observation: "The problem with this act is that it mimics marriage." I do not think that is a very substantive basis on which to come in here and oppose this legislation that seeks to end discrimination. I have not heard one good reason why mimicking marriage is a problem. I have not heard one statement of principle from the Liberal Party as to why that should not be the case. I would hope that, somewhere down the line, we can see a change of position, a commitment to ending discrimination, a commitment to moving forward in this country.

I mentioned earlier the ongoing campaign for marriage equality. I would like to reiterate my support for that campaign. The Greens do not see the provisions we are passing today as full marriage equality but as a step along the road in a seemingly long campaign for equal rights for all in forming loving relationships. Full marriage equality will only occur when the federal government acknowledge that their current model of marriage is discriminatory and when the federal Marriage Act is changed. I will speak about this further when we come to the detail stage and discuss the amendments.

We in the ACT community who have worked for this change should be confident that that federal change can happen. There is an opportunity for it to happen. But I think today we should take the opportunity afforded by this bill to publicly celebrate love and have a renewed focus on working to advance equal rights for all. I thank members for their support for this bill and I look forward to the discussion about the amendments.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 9		Noes 4
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Rattenbury	Mr Hanson
Ms Gallagher		

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 5, by leave, taken together and agreed to.

Clause 6.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (10.58): I move amendment No 1 circulated in my name *[see schedule 1 at page 4908]*.

This amendment adds words at the beginning of proposed new paragraph 6A(b) to provide that; unless the couple are able to marry under the Marriage Act, they may, under this act, make a declaration before a civil partnership notary. Since the Marriage Act now states that marriage is a union of a man and a woman, it is necessary to exclude those couples and many provisions of the Civil Partnerships Act that may be thought similar to a marriage ceremony. So this is a provision that deals with heterosexual couples being able to access a ceremony through the provisions of the Civil Partnerships Act.

I refer members again to the considered and lengthy opinion that the government has received from Mr Jackson QC and Mr Gageler SC that indicates that, insofar as the territory makes laws to provide for a ceremony between a man and a man and a woman and a woman, it is not contrary to the Marriage Act. But insofar as we may make laws that provide for a legally recognised ceremony between a man and a woman, it is contrary to the Marriage Act.

This is the issue that the government is seeking to put beyond doubt. I was absolutely stunned that the shadow attorney-general stood up in this place, having had the benefit of reading this detailed opinion from Gageler and Jackson, and simply dismissed it without any supporting argument whatsoever. She said she had received advice on the matter—

Debate interrupted.

Remembrance Day

MADAM DEPUTY SPEAKER: Members, as it is now 11 am, I ask you to stand for one minute's silence.

Members rising in their places—

MADAM DEPUTY SPEAKER: I thank members.

Civil Partnerships Amendment Bill 2009

Debate resumed.

MR CORBELL: As I was saying, I was absolutely stunned to see the shadow attorney-general, having had the benefit of this detailed opinion from Gageler SC and Jackson QC stating that there is no question as to the constitutionality of same-sex civil partnership ceremonies, come into this place and dismiss it out of hand without any contrary evidence whatsoever. What an intellectually bereft position for the Liberal Party to adopt in this debate: to use as their main argument against this bill that it offends the Marriage Act; to have an opinion from two of the most eminent constitutional lawyers in the country, one of whom is now the commonwealth Solicitor-General, saying it does not offend the Marriage Act, and then just to dismiss that out of hand without any other argument, without any other evidence. What a morally bereft position, let alone an intellectually bereft position.

I urge members to read this opinion again. The summary, which is, of course, brief and concise, says it all:

> For the reasons we have given, we consider that the Bill, if enacted, would be:
>
> consistent with the Act—

that is, the Marriage Act—

> and valid to the extent that it would provide for the entering into of a civil partnership between a man and a man or between a woman and a woman;

There would be no infringing of the Marriage Act whatsoever. What the Liberal Party's position really discloses is the fact that they are prepared to perpetuate discrimination against same-sex couples in this city and refuse them the legal recognition of their relationships that they are entitled to, under not only this law but the constitution, as is consistent with this opinion.

This amendment clarifies the constitutional position and ensures that it does not impinge on the Marriage Act by excluding heterosexual couples from being able to access a ceremony under this act.

MRS DUNNE (Ginninderra) (11.03): The Liberal Party will be opposing this clause for a variety of reasons, the first of which is that it creates another level of discrimination in specifically excluding entire classes of people. For as long as this matter has been dealt with in this place, there has been a discussion about the desire to remove discrimination. It is interesting to hear the attorney today turn that around and say that this is discrimination which is okay.

There is a problem with the opinion, which is an opinion. Yes, it is an opinion by learned silks and therefore it must be given due consideration, but it is an opinion. There is the capacity for every agent in this place to go and find an opinion that would come to a different conclusion. What this opinion essentially says is that because the commonwealth—

Mr Corbell: This is Vicki Dunne QC.

MRS DUNNE: From Simon Corbell QC, yes. What this opinion essentially says is that the commonwealth have legislated in a particular way which is essentially narrow and it therefore means that the states and the territories can legislate up to the point where the commonwealth have ceased to legislate. The logical conclusion of that would be—and this was an example that was given to me—that, as the commonwealth have legislated in relation to corporations and they do so to a particular degree, if someone could come up with a different model of corporations that did not impinge upon the commonwealth's definition of a corporation then the state could legislate for corporations in that way. That is essentially what this opinion says, and that is the logical extension of that.

My concern, the concern of my colleagues and the concern of the people who advise us is that what we are doing here, in appearing to go as far as we possibly can with not impinging, is actually mimicking what is already legislated for in the commonwealth.

I understand the merit of the argument, and it is an ingenious argument, but it is not an argument that the Canberra Liberals are prepared to support by their vote. What we are doing here today is creating a discriminatory mechanism as a sort of work-around, to try and get around the issues that this Assembly is confronted with by the existence and the power of the commonwealth Marriage Act. As a result of this, the Canberra Liberals will not be supporting this amendment and will not be supporting the other amendments that go with it.

MR RATTENBURY (Molonglo) (11.07): The amendments proposed by the government today, and there is a package of them, are split into two distinct subsets. Firstly, there are those, which we are to come to, which clarify when a civil partnership takes effect, and then there are the amendments, one of which we are speaking to now, that set out which couples will have access to the ceremony option for entering a civil partnership.

The Greens, as I flagged, will be supporting both subsets of amendments. The first set of amendments clarifies that a ceremony under the amended act will have legal effect from the time the declaration is made before the civil partnership notary. This was the original intent of the Greens bill. The amendments simply set out even more clearly the effect of the ceremony, and I welcome that clarification.

The amendments are important because the original intent of the bill was to give same-sex couples access to a legally recognised ceremony. The current situation where a ceremony could take place but have no legal effect is unfair and confusing. As I said earlier, society places importance on officiating on key occasions publicly,

and our bill, combined with the government amendment, achieves that. Under the provisions in the bill, couples will be able to assemble friends and family and conduct a ceremony, confident in the knowledge that they are creating and entering the relationship at that point in time. That is a powerful and life-changing moment and is one to be celebrated.

The remainder of the first set of amendments gives full effect to that intent. For example, there is the requirement that the details of the declaration be entered onto the register of births, deaths and marriages. By including that requirement there will be recorded evidence of the date and place the ceremony was held. This entry will act as evidence of the commencement date of the relationship should the couple ever require it.

The second amendment, the one we are discussing now, put forward by the government provides that only couples who cannot marry under the commonwealth Marriage Act will have the option of entering into a civil partnership via a ceremony. The practical effect of this amendment will be that same-sex and transgender couples have access to a ceremony to enter a civil partnership under the Civil Partnerships Act in the ACT but that this option will not be available to heterosexual couples. As has been discussed already, the government has provided legal advice that this will put the ACT Greens bill on a stronger legal footing in the context of the commonwealth law and give the federal government less cause for intervention than we have seen previously.

I would like to address two important potential issues that this amendment raises. The first is that such an amendment on first glance goes against the overall intent of the bill, which is to work for equal rights for couples regardless of gender. The concerns that the Greens have with this amendment is that by establishing a discrete option that only applies to same-sex and transgender couples we would further entrench the very incorrect view that those couples are different and require special laws.

This is a very real issue and one that has given us much to think about over the past week. But we have given serious consideration to whether or not, in pursuing that policy objective of legally recognised ceremonies for all couples, we are in fact entrenching difference and playing into the argument that same-sex and transgender couples do not deserve equal access; that, rather, they deserve special laws and to be treated differently.

We have had representations from the gay, lesbian, bisexual, transgender and intersex community in Canberra on this issue. These are the very community that we hope will benefit from the legislation and they, like us, have raised a very real concern that this may be a sideways step along the path of treating couples differently on the basis of sex, rather than a step forward where we treat all couples the same regardless of sex or sexual identification. But, unfortunately, that is what has already occurred at a federal level in the Marriage Act. That is the legal landscape in which we are operating. The provisions as amended by the government ensure that the ACT is acting at the limits of its constitutional power as a territory.

It is important for me to state here clearly that the ACT Greens do not believe that what is passed in the Assembly today will be the end of the road for advancing the

rights for same-sex and transgender couples. This is not as far as the debate can or should go. It is but one step along the path to equal rights for all couples regardless of gender.

Further change must occur at a national level. That campaign for same-sex marriage is being supported by my colleague Senator Sarah Hanson-Young, who has tabled the Equal Marriage Bill and who is currently attending hearings in regard to the bill around the country. I might note that the number of submissions received to that Senate inquiry process in support of that bill massively outweigh those that oppose the right for marriage equality.

However, for us in the ACT Greens, who do share strongly the aspirations of our federal colleagues and Greens all around the country, we hope this debate is to be a national one and that having legally recognised ceremonies in the ACT adds to and builds on that campaign. But we must be clear here: what we are putting in place here in the ACT is not—I repeat: is not—a substitute for marriage equality.

A second issue that arises with the amendment is the potential claim of discrimination against heterosexual couples in the ACT who want to access legally recognised ceremonies under the Civil Partnerships Act, the point Mrs Dunne has spoken about just before my speech. On an initial reading of the proposed text, the issue of discrimination is hard to ignore. The wording will specifically exclude couples who can marry under the commonwealth Marriage Act from having a ceremony to enter a civil partnership in the ACT.

However, within that wording lies the truth about the opportunities afforded to heterosexual couples; that is, under the Marriage Act, they do have access to a legally recognised ceremony in the form of marriage. That marriage can be solemnised through either a religious ceremony or a non-religious civil ceremony. While the right to have a ceremony under the Civil Partnerships Act will be a unique legal right for same-sex couples, in effect the Marriage Act provides heterosexual couples the opportunity to formalise, through a legally binding and public ceremony, their relationship.

The amendment proposed by the government will, we believe, reduce the legal justification for the federal government to use its powers to veto this ACT legislation. The federal government, while covering the field of marriage in the constitution, has amended the definition of marriage in the Marriage Act to be between a man and a woman. Excluding heterosexual couples from accessing ceremonies under the ACT legislation gives the federal government no excuse to override on the basis that our bill is trampling on the toes of the Marriage Act.

I note that the Chief Minister has expressed optimism that the federal Attorney-General will not be stepping in, and I hope, for the rights of same-sex couples here in the ACT, that he is right. Our original goal of giving an option of legally recognised ceremonies to create civil partnerships for same-sex couples is best achieved by accepting the amendments and we do so on that basis, noting the concerns that I have expressed.

I would like to thank those officials from the Department of Justice and Community Safety who are present in the chamber today and who have worked on these amendments and taken the time to meet with the Greens and explain those amendments to us in some detail. That background information was very useful for us in understanding the intent, the motivation and the purpose of those amendments.

While I have the floor, one area I would like to reflect on in the course of the debate already is the issue of consistency and the issue of hypocrisy. One of the worst things in public life is to be hypocritical. Sometimes that can be a point of debate—changing of positions, taking a different perspective on things. But then there is blatant hypocrisy. I would like to read from a speech given in this place on 9 December by Mr Hanson. Mr Hanson, who vociferously in the division just dealt with opposed this legislation, said on 9 December:

> I have great respect for all religious faiths and I believe in a secular society where men and women of all races and religion and those without religious beliefs are treated equally. I believe that a person's morality is measured by their actions rather than by their creed.
>
> I support individual freedoms over collectivism and I believe in choice. I believe in an individual's right to choose the school that best meets the needs of his child or her child. I believe in an individual's right to negotiate with his employer as part of a union or as an individual.
>
> I support a woman's right to choose, and I am encouraged to serve an Assembly where nearly 50 per cent of its members are women.

Finally, he said:

> I believe in advancing the rights of gay and lesbian people.

I simply put the question: given that statement, Mr Hanson, on what basis did you oppose today's legislation?

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7 agreed to.

Clause 8.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.18): I move amendment No 2 circulated in my name *[see schedule 1 at page 4908]*.

This amendment inserts a new section 8C in the bill. This new section clarifies the date of effect of a civil partnership if a couple chooses to register the date of effect as

the date of registration under section 8 of the act. If a couple chooses to make a declaration, the date of effect will be the date on which the declaration was made. This amendment is connected with my later amendment No 4.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clauses 9 and 10, by leave, taken together and agreed to.

Proposed new clause 10A.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.19): I move amendment No 3 circulated in my name *[see schedule 1 at page 4908]*.

This amendment inserts a new clause 10A in the bill, simply to insert into section 13 of the act a reference to new paragraph 8A(2)(b) which requires the provision of information relating to the people entering into the civil partnership by making a declaration. This is an amendment that merely corrects an omission of this reference.

Proposed new clause 10A agreed to.

Clauses 11 to 15, by leave, taken together and agreed to.

Schedule 1, amendments 1.1 and 1.2, by leave, taken together and agreed to.

Schedule 1, amendment 1.3.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.20): I move amendment No 4 circulated in my name *[see schedule 1 at page 4908]*.

This amendment inserts a new amendment 1.3 into schedule 1, part 1.2 of the bill. Part 1.2 relates to amendments to the Births, Deaths and Marriages Registration Regulation 1998. The new amendment 1.3 inserts requirements for information that accounts for the manner in which the civil partnership is entered into. If the couple chooses to register, the information entered into the register must be the date and place of registration. If the couple chooses to make declarations, the information must be the date and place of the declaration and the name of at least one witness.

This provision effectively puts in place the provisions that have been announced by the Tasmanian government that allow for the date of effect of the civil partnership to occur either through the ceremony, if the couple choose a ceremony, or through the registration process, through the declaration process, and that declaration can in effect occur prior to formal registration in the Registrar-General's Office.

Amendment agreed to.

Schedule 1, amendment 1.3, as amended, agreed to.

Schedule 1, amendment 1.4.

MR CORBELL (Molonglo—Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services) (11.22): I move amendment No 5 circulated in my name *[see schedule 1 at page 4909]*.

This is the final government amendment and it simply deletes the existing amendment 1.4, as this is now moved into amendment 1.3 by government amendment No 4.

Amendment agreed to.

Schedule 1, amendment 1.4, as amended, agreed to.

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

Bill, as amended, agreed to.

Wells Station Drive extension

MR COE (Ginninderra) (11.24): I move:

> That this Assembly:
>
> (1) recognises that:
>
> (a) the current proposed alignment of Wells Station Drive Extension will create problems of noise pollution, road safety and loss of urban amenity for residents in Harrison;
>
> (b) the consultation that preceded residents living in the vicinity of the Wells Station Drive Extension was inadequate; and
>
> (c) after a recent round of consultation the Government did not respond to Harrison residents' concerns; and
>
> (2) calls on the Government to:
>
> (a) abandon the current proposed alignment of Wells Station Drive Extension; and
>
> (b) redesign the Wells Station Drive Extension to an eastern alignment.

The proposed extension will cause some significant issues for residents in the vicinity of the area and for road users. I have been contacted, along with my Assembly colleague Caroline Le Couteur, by a significant number of residents who are concerned about the alignment of the road and who do not feel that the government

and, in particular, the ACT Planning and Land Authority, have given their concerns due consideration.

Both Ms Le Couteur and I have been to visit the area and have had the issues explained to us. These issues could be alleviated by an alignment of the Wells Station Drive extension to the east of a small hill opposite Carpentaria Street. This alignment would ensure there is a natural barrier between the road and the houses. The realignment would not be of any hindrance to anyone; it is a vacant area.

I will now go into a number of the problems in more detail: firstly, noise pollution. Realigning the road along the east of the small hill opposite Carpentaria Street will alleviate most of the noise pollution problems. If a sound barrier were to be built on the current proposed alignment, it would detract from the urban amenity of the area and prevent many of the children from using the area as a playground. The construction of such a barrier would be an extravagance and not as effective as a natural barrier would be, such as a hill which already exists.

In the future, in all likelihood, Horse Park Drive will be duplicated. However, given the Gungahlin Drive extension experience, I think it is quite possible that we will have to wait quite a while for that and after a real ordeal as well. However, a duplicated Horse Park Drive would increase the noise impact of an intersection if it were located on the current alignment close to Carpentaria Street.

In addition to noise pollution problems, there are general safety issues. The proposed junction of Wells Station Drive and Horse Park Drive extension will not be as safe as it could be under the realignment. The eastern alignment would allow better visibility, because at the other alignment there is poor visibility due to the hill and the shape of the road.

In addition to these problems, there are issues of consultation. Some of the consultation on this very issue, in fact, preceded residents even living in the vicinity of the proposed road. We have heard of sham consultations in the past, but now this government is consulting communities before they even exist. The recent round of consultation was just about looking good. The community was asked for its views, a report was put together, and then it was shelved when no action was taken. In this consultation period, there was even a mistake as to the email address, and for nine out of 10 days, the consultation had little or no chance of actually working because of that incorrect email address. Despite this, between about 30 and 40 residents were able to make submissions.

Earlier this year, I signed a letter with Caroline Le Couteur to ask the government what it would do to respond to constituents' concerns. We asked the government to:

> … re-examine this issue and seek to re-align the road to ensure the continued urban amenity of Harrison residents, and the highest possible safety of road users in this area. This should be done as soon as possible …

In tried and true fashion, the answer from the government was, of course, nothing. The response was nothing more than simply, "This is what we are doing, and we don't

care." We have no justification from the government in their response to our letter. They simply argue that they need a road, the road has been planned on this alignment, they are undertaking consultation, the design meets Australian standards for road safety, and the open space area is not a formal play area. Well, we do not disagree with the fact that there is a need for a road. Even if it had been planned on that alignment in the past, the community is there now, and they have expressed their concerns. The consultation, as all consultation is with this government, was simply not genuine. Whilst I understand the Australian design standards for road safety had been met by the current alignment, it does not mean that a better option cannot be found. As for the government's rejection that it is not a formal play area, the children and families of this community strongly disagree. In actual fact, some of the best play areas in Canberra are the ones that have developed organically rather than having been defined by a government.

When it comes down to it, this government is hiding behind bureaucratic language at the expense of what the community actually wants. Community feeling is united and strong. Some 40 or so residents within Carpentaria Street and the surrounding streets have signed a petition indicating their support for the realignment of the road.

I would now like to pay tribute to Uday Kaza, who is in the gallery today and who has done a great deal of work on behalf of his community to help ensure that their urban amenity is not adversely impacted upon by this road. Rather than roll over and simply accept a poor planning decision, Mr Kaza has stood up for best practice, for his family and his neighbours and has tried to protect his community. I commend him and his neighbours for their great work.

This year we celebrated the 20th anniversary of the Legislative Assembly. In the context of this motion about planning, it is important that we remember the rationale behind the establishment of this place—that is, it was unsatisfactory that our local planning decisions and other local government decisions were being made by a bureaucracy that was not directly accountable to the people of the ACT. There was, and still is, a desire for a local say in local decision making. Before Mr Barr chimes in with his usual mantra about taking politics out of planning, what I am saying is that elected members should be responsible for long-term infrastructure planning and the framework in which this city operates. The concerned reservation for the Wells Station road is in the territory plan and, therefore, falls within the scope of elected officials to adjudicate.

I call upon the Chief Minister and the Minister for Planning to hear the community's concerns, both directly and through the Legislative Assembly. For the government to stand in front of this community now and say their concerns will not be listened to is typical of this government and an indication of why some in the community argue that the Assembly is not doing its job properly. Two parties in the Assembly have brought this matter to the attention of the government. The community wants this matter addressed. If this matter is not addressed, it will be another failure of the government to live up to its rhetoric and a failure of this government to respect the will of the community as expressed through this Assembly.

The Land Development Agency's catchcry of country living in the city within a natural environment will be made a mockery if this road goes ahead as proposed. I

commend the motion to the house and look forward to the government hearing and responding to the concerns of the community and constructing the road on the eastern alignment.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (11.32): I thank Mr Coe for bringing this matter forward today. The alignment of Well Station Drive extension separating the suburbs of Harrison and Kenny in Gungahlin is, indeed, an important matter. I think just for the record and for Mr Coe's benefit, the road in question is actually known as Well Station Drive and not Wells Station Drive. It is not particularly important in terms of the context of the debate, but, nonetheless, for the formal record, it would probably be worth while that the correct title of the road in question is recorded.

I am aware of this matter. I have met with some residents in Harrison who have expressed their concerns about the alignment of Well Station Drive. Indeed, a petition on the issue has been received by the Assembly. This government and previous governments have strived to keep the community fully informed about decisions on planning of new areas to ensure that misinformation and community concerns, such as those in relation to this road alignment, are avoided or minimised as much as possible. As Mr Coe would appreciate, the most appropriate tool which this government and previous governments have utilised to do that is the territory plan and its associated map, which is administered by the ACT Planning and Land Authority.

The territory plan sets out planning intentions, principles and policies for new suburbs, and it graphically represents this information on a map as well as including locations of community facilities and residential, commercial and higher density areas et cetera. Importantly, the map also identifies the location of current and future arterial roads. The territory plan is updated regularly, and the community does, indeed, find this a valuable source of factual information.

Specifically in relation to Well Station Drive, the territory plan map has clearly indicated the road's alignment since at least late 2003, which was well before any land was made available for sale in the nearby areas of Harrison. The territory plan map also identified that the future suburbs of Kenny and Throsby will be adjacent to Harrison and Well Station Drive. When fully developed, these adjacent suburbs will accommodate approximately 8,000 dwellings and a population of 20,000 people, as well as commercial retail centres, schools and areas of open space, including nature reserves. As all Gungahlin residents appreciate, Well Station Drive is an important component of Gungahlin's arterial road network and, when completed, will link Horse Park Drive to Flemington Road and to Gungahlin Drive.

Another important fact is that arterial roads are deliberately located in this city between suburbs rather than through suburbs to ensure that local amenity is preserved and that traffic management issues can be handled appropriately. To this end, it is clear in the territory plan that the Well Station Drive extension separates Harrison and Kenny. I am advised that the Land Development Agency sales documentation for Harrison 2 estate stage 4A-2—the area bounded by the future Well Station Drive extension, Horse Park Drive and Well Station homestead—clearly indicated the

proposed road alignment and the location of its intersection with Horse Park Drive. I think we can draw from that that the government's intention to build this road in its current location has been clearly documented since 2003.

Coming to the point that Mr Coe raised about the role this place has in setting planning policy and setting those guidelines, in mid-2004 ACTPLA released for public consultation a draft variation to the territory plan No 231, east Gungahlin, which proposed a number of zoning changes for Kenny and Throsby as well as establishing—I always have trouble with this, but I will try—Goorooyarroo nature reserve. I think that is how you say it. The draft variation also included south Harrison, the undeveloped area south of Well Station homestead and Well Station Drive extension.

It should be noted that during this variation no change to the road alignment was proposed, and the variation, including the road alignment, was subsequently approved by this place in 2006. Accordingly, based on all the freely available current and documented information on Well Station Drive extension and the proposed development in adjacent areas, all prospective purchasers were able to make fully informed decisions about the purchase of their properties.

I acknowledge residents' concerns over noise and traffic safety and understand that these matters are receiving thorough consideration in the current road detail design. I have been advised that the road design will ensure that any adverse impacts on nearby residents from traffic and noise not only in Harrison but, importantly, for the future residents of Kenny are appropriately minimised to meet required standards. This road and its intersections with Horse Park Drive and Nullarbor Avenue will also need to meet all relevant design and safety standards. In this context, landscaping will be an important component, and it is incorporated into the design.

Furthermore, the intersection of Well Station Drive and Horse Park Drive will, in the future, be extended into the new suburb of Throsby. This will permit a centrally located major collector road into the eastern side of Throsby. The resultant four-way intersection will be signalised and provide the best traffic and transport outcome for motorists and, importantly, for public transport. The number of intersections with Horse Park Drive needs to be limited to ensure efficient traffic movement along that road.

The government announced the construction of the Well Station Drive extension road as part of the 2009-10 capital works budget with an estimated cost of $7 million over two years. This is part of a $52 million investment over two years in Gungahlin's arterial road network. This is clearly a very high priority for Gungahlin residents. The Planning and Land Authority is responsible for progressing the road design to final document-ready stage, which will be used for the development application and for calling of construction tenders. Roads ACT within Territory and Municipal Services will then take responsibility for constructing the road.

The road is not only required to complete a critical missing component of the Gungahlin arterial road network but also to facilitate the release of more affordable housing as part of the Harrison 4 residential estate between Well Station homestead

and Well Station Drive extension. This estate will be released in 2010-11, consistent with the government's residential land release program.

Having considered all of these matters, the government believes that there is no justifiable reason to change the alignment of Well Station Drive extension, as it will not only incur additional costs for the taxpayer but also undermine the integrity of the arterial road network and the orderly and integrated planning for east Gungahlin. There is more to consider than just the residents of Harrison; we also must consider the future residents in Kenny and Throsby. I recognise that this creates an unfortunate tension, and, of course, it would be the easy solution to seek to solve a current problem now. But, as Ms Porter will go into in some detail in her contribution, that will not necessarily solve all of the problems and, in fact, may create more significant issues in the longer term.

On balance, whilst I acknowledge the concerns of Harrison residents and acknowledge that this is a difficult issue, I believe it can effectively be resolved in the road design and that there are other means with which the concerns of Harrison residents can be addressed without changing the road alignment.

I think it is also important to acknowledge that this place has considered this matter over a number of years. To suggest that the decisions were made without the authority of the Legislative Assembly is an unfortunate accusation to make, because it is clearly not the case. This Assembly passed that draft variation and that very road alignment, and it did so in the knowledge that it was balancing a range of needs and interests and, most particularly, taking a view of the bigger picture and the longer term—that is, to also meet the needs of Kenny and Throsby residents.

In this context, whilst I acknowledge it would be politically easy and it would be the convenient way through this particular issue, the government will not be supporting this motion today. On balance, as I say, in weighing up all the competing interests, the government believes that the current road alignment is appropriate but recognises the need in the road design to ensure that the issues that were raised by Harrison residents are appropriately addressed.

MS LE COUTEUR (Molonglo) (11.42): I thank Mr Coe for raising this issue today. I would also like to acknowledge the presence in the gallery of some Harrison residents, in particular Mr Uday Kaza, whose persistence has been instrumental in bringing this matter to the Assembly's attention today and in the past.

The current proposed alignment of the Well Station Road extension joining to Horse Park Drive has been of concern to the residents of Harrison for some time now. I understand that the residents are not opposed to Well Station Drive being extended but really all they want is a realignment of the road. The Greens agree that there are a range of issues that need to be addressed in regard to this road; so we will be supporting Mr Coe's motion today.

Mr Coe has already covered the main points in relation to the actual road building proposal and we agree with the points that he has made; so I will not go through them at great length. My comments will be more about the process and the consultation.

I think it is a real shame that this motion needed to be brought to the Assembly today. As Mr Coe has said, this is not the place for the politics of planning. The politics of planning should be about the long-term objectives, the big picture; it should not be about the Assembly trying to be a traffic engineer and working out the consultation issues of places that are just not working for the community. It is not the first planning issue which we have debated in this place this year and, given the current level of government consultation, it is probably unlikely to be the last.

As people may be aware, one of the issues in the Labor-Greens agreement was better neighbourhood planning. We have recently written to the Minister for Planning about a way forward on that issue and proposed a precinct planning process which will be triggered when local planning issues such as this arise, which would lead to a community planning process which would mean that all relevant stakeholders could be involved and hopefully reach a shared understanding and conclusion.

In this case, the government do say they carried out consultation. But as Mr Coe points out in his motion, this was actually before there were residents in the area. The closest neighbours were residents of suburbs far away who would not be affected by the alignment in either direction. They were the residents of Ngunnawal, Palmerston, Amaroo and of course the kangaroos who did not, unfortunately, comment.

The government has said the prospective residents were able to make fully informed decisions about the purchase of property in Harrison and about the proposed road. Although this information may, in fact, have been available, if real estate agents did not point it out, the potential residents would not know because not all potential residents actually know all about the intricacies of the territory plan.

Mr Barr and the government claim that the Land Development Agency's sales conditions and documentation for Harrison 2 estate 4A-2 indicated the proposed road alignment and the location of its intersection with Horse Park Drive. However, residents have told us that the LDA sale document included a map, in very large scale, which showed it straight, and Elders, the LDA's marketing agent during December 2005, we are told, had the response simply that the road was a future Well Station Drive, which undoubtedly is true, and that the details had not yet been worked out, which would not lead people to think that the whole thing was done and dusted and that there was no consultation to happen. So it really appears that there was no possibility that the residents could make an informed decision before buying their houses. The information they had was that it was a straight line, with no details.

We do note, of course, that there has been consultation recently but, had the residents not been so active in drawing the attention of the Greens and the Liberal Party to this issue, we suspect there probably would not have been as much consultation. There have been issues with this consultation. As Mr Coe has pointed out, the incorrect email address was provided for most of this consultation time. Unfortunately, it is things like this that make residents understandably very cynical about the government's aims in consultation, that they cannot even provide a working email address.

I do appreciate the government are in a hurry to build the roads around Harrison 4 because they want land release in the next year—and we all agree that affordable housing is a significant issue in this territory—but it is important to make sure that what we do is the best possible outcome for the long term and does not create safety and traffic problems for the future. As Mr Coe has said, the road is not ideally placed from the point of view of safety and we believe that a movement of the road could make it safer. Horse Park Drive is a busy road; it has a lot of traffic; so safety is important.

When I visited the site in January, I was quite surprised to find that an arterial road was proposed so close to existing housing. I had the same idea, as Mr Barr actually said in his speech, that arterial roads were meant to be at the outskirts of suburbs. And I believe that is the understanding that the residents also had. This road is not at the outskirts of Harrison. It is one hill in from the outskirts of Harrison. That seems to be at the heart of the issue. If the hill had been on the other side of the road, the hill would have provided a natural noise and safety barrier between the road and the existing developments.

Well Station Road is going to be a dual carriageway, with an expected traffic volume of 20,000 vehicles per day, at 20 metres from the residential Carpentaria Street. At the beginning, it will have a give way sign, we believe, but not traffic lights until later on. The local residents, of course, are very concerned that it is going to be a high-accident zone and they will unfortunately be witnessing a large number of accidents and possibly even deaths on their front doorstep.

Given all of this, we think there is merit in re-evaluating the current proposed alignment of the Well Station Drive extension and, in particular, consulting the community to redesign this to most likely an eastern alignment. As it is an arterial road, it should not be through the suburb. While Harrison 4 is currently in the design phase, this is the time to sort the problem out. While we have got the bit of Harrison which is next to it still to be sorted out, it would seem an ideal time to finally fix this problem.

While we are considering the road, I understand that there is a bike path planned for Well Station Drive. I also think we need one for Horse Park Drive. There is a shoulder on the road which is marked as a cycle path on the cycleways map but the cars really do fly along that road which is why, of course, the residents are concerned. But also from a cycling point of view, an off-road path would be preferable.

Another thing to note in terms of looking at the alignment of the road is that, since it was proposed, the footprint of the suburb of Throsby has been reduced; so potentially the alignment of the road could be altered. Throsby will have a lot fewer houses than the original proposal. And we do not believe that it is vital that the Well Station Drive intersect with the Throsby arterial road. Looking at Horse Park Drive, the access roads from Forde and Amaroo do not actually meet on Horse Park Drive; so there is precedent for this.

The Throsby realignment has meant that Well Station Drive and its relationship in particular to the Kenny shops, which have now moved, should be re-evaluated.

Possibilities would include crossing over Sullivans Creek earlier. This would bring the road closer to Kenny shops, which would make it easier for Harrison, Kenny and Franklin residents to use it to access the Kenny shopping centre. It probably would make more sense, given the other changes, to move the plans for Well Station Drive to join Horse Park Drive closer to the Kenny group centre.

This would have an effect on Harrison 4 which, as I mentioned earlier, is currently being worked on. So this would appear to be a good time and possibly the last real opportunity to move the road to suit the present and future residents of the area. This is a $7 million project; so it is really important to ensure that we get it right rather than have to try to tinker with it afterwards. I am aware that the road design has already been put out to tender but I do not think, given the current progress on that, it would be too late to adjust the route.

My understanding is that ACTPLA has engaged Cardno Young to design the extension of Well Station Drive between Turtle Rock Road and Horse Park Drive, which is going to provide the additional access to the new suburbs of Kenny and Harrison 4. I understand that, under the current government timetable, the design process was expected—I suppose "could have been expected"—to be completed in October 2009. I imagine this has not happened, as I understand more consultation has been undertaken recently between ACTPLA and TAMS and I understand that the consultants are meeting with Gungahlin Community Council tonight. So I am very hopeful that in this meeting there can be an agreement for realignment or at least a way forward on this issue.

In addition, I would also point out that the road extension would require planning approval and that a development application will have to be lodged and publicly notified, and this is another time when the community has an opportunity to comment on the proposed extension. However, given the government's attitude, as Mr Barr has expressed it, it is hard to see how, if the Assembly does nothing, the community will actually have a chance to have their views heard as part of the DA process. I understand that the construction is currently expected to start in April 2010.

In conclusion, I would like to say it is really a shame that the community needs to constantly ask to have their concerns addressed, and this is the third such incidence that we have had brought to the floor of the Assembly during my term. There has been Hawker; there has been Nicholls; now there is Harrison.

I was contacted about this issue shortly after my election and went out and saw it in January. So I wrote to Mr Barr and Mr Stanhope about the road and both ministers replied, basically saying: "Sorry, it is just too late to listen to the community again. We have already listened to the community." And that, of course, was before the community was there to express their opinion.

However, I would like to note that, due to our persistence and even more due to the persistence of the residents, ACTPLA have increased their offers of noise abatement measures and are looking at what they can do to finetune the existing alignment. I do thank ACPTLA for that but note that that, without the persistence of the residents and members of the Assembly, this probably would not have happened. This would not

have happened—Mr Coe would not be moving this motion and the Greens would not be supporting it—if the government was prepared to listen more to local communities.

On that note, I move the amendment which has been circulated in my name:

> In paragraph 2(b), after "alignment", add "in consultation with the local community".

I will not talk more on that because that is really what I have been talking about in my whole speech. I understand that the Liberals will be supporting this amendment. I commend it to the Assembly.

MR HANSON (Molonglo) (11.55): I would firstly like to congratulate Mr Coe on bringing this motion into the Assembly today. These are the sorts of motions that certainly gain less media attention than the previous motion we saw in the Assembly but they are very important to the lives of people who are affected by these sorts of decisions being made by the government. I think Mr Coe is well regarded and well recognised by all sides of politics for the amount of work he does for the community in the north of Canberra, particularly the grassroots campaigns that he runs that address, I guess, the voice of the local communities in making sure that their needs and issues are addressed.

I would also like to acknowledge the contribution made by Ms Le Couteur in this regard and thank her for the support she is providing to Mr Coe's motion and her useful contribution as well as her amendment. I would also like to acknowledge the members of the community who are in the gallery today and the work that they have done to raise this issue not only on their behalf but on behalf of other members of the Harrison community and I commend them for the work that they have done to date.

The substance of this issue is one that will impact significantly on the residents of Harrison and will affect their standard of living and their quality of life. We have been approached, both the Liberals and the Greens, by a significant number of people in the community who are concerned about what is currently proposed for the Well Station Drive alignment. I note that both the opposition and the Greens have previously raised this issue with the government but as yet there has been no resolution of the concerns that have been raised.

As outlined by Mr Coe and Ms Le Couteur, the issue is a simple one, and that is that the proposed alignment of this drive will pose noise problems and road safety problems and reduce the amenity in the area. As we have members of the community here today, I would like to read from the petition that they put to the government in their words to express, I think, quite eloquently what their concerns are so that it is very clear for members of the Assembly:

> Residents of the eastern portion of the Wells Station Estate at Harrison would like to bring to your urgent attention the matter of the proposed road extension for Wells Station Drive to join Horse Park Drive with a connection to Nullabor Avenue and its adverse impact on the residents.
>
> The road had been planned to extend around the Wells Station Heights and the small hill. It has now come to our attention that the proposed route has been

> amended to cut back between the two hills along the Carpentaria Street bringing the proposed road in very close proximity to the existing residential properties. These properties had been proudly marketed by the Land Development Agency … as being "Country living in the city within a natural environment". The residents have the following concerns which we would like to bring to your immediate attention:
>
> 1. The natural sound barrier of the hill will not be utilised and in effect will channel the sound & vehicle pollution from the proposed road back into the houses of Wells Station Estate.
> 2. The Easterly & Southerly winds will further carry the noise and pollution back into the Wells Station Estate.
> 3. The proposed change does not, in the minds of the residents, make an effective use of taxpayers' money due to the following reasons:
>
> a. a significant amount of dollars would be required for building the sound barrier which once built will totally ruin the natural landscaping of the area.
>
> b. the area currently has a creek running through the centre of the proposed road
>
> c. the deviation of the road seems to indicate a lengthening of the road
>
> 4. The proposed road junction of Wells Station Drive and Horse Park Drive will be in an area that will be obscured by the existing hill with very high chances of road accidents.
> 5. The proposed road junction of Wells Station Drive and Nullabor Avenue will be in an area with reduced visibility due to the Wells Station Heights blocking the effective view and once again increasing the chance of road accidents.
> 6. The majority of households have young children who regularly play in the current nature reserve opposite Carpentaria Street where the proposed Wells Station Drive Extension will run.
>
> During the sale of blocks by the LDA, the residents were provided with an estate development plan which clearly indicated that the proposed Wells Station Drive extension would run to the East of the small hill opposite Carpentaria Street, running straight from the Flemington Road and our decision for buying into this area was based on this development plan.
>
> Thus, we the residents of Wells Station - Harrison urge the Honourable Minister, to reconsider the proposed Wells Station Drive extension. The above stated concerns can be better understood and appreciated through a site visit.

There are numerous signatures provided on that petition.

The solution that is being sought by the Liberal opposition and by the Greens today is simple and straightforward, and the community, as I have just outlined, have clearly articulated their concerns with the proposed amendments. And they have voiced their preference for where they would like the alignment of the drive to go. The government's response to the community concerns today has been underwhelming, to say the least, and the local residents, as I understand, feel that their views have not been taken into account throughout the consultation process; and if they had been then we would not have found ourselves where we are today.

The issues that have been raised by Mr Coe are on behalf of the concerned residents, and they are certainly not frivolous. I note that Mr Coe and Caroline Le Couteur, as I understand, have visited the site—and I commend them for doing that—and that they remain committed to the concerns of the community.

My understanding also is that the project is in its final design stage and that the opportunity to ensure a good outcome for the residents of Harrison and residents in the north of Canberra is fast disappearing. The government has the ability to resolve this issue by supporting Mr Coe's motion and by addressing the community concerns, by going back to the drawing board and redesigning the road. I urge the minister to do so.

MS PORTER (Ginninderra) (12.02): Mr Coe's motion and Ms Le Couteur's amendment show an ignorance of the exhaustive processes that are followed before road alignments are decided. Arterial roads in the ACT are positioned after a thorough investigation process to ensure that they are placed in the most effective locations.

Although I understand that Mr Coe left school not too long ago, I doubt that he has since qualified as a town planner and a road engineer. He is a member for Ginninderra. Obviously he thinks that by questioning the decisions of the people who do know what they are talking about—that is, town planners and road engineers—he can undermine the government, that it is as simple as that.

Obviously the road positioning in this instance takes into account the surrounding landform, ground suitability and the provision for efficient connectivity between adjacent suburbs. In fact, the alignment of Well Station Drive has been determined by two planning feasibility and design studies. The outcomes of these studies resulted in the establishment of the current road alignment and reserve for Well Station Drive that was subsequently documented in the territory plan in 2003, as Mr Barr has outlined. Of course, roads need to be planned very early in the planning process in developing new suburbs; this will inevitably mean that people have not moved into the new suburbs.

The constraints in moving the route to the east mostly involve the proximity of Sullivans Creek. They are as follows. Sullivans Creek passes under Horse Park Drive on the same alignment that the alternative approach road would have to take. Constructing a road on the same alignment as the creek is not possible. Constructing the road on either side of Sullivans Creek is also not feasible as the formation next to the creek is not suitable for road construction. Water levels from Sullivans Creek during flood periods would inundate the road unless it was constructed at a high level. Again this would involve significant costs in construction.

There are other reasons why the location of this intersection of Well Station Drive and Horse Park Drive has been chosen. These are as follows. The current intersection location will align with the proposed collector road into Throsby. Moving the collector road into Throsby further to the east to align with the alternative intersection location would place the road close to—I am going to have a go at saying this now, Mr Barr—Goorooyarroo nature reserve.

Mr Barr: Probably better than my effort.

MS PORTER: I think Mr Stanhope is the only person that can say that in an eloquent way.

However, this is likely to have environmental impacts and reduce the overall effectiveness of the collector road. The alternative of having two T intersections in close proximity along Horse Park Drive in a staggered T formation is not desirable either, as once the suburbs are fully developed they will be signalised, as Mr Barr said, and the subsequent inconvenience to motorists would defeat the purpose of the Horse Park Drive arterial road. I constantly have people talking to me about signalised roads and how much of a nuisance it is if, for some reason—maybe because we have altered roads temporarily, such as around the town centre in Belconnen at the moment—the traffic lights are too close together. It does frustrate drivers enormously.

Mr Hanson says that this issue is simple. He could not possibly have listened to Mr Barr or he would realise that this is not simple.

The issue of noise generated by traffic has been the subject of a noise impact assessment that was undertaken by a specialist acoustic consultant. Mr Barr has addressed this issue. Mr Coe believes that the realignment of the planned road will avoid the cost of noise abatement measures; he does not take into account the considerable cost his suggestion of realignment will involve.

The noise assessment uses three-dimensional modelling based on projected traffic volumes in 2031 and was undertaken in accordance with the national and ACT noise management guidelines. The noise impact assessment found that, with the installation of earthen sound mounds between the road and adjacent residences, traffic noise levels will readily meet the required standard. The earthen mounds will also be landscaped with suitable plantings to improve visual amenity.

There have been no specific safety issues identified with the current suggested alignment of the road, and sight distances for motorists entering Horse Park Drive meet the required specification. Well Station Drive has been designed in accordance with the national and ACT road design standards; as an ultimate check, the final design will be subject to an independent safety audit.

The Well Station Road extension project will facilitate urban development in the future suburbs of Kenny and Throsby as well as complete the arterial road network in this area of Gungahlin.

It is unrealistic to believe that urban development will cease at the edge of existing suburbs, particularly when these adjacent areas have been identified as future suburbs in the territory plan. Providing infrastructure for the supply of land for residential purposes is part of the urbanisation process of developing new suburbs.

The assertion that the government did not respond to residents' concerns is incorrect. The public consultation that has occurred as part of the final design process has been

thorough. It has entailed the delivery of an information newsletter to residents in south Harrison, particularly those adjacent to Well Station Drive; the provision of a dedicated feedback email address, which allowed residents to make submissions and comments on the project; the receipt of 17 submissions covering 11 areas of concern; a personal response email from the Director of ACTPLA's Planning Services Branch on each of the submissions received, providing a written response to concerns raised; a meeting of residents with Roads ACT and ACTPLA staff; and the provision of further personal response emails to residents regarding their specific concerns. And the Minister for Planning personally met a number of residents at the highly successful cabinet in the community held in Gungahlin earlier this year.

This alignment has been investigated thoroughly. It provides the most cost-effective delivery of this important piece of road infrastructure and provides the best outcome to the residents of Gungahlin as a whole. As I said before, I doubt very much whether Mr Coe is a qualified town planner and road engineer. I do not support Mr Coe's motion.

MR COE (Ginninderra) (12.09): In concluding this debate, I think there are a number of things that are worth reflecting on in what we have heard over the last half hour or so from the government. It is pretty disappointing that here you have a minister and someone from the backbench acting like Sir Humphrey. They are so determined to follow process and so stubborn that they will not accept that what is in the territory plan may not be best for people in Canberra. They are so stubborn that they cannot possibly fathom that what is written in that plan could actually be improved. If we fail to make improvements, if we fail to make developments, we will not be getting very far at all.

I found Ms Porter's contribution to the discussion to be particularly interesting, especially the beginning of it. She had a go at me for my contribution, having a go at me for bringing this motion and having a go at me about my age. It must be pretty demoralising for someone like Ms Porter to have a go at someone such as me when I got 50 per cent more votes than she did at the last election. That, too, must be pretty demoralising for her. But it really is an insult to the people of Gungahlin and to all the people of Canberra who have planning issues to have a member of the Assembly who says that this is a trivial issue, who says that this issue does not matter.

This is core business for elected representatives. We have a government. We have discharged responsibilities to the government to act on a day-to-day basis in our best interests. The point of this chamber, the point of the Legislative Assembly, is to oversee the government and make sure that it is doing the things that we want it to do. In this instance, the government is not. That is what we are saying.

We have roughly two-thirds of this Assembly telling the government that they are not doing the right thing here. The community has spoken and would like the government to respond. Instead, we have a planning minister who is too stubborn to admit that they are wrong and that there could be a better way of going about their business.

Ms Porter says that the minister received members of the community on this issue at the community cabinet. That is very good; it is very good that they have a community

cabinet. But it does not mean much if you do not actually respond. It does not mean much if you do not actually take action. Anybody can listen; anybody can receive letters. It takes a stronger person—it takes a stronger man—to actually admit that there is a better way, that there are mistakes and that they can go forward.

At the start of Mr Barr's speech, he had a bit of a go at me for saying "Wells Station Drive". It is very interesting that he should do that when his own planning chief executive, the Chief Planning Executive of ACTPLA, on 31 August this year, signed a notifiable instrument which talked about Wells Station Drive. If you go to the minister's website, to actpla.act.gov.au or to the much talked about placename search and type in "Well Station Drive", what do you find? Nothing—nothing at all. Well Station Drive does not exist in the ACT placename register. If you type in "Wells Station Drive", guess what appears: the very street in question—the very street.

Here we have Minister Barr trying to tell us that he is the authority—the all-knowledgeable authority—on this issue, yet he cannot even get consistency between what he is saying and what is on his department website.

If you look a bit further on, you will notice that in 2006 they did formally change the name from Wells Station Drive to Well Station Drive. Technically, the actual name of the street as gazetted is Well Station Drive. However, that is inconsistent with Google maps, inconsistent with his website and inconsistent with a notifiable instrument signed by the Chief Planning Executive just a few months ago. Minister, I suggest that you fix those anomalies as quickly as possible.

What this is about is what I believe we are all here to do—improve the lives of Canberrans. It is very simple. It is all about making sure that we as an Assembly are directing the government to bring about improvements in people's lives and make the lives of people in Canberra as good as possible. We are very clearly giving the government an indication, a direction, on what we would like to see them do on this issue. I urge the minister to listen to the call of two-thirds of the Assembly, listen to the call of the community and not stand on ceremony or be stubborn but accept what Canberrans are saying regarding this road.

Mr Barr: It is Well Station Road. I have got the page open if you want to have a look at the placename search.

MR SPEAKER: Gentlemen, I will invite you to take that one up in the lunch break.

Mr Barr: I do not think I can table my laptop.

MR COE: I will happily table mine in response.

Mr Barr: If Mr Coe has misled the Assembly, I am sure he will withdraw later.

MR COE: What are you saying?

Mr Barr: I am saying that if you have misled the Assembly—

MR COE: What are you saying?

Mr Barr: I am saying I have got the page open at "Well", with a double L.

MR SPEAKER: Order! Gentlemen, take it up in the lunch break.

Amendment agreed to.

Motion, as amended, agreed to.

Sport in the community

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

Canberra Hospital—tuberculosis exposure

MR HANSON (Molonglo) (12.16): I move:

> That this Assembly:
>
> (1) notes:
>
> (a) that a number of people, including newborn infants, were recently exposed to the risk of being infected by tuberculosis at The Canberra Hospital; and
>
> (b) that protocols and policies regarding partners staying overnight in shared postnatal wards in ACT public hospitals is unclear; and
>
> (2) calls on the Minister for Health to:
>
> (a) clarify policies and protocols with regard to partners staying overnight in shared postnatal wards in ACT public hospitals;
>
> (b) review the circumstances of the recent case where newborn infants were exposed to tuberculosis and identify if any policies or protocols were breached;
>
> (c) review current ACT Health policies and protocols for visiting hours and overnight stays by partners in shared postnatal wards; and
>
> (d) report back to the Assembly with the findings by the first sitting day in December 2009.

I have introduced this motion into the Assembly in order to clear up the confusion and concern surrounding the recent incident at the Canberra Hospital where approximately 80 people, including newborn infants, were exposed to tuberculosis. I have been approached by a number of constituents who are most unhappy with what they see as a breakdown in procedures, the poor way they have been treated and the ongoing confusion surrounding what occurred, what procedures were breached or not and what is being done to ensure that this does not happen again. A number of constituents have

used the word "cover-up" to describe the way that the episode has been handled and, quite rightly, they want answers.

The case that has received the most prominence in the media is that of Dr Jeannie Ellis, a GP from Queanbeyan and a first-time mum. She is happy for me to recount her case in the Assembly and, as a GP, she has a certain authenticity when it comes to her concerns. Although there are others in a similar situation, I will focus on her case to demonstrate what has gone wrong in this case. I will quote from a letter that she sent to the opposition outlining what happened to her:

> I delivered my baby on the 27th August at TCH—

the Canberra Hospital—

> and was placed in a shared room on the post-natal ward. I had repeatedly requested a single room as I was a private patient. I first shared the room with a woman who was discharged mid-morning on the 28th. Later that evening a patient was brought to the room until she was taken to theatre for a caesarean section. On the night of the 28th August at approximately 10.30pm a woman was brought from the delivery suite to share my room. Her husband accompanied her to the room where I was in bed with my then, 24 hour old, first born baby. The nursing staff had made it very clear to myself and my husband that partners were absolutely not allowed to stay overnight in shared rooms. This is, of course, completely understandable for obvious reasons. At about 11.30pm on the 28th the registered nurse advised this male that he would have to leave as it was against hospital policy to have male partners stay overnight in shared rooms. She explained, as we had been advised, that only in the single rooms on the post-natal ward is this practice permitted. About 30-45 minutes later she returned to advise the male again that he would have to leave the ward and go home as he was not allowed to stay overnight.
>
> He never left as the staff allowed him to stay. I requested to be separated and this request was again declined. I was then forced to spend 12-13 hours with this man, unknown to me, in a small, shared room of the TCH. I had to breastfeed my baby, use the toilet, get dressed and try to sleep in these conditions.
>
> The following morning a midwife visited me to convince me to go home. I was not even 36 hours post-partum and this was my first baby, I needed at least 24 hours more as an inpatient to assist with breastfeeding and recovery from my delivery. At this point I burst into tears pleading the staff to allow me to stay one more night but that I needed a private room as I was not prepared to stay any longer in a shared room with a male that I did not know.
>
> If the situation was such that this male had to stay with his wife, for whatever reason, the Canberra Hospital should have placed them into a private room.

Subsequently, the male in question was found to have TB and, as a result, about 80 people have been assessed as at risk of infection by the Canberra Hospital TB unit. This includes Dr Ellis and her baby.

I have done a fair amount of research on TB. I have looked at the ACT Health fact sheet, the VicHealth and Queensland Health websites and also that of the Lung

Foundation. There is a lot of information available. There is also an excellent summation of the disease publicly available on the Wikipedia site, and I will quote briefly from that:

> Tuberculosis (abbreviated TB …) is a common and often deadly infectious disease caused by mycobacteria … Tuberculosis usually attacks the lungs … but can also affect the central nervous system, the lymphatic system, the circulatory system … the gastrointestinal system, bones, joints, and even the skin.
>
> Tuberculosis is spread through the air, when people who have the disease cough, sneeze, or spit. Most infections in human beings will result in … latent infection, and about one in ten latent infections will eventually progress to active disease, which, if left untreated, kills more than half of its victims. The classic symptoms of tuberculosis are a chronic cough with blood-tinged sputum, fever, night sweats, and weight loss …
>
> The diagnosis relies on radiology (commonly chest X-rays), a … skin test, blood tests, as well as microscopic examination and microbiological culture of bodily fluids. Tuberculosis treatment is difficult and requires long courses of multiple antibiotics. Contacts are also screened and treated if necessary. Antibiotic resistance is a growing problem in … multi-drug-resistant tuberculosis …

And we are yet to find out in this case if this involves a multi-drug-resistant strain, but if it does then it is cause for even more concern. It continues:

> People with prolonged, frequent, or intense contact are at particularly … risk of becoming infected, with an estimated 22% infection rate. A person with active but untreated tuberculosis can infect 10–15 other people per year.

Dr Ellis makes the point that infants under one year of age are extremely vulnerable to infections and are particularly susceptible to invasive, disseminated tuberculosis disease. Infants under the age of one are at the highest risk of mortality and morbidity. Possibly the most frightening aspect of this situation is that no-one can test any of the babies to reassure the parents that their newborn is free from infection as the tests in babies and children are very unreliable. The side effects of the medications are also very nasty.

I think it was worth reading that to realise that this is a very serious situation. TB is a very nasty disease.

I would like now to express the concerns I have with what has occurred. The first point I make is that this is not about screening. I understand that it is impractical and that it may be impossible to screen people. This is about procedures around visiting and partners staying in postnatal wards and who has been exposed. And this is about information management after the incident and about clearing up confusion.

The first question is: who has actually been exposed? The figures being presented by the ACT government are loose and limited information is being provided. As I understand it now, no more information is being provided by the Canberra Hospital. The minister should clarify how many people have been exposed, how many are being tested and confirm that ACT Health has identified everyone who might have been exposed.

The next question I have is: what are the procedures? There is clearly confusion. I quote from ABC News Online:

> The ACT Government has contradicted chief medical officer Charles Guest about whether ACT Health is investigating a possible breach of policy at the Canberra Hospital.
>
> Dr Guest told ABC Radio this morning that an investigation is underway into a possible policy breach that led to a number of adults and newborns being exposed to tuberculosis.
>
> ACT Health is testing four babies and up to 80 adults who may have been exposed …
>
> Queanbeyan doctor and mother Jeannie Ellis says her newborn baby was exposed when another woman's partner was allowed to stay overnight in a shared maternity ward.
>
> Dr Ellis says it was against hospital policy.
>
> But Dr Guest says overnight stays are permitted in certain circumstances.
>
> "Women who request a support person to stay overnight to provide them with extra support or to help care for their baby will be allocated a single room … if available," he said.
>
> "Women who require support for other reasons such as still birth or neonatal death may have a support person present.
>
> "The principle that we are keen to maintain here is that contact between newborn babies and their parents is very important."

He refused to rule out or express whether the case that we are referring to here involved a stillborn or a medical problem of that nature. The article continued:

> But Dr Guest told the ABC that ACT Health is investigating whether the policy was breached in this particular case.
>
> "Whether there was some problem is something that does require investigation and that's happening now," he said.
>
> "We're very sorry this has happened, we're very sorry for the distress.
>
> "But it has happened and then it's a question of making the best follow up to promote safety and wellbeing for everybody concerned."
>
> But after Dr Guest made the comments, a spokeswoman for Health Minister Katy Gallagher told the ABC there was no breach of policy.
>
> She says there is no … review into the policy allowing partners to stay overnight.

So what is going on? I think that the situation needs to be clarified. What are the procedures? Were there any breaches? Is there an investigation? Why is it that the

Chief Health Officer does not know what is going on, or is it Ms Gallagher that does not know what is going on, when we have up to 80 people being tested for TB, resulting from a potential infection in the Canberra Hospital?

The question we need answered is: did procedures break down? Charles Guest seems to think yes but Katy Gallagher says no. I will again quote Dr Ellis:

> It is quite obvious to me that ACT Health and Gallagher's office are attempting to cover up what was a severe deviation from usual practice on the post-natal ward between the 28th August and September 3rd. This lack of adherence to routine protocol is the undeniable cause of the exposure of the most vulnerable cohort of the population to a very serious infectious disease. This should never have happened and if routine protocols had been followed by staff on the post natal ward the 4 babies whose lives are at risk of succumbing to this disease would otherwise be happy, healthy newborns needing nothing more than their mother's breastmilk. As it stands the four babies are now taking two very powerful antibiotics that are not routinely prescribed. One of these antibiotics has toxic side effects, some of which are immeasurable in new borns.

I also have reports that the father of one of the other infants who was exposed to TB was not allowed to stay overnight in the shared ward; instead the father was forced to sleep in his car. This was despite the fact that they were transferred from Wagga Wagga, as I understand it, because the baby was very sick. So why is one father of a sick child forced to sleep in his car but another is permitted to stay in the shared ward? It just does not make sense. Either the policy is unclear or the policy was breached. It would appear that procedures did break down, although there are mixed messages from ACT Health officials. We need some clarity on this issue and the minister needs to establish very clearly if there were any breaches in hospital policy and procedures.

The next question is: are the procedures appropriate? I again quote Dr Ellis:

> When a healthy woman enters TCH to deliver her baby the hospital has a responsibility to ensure the safety and to mitigate any risks of causing harm to both her and her child. One enters the hospital in good faith that this will occur.

Clarifying the procedures and an investigation into this specific incident are important, but we also need to establish whether the policies and procedures are appropriate. To that end, I am calling on the minister to review these procedures to ensure that the risk of newborns being exposed to infectious diseases such as TB is reduced.

I have heard Jon Stanhope on the radio dismiss the issue by saying that infection can occur just as easily in a workplace. I understand that Charles Guest used the example of a bus stop. Ms Gallagher is quoted in the *Canberra Times* as saying that we are exposed to such diseases in shopping malls. I believe that the Canberra community—in particular, women who are about to deliver a child at the Canberra Hospital—would expect policies and procedures at the Canberra Hospital to provide for better protection from infectious diseases such as TB than occurs in a shopping mall.

I am very concerned also that in this case there has been a breakdown in communication between the minister's office and her department and between her

department and the people who have been exposed to TB. We have seen similar problems arising when mistakes were made after the tragic death of Canberra's first swine flu victim.

What we have seen is a minister who is prepared to push her officials to the fore while she hides from responsibility and accountability behind her spokeswoman. It is obvious to everyone I talk to that she is to the fore when there is good news but conspicuous by her absence when there is any bad news to be delivered. I notice that she is not here now. I do understand that there was a change in the order of motions, but, again, it is a breakdown in communication. Why would Ms Porter want her motion to be adjourned without advising Ms Gallagher that my motion would be brought on before lunch? Again, it speaks of the sort of communication breakdown that we are seeing on a routine basis from this government.

We have seen these sorts of breakdowns in other incidents. Again, I particularly note the unfortunate circumstances surrounding Canberra's first swine flu fatality. Eventually in that case the minister apologised when Mr Smyth suggested that that would indeed help. Again though, in this case, she left the apologies to Charles Guest, who was good enough to apologise categorically on the ABC yesterday, despite the confusion about the procedures and whether they have been breached and whether there is an investigation or not.

I would like to remind the minister that her responsibilities do not end at the good news stories. I suggest to her that she takes this opportunity to apologise to Dr Jeannie Ellis and to the others who have been affected. Dr Ellis has been left feeling dismissed throughout this process. It has been a very traumatic period for her. Although she and her daughter have a long and hard road ahead, I am sure that some acceptance of responsibility and an apology by the minister would help.

I commend this motion to the house. This is a very important issue and a very serious issue for our community. The minister needs to come down to the chamber, explain what went wrong, what she is doing about it and why there is such a breakdown in communication between her, her department and the public.

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

Sitting suspended from 12.31 to 2 pm.

Questions without notice

Consolidated annual financial report

MR SESELJA: My question is to the Treasurer, and it relates to the 2008-09 consolidated annual financial report for the Australian Capital Territory, which was tabled yesterday. Treasurer, I seek clarification of one aspect of the report. Yesterday, you said in a statement to the Assembly that the 2008-09 net operating balance for the general government sector is a deficit of $27 million. However, on page 8 of the report, this figure appears to be a deficit of $64 million. Could you please clarify which figure is correct?

MS GALLAGHER: The deficit of $26 million is the correct figure. The difference relates to the superannuation investments, which are not included in the financial statements but are included in our net operating balance.

MR SPEAKER: Mr Seselja, a supplementary question?

MR SESELJA: Thank you, Mr Speaker. Treasurer, could you point us to the part of the report where the figure of $27 million is reflected?

MS GALLAGHER: It is not in the report, in the tables, for the reasons I have just explained, but I am happy to provide further advice if the Leader of the Opposition needs it. It is just the way the report is presented in accordance with the standards that are required as opposed to how we report in our budget statements. I am happy to provide further information if you require it.

Education—student information

MS HUNTER: My question is to the Minister for Education and Training. Minister, last week the Victorian government announced a new form of progress report as an alternative to the federal government's national report card. This assessment tool will publish performance data on a new website, allowing parents to compare information on student wellbeing, retention rates, post-school outcomes and student engagement. Will the minister consider providing ACT parents with the same information that is being given to Victorian parents?

MR BARR: I thank Ms Hunter for the question. I did see with some interest the announcement from the Victorian government on the morning of the ministerial council. I commend my Victorian colleague, Bronwyn Pike, on the timing of her announcement; it certainly maximised the media coverage. In short, yes, I have asked for my department to look at the range of information that the Victorian government is going to provide to see if such an option is possible here in the ACT.

I will just take issue with one part of Ms Hunter's question: I do not believe the Victorian government has at any point suggested that this would be in place of the federal reporting—it is in addition to. In fact, Minister Pike and the Victorian government are very supportive, as indeed are all states and territories, of the national transparency agenda.

Having said that, yes, I am very interested in what Victoria have put together. They certainly claim it to be nation leading, and whilst I do acknowledge that Victoria has taken a number of steps in many areas of education where they could rightly claim national leadership, the ACT will always be either nipping at their heels or trying to be ahead of them in relation to education reform. Yes, we will be looking very closely at it. I hope to have some advice back from my department before the end of this year.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Minister, what are you doing to allay the concerns expressed by principals at yesterday's meeting with the federal education minister, Julia Gillard, in relation to the possible publication of simplistic league tables?

MR BARR: Yesterday at the principals forum the Deputy Prime Minister and Minister for Education, Julia Gillard, released the initial snapshot of what the My School website will look like and the level of data and information that will be available. That site is online now and if members are interested I think they will find it at myschool.edu.au. There are some mocked-up pages showing what information will be available for 10,000 Australian schools from January 2010.

The issues that have been raised by principals both here in the ACT and indeed on a national level have been considered at great length by the ministerial council. Ministers have over the course of, I think, four ministerial council meetings progressively worked through this transparency agenda. They have commissioned a significant amount of research from the Australian Council for Educational Research, amongst others, around what would be the best forms of data to make available to parents.

There are a number of things that have become very clear through that process: that there is not support for simplistic league tables—and I am sure people will be assured, having looked at the My School website, that it is not possible to create a simplistic league table for the information that is available on that site; that the comparison of statistically similar schools is a nationwide comparison; and that the local schools comparison does not compare results directly. So from that website parents and interested parties will be able to get a sense—*(Time expired.)*

Cotter Dam—cost

MRS DUNNE: My question is to the Deputy Chief Minister. I refer you to Deloitte's comments in its independent review of the design and estimate process for the enlarged Cotter Dam.

Mr Stanhope: You are not responsible for water. Why are you asking this? Haven't you got faith in the shadow—in your leader?

MR SPEAKER: Order, Mr Stanhope!

Mr Stanhope: On a point of order, Mr Speaker: this is a relevant issue, isn't it? The shadow attorney-general doesn't have responsibility for water. Why is she asking questions on this?

MRS DUNNE: Actually, I do.

MR SPEAKER: There is no point of order, Mr Stanhope.

Mr Stanhope: Why doesn't she actually leave it to her leader who has responsibility? Doesn't she have any faith—does she not have any faith in him or does she know nothing about the Attorney-General portfolio?

MR SPEAKER: There is no point of order. Mr Stanhope, do not push your luck. Mr Stanhope, sit down.

Mr Stanhope: What a joke!

MR SPEAKER: Mr Stanhope, don't make me warn you.

Mr Stanhope: Not across your shadow portfolios? You have more than planning, do you?

MR SPEAKER: Thank you, Mr Stanhope. I will not tolerate those sorts of vexatious points of order. I will deal with them if I have to. I call Mrs Dunne.

MRS DUNNE: Can I ask my question without notice now?

MR SPEAKER: Try again, thank you.

MRS DUNNE: Thank you. My question is to the Deputy Chief Minister and I refer the Deputy Chief Minister to Deloitte's comments in its independent review of the design and estimate process for the enlarged Cotter Dam where it states:

> It is not apparent that the non owner partners of the Alliance had a strong value for money focus during the development of the design and TOC estimate.

Minister, is the target out-turn cost of the enlarged Cotter Dam higher than it needs to be because the non-owner partners of the Bulk Water Alliance lack a strong value-for-money focus?

MS GALLAGHER: I think the point that is lost on the opposition is that the Deloitte analysis was commissioned by Actew Corporation to check the strength of the costs.

Mr Seselja: It is a very specific question.

MS GALLAGHER: Well, it appears that the opposition need some further background information that they have not been able to grasp over the last several briefings they have had. This was commissioned specifically to check the costings and whether or not there was a fair price to pay for the enlarged Cotter Dam. That is exactly why Deloitte was commissioned by Actew. It was to check on that. This is the cost that they have come to in acknowledging that the rigorous work that underpins it has drawn to this final cost of $299 million that the Alliance Leadership Group have settled on as the final cost.

Mr Seselja: You still have not answered the question, Katy. Do you agree with this and did it lead to a cost—

MR SPEAKER: Order! Ms Gallagher is coming to the answer.

MS GALLAGHER: And I think, certainly from my point of view as a shareholder, the work has been done. The costings are rigorous, whether or not the opposition accept that, and these will be further tested in some continued work that it is proposed to be done to check on those figures again.

If the question is whether this costing is reasonable and fair for the dam, which is essentially the question that is being asked here, our advice is, yes, it is. I am also pleased to inform the Assembly that, while the opposition continue to play politics with the enlarged Cotter Dam, to no-one's benefit, it appears, and to no-one's interest, it would appear, that work on the Cotter Dam commenced yesterday.

Mr Seselja: So you are not going to answer the question, Katy.

MR SPEAKER: Order!

MS GALLAGHER: There will be a significant amount of work done—well, I think it is important for the Assembly to understand that the dam project has started. No doubt, the Liberals will continue to whine and whinge and be irrelevant on the side.

Mr Hanson: A point of order on relevance. She has clearly failed to answer the question. The question was very specific and was about the Deloitte comment and whether it presented a strong value-for-money focus or not. Matters about the dam starting and about the other matter she has raised clearly are irrelevant.

MR SPEAKER: Mr Hanson, there is no point of order. You will have up to three supplementary questions shortly to follow up on the Treasurer. Treasurer, do you wish to continue?

Ms Gallagher: I have finished, yes.

MR SPEAKER: Mrs Dunne, a supplementary question?

MRS DUNNE: Yes, thank you, Mr Speaker. Minister, do you agree with the Deloitte assessment that the non-owner partners of the alliance did not have a strong value-for-money focus in designing and developing the TOC?

MS GALLAGHER: I welcome the Deloitte analysis. I think it was fantastic that Actew commissioned it. We were supportive of Actew commissioning it—precisely to ensure that the costs of the dam were being examined thoroughly and that this was a reasonable and fair price to pay for a dam of this size. I welcomed the work, and the work has been used in finalising the brief to shareholders about the total costs of the dam.

MR SPEAKER: A supplementary question, Mr Seselja?

MR SESELJA: Treasurer, given that an independent review commissioned by Actew has made this comment, what evidence provides you with certainty that the non-owner members of the Bulk Water Alliance have a value-for-money focus?

Ms GALLAGHER: The shareholders have been given that assurance by Actew Corporation, Mr Speaker.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Thank you. Minister, why is it important that this investment in water security is made in the ACT?

Mr Hanson: On a point of order on relevance, Mr Speaker: the line of questioning has been about the Deloitte report specifically. The question Ms Porter asked was not about the Deloitte report at all.

MR SPEAKER: Ms Porter, I believe your question was about water security in general. Would you like to reframe your question?

MS PORTER: My question was about the financial investment and why it is important.

MR SPEAKER: Can you repeat your question.

MS PORTER: Minister, why is this financial investment in water security—that is, the dam—important to the ACT?

MR SPEAKER: I am sorry; that question is out of order. The matter being explored is the issue around the Deloitte report. We have to have some focus in the follow-up questions.

Canberra Hospital—tuberculosis exposure

MR HANSON: My question is to the Minister for Health and is in relation to the recent case of tuberculosis exposure in the postnatal ward of the Canberra Hospital. Minister, on ABC radio yesterday morning, the Chief Health Officer advised that a possible breach of hospital policy was being investigated when he said, "Whether there was some problem is something that does require investigation and that's happening now." Later that day, the ABC reported you as saying that "there was no breach of policy" and that "there is no overall review into the policy allowing partners to stay overnight". Minister, what is the hospital policy, was it breached in this instance, is it being investigated and will you apologise to the people affected?

MS GALLAGHER: Obviously the shadow minister for health cannot wait until after question time, when the Assembly is debating these very issues.

Mr Seselja: You didn't bother to come down for the first part, but answer the question then.

MS GALLAGHER: The opposition will be pleased to know that I did have one ear on Mr Hanson's initial speech on this, whilst I was having a meeting in my office. It was not scheduled to come on this morning, as Mr Hanson acknowledged. However, I can do two things at once, unlike the opposition, and I did manage to hear the slurs against my personal character, as usual, from Mr Hanson.

In relation to the question, and the questions that were included in that question, these are all matters that we will go to after question time. There is no disagreement

between the Chief Health Officer and myself. Unfortunately, I think the ABC dealt with this matter quite unfairly yesterday. Dr Guest was referring to a subsequent complaint that has been received around an individual who is alleging they were not allowed to have an overnight companion with them. That matter is being investigated as an additional complaint. That does not mean the policy is being reviewed or, indeed, that the policy was breached. It might be quite difficult for people who cannot understand complex concepts to understand the issues at the moment, but the policy has not been breached.

Members interjecting—

MS GALLAGHER: Well, here it is: the policy has not been breached. There is no disagreement between the Chief Health Officer and myself on how this has been handled.

Mr Hanson: There was yesterday.

MS GALLAGHER: No, there was not, and there is agreement between the Chief Health Officer and myself that an investigation is underway into a complaint that has been received subsequent to this around an individual alleging that they were not able to have a support person stay with them.

In relation to the broader management issues regarding how this matter has been handled, I think it has been handled very well. That is not to say that people have been unhappy with the fact that exposure has occurred and it does need to be treated, and we deal with those matters from time to time right across the ACT, not just in the hospital.

What would the reaction have been, for example, if—hypothetically speaking—it had been a patient who was in this situation? These are issues that we have to handle from time to time. They are hard, they are complex and they are unfortunate for individuals who get involved in them. We do apologise for that, and I have already said that, as has the Chief Health Officer. But our responsibility is to manage them, to manage them effectively and to manage them sensitively. Some of my concern, in the whole discussion around this, is that very little concern has been expressed for the individuals who are unwell with tuberculosis in this instance.

The other issue is that every time individual health matters like this get raised in the Assembly, they cause a lot of distress to all the parties involved. The opposition might want to play politics with it. I note that Mr Hanson has not made one approach to my office for a confidential briefing on this or for any discussion on this at all. The first point of contact for Mr Hanson, after the *Canberra Times* alerted him to this, is to come in here with a motion and with allegations in question time. Well, sorry for thinking that you are not that concerned, Mr Hanson. *(Time expired.)*

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Minister, do you accept that the contradictory statements made by you and the Chief Health Officer yesterday have created further confusion amongst the community about the issue?

MS GALLAGHER: I have answered that question. There is no contradictory statement. There is a matter being investigated. That is a subsequent individual complaint. The policy has not been breached and the policy is not being reviewed.

MR SPEAKER: A supplementary question, Mrs Dunne?

MRS DUNNE: Minister, what confidence can the public have in your management of public health matters when there is inconsistent and contradictory information being put out between you and your department?

Ms GALLAGHER: We can see that those questions have been prepared beforehand, because there is no capacity to change them based on the answer that I have given. I have answered that: there is absolutely no contradiction between what the Chief Health Officer has said. He has said there is no review of the policy. There has been no breach of the policy, but he has indicated—

Mrs Dunne: That's not what he said yesterday.

Ms GALLAGHER: He indicated that a subsequent matter has been raised, and he is investigating that. In fact, I do not think he is, I think the hospital is, as it has management of this issue. That is where there has been some confusion in the media, and obviously there has been confusion in the opposition. But there is no confusion from a public health point of view—it is being handled. Everything is being handled, as these matters always are, with the expertise and skill of all those involved in contact tracing related to tuberculosis.

MRS DUNNE: Supplementary question, Mr Speaker?

MR SPEAKER: Yes, Mrs Dunne.

MRS DUNNE: Minister, has the first incident that was recorded in the *Canberra Times* been investigated by anyone in the health department?

MS GALLAGHER: I am not sure what you are talking about about the first incident. The issue of this tuberculosis complaint—

Mrs Dunne: Not the subsequent one that you are currently trying to talk about.

MS GALLAGHER: Everything about this is being followed through and examined very closely—as it always is, Mrs Dunne; I am surprised that you would not know that. These matters are treated very, very seriously by the health department and by the government. Everything gets examined closely to ensure that our response was adequate from the beginning. All the advice to me is that it was and it has been handled in accordance with the policies that are required. That is not to say that individuals have not been upset about that. That is what we regret and we are sorry for.

Planning—federal government

MS LE COUTEUR: My question is to the Minister for Planning and is in regard to the federal government's possible intervention in ACT planning processes. What was

the impact on the ACT of Mr Rudd's comments last month that the federal government intends to take more control over local planning issues?

MR BARR: For a second I was wondering whether there was some new announcement, but I now know what Ms Le Couteur is referring to. Yes, the Prime Minister did indicate last month that the federal government would be taking a greater interest in urban planning matters. I think, frankly, that is to be welcomed. That interest was unfortunately sadly lacking during an extended period of conservative government in this country. I think we would have to go back to the Hawke-Keating governments and Minister Brian Howe's involvement—

Mrs Dunne: And let's not forget Kep Enderby.

MR BARR: Mrs Dunne is considerably older than me, and she does indeed have some history that would go back even into the 70s. I do acknowledge her age—

Mr Corbell: Tom Uren.

MR BARR: Tom Uren indeed. Federal government interest in urban planning matters is not new but it is something that this government and indeed all state and territory governments have welcomed, particularly as it will provide opportunities for partnerships in infrastructure. A particular area of neglect under the Howard government was its absolute failure to invest in nation building infrastructure. The Liberal Party when they were in government federally had their head in the sand around important nation building infrastructure investments.

The opportunities that are presented for Canberra, particularly from the announcements of the Prime Minister, I think are substantial. I would argue, and I am sure many others would agree with me, that Canberra, as Australia's most planned city and one of the shining examples in the world of urban planning, is very well placed to take advantage of the direction and initiatives that the Prime Minister has announced.

Of course, those who have closely followed this debate would be aware that the states and territories have been involved at the COAG level in these discussions with the commonwealth for quite some time now, so the Prime Minister's announcement was not a surprise. In fact, it was something that we were eagerly anticipating. We will continue at both officials level and at the ministerial level through the planning and local government ministerial council to work closely with the commonwealth on a range of matters.

In the context of the ACT, clearly we have put forward some infrastructure priorities to Infrastructure Australia, and we are very pleased that one of our priorities made it into the top 12 in the nation, being ranked 11th, and we certainly look forward to it being funded in a future commonwealth budget, hopefully the 2010 budget. That piece of infrastructure, namely the extension of the Monaro Highway to the Federal Highway, will be important for this city but it will be an important piece of work in the overall transport planning jigsaw puzzle when it particularly comes to addressing the major issues that divide the city on the eastern and western sides.

I think there are tremendous opportunities available for the ACT and indeed for all states and territories in this renewed commonwealth interest. We are actively engaging in this reform agenda and look forward to considerable discussion with our commonwealth colleagues in the months ahead.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Yes, thank you, Mr Speaker. What conditions will be placed on the ACT in order to be eligible to receive the federal infrastructure funding, and will this lead to the ACT changing its planning system?

MR BARR: I do not believe it will be necessary for the ACT to change its planning system. In fact, I think we can confidently say that we are at the forefront of planning system reform in Australia and that the system in place in the territory is a leading system, endorsed by the development assessment forum and indeed one that other jurisdictions are looking at as a model for reform elsewhere.

We have undertaken an extensive process. That process began with my predecessor, Mr Corbell, and I acknowledge his work in this area. We will continue, though our active engagement with industry and with the commonwealth, to seek further refinements to our planning system from time to time as issues arise, as we have been able to respond to changes that have occurred in the global economy. We were able to quickly take advantage of the commonwealth stimulus package, for example, in social housing and in schools.

The flexibility that our planning system has and our ability to respond quickly have meant that the ACT has been able to take advantage of commonwealth investment in those key areas. Again I note that investment was sadly lacking over an extended period under the previous Liberal government. It is terrific that the federal government is seeking to invest in social housing and in schooling. Long may it continue. We will continue to partner effectively with the commonwealth to deliver outcomes on the ground for ACT schools and for public housing in this city. And that is what really matters—not the name calling, the pettiness, the opposition for opposition's sake that we get from the irrelevant rabble over on that side of the chamber.

MR SPEAKER: A supplementary question, Ms Bresnan?

MS BRESNAN: What role has the ACT had in jointly developing national criteria for future planning in Australian cities?

MR BARR: I am very pleased to say that officials from the ACT Planning and Land Authority have been actively involved in these discussions. Mr Savery, of course, is also head of the Planning Institute of Australia and so takes an interest on a national level as well as representing the ACT very ably. I also acknowledge my friend and colleague Brooke Yates, who was recently announced as the ACT young planner of the year. Brooke is an official within the ACT Planning and Land Authority, and she has been working on these matters as well. So I think we have some very dedicated,

highly qualified staff within the Planning and Land Authority who have been engaged at the officials level around the development of this national priority. Of course, the Chief Minister and I are both members of the local government and planning ministerial council and take an active role in debates as part of that ministerial council process.

MR SPEAKER: Mr Seselja, a supplementary question?

MR SESELJA: Thank you, Mr Speaker. Minister, how will the new planning body recently announced by the Chief Minister interact with ACTPLA, what will it do to improve planning outcomes in the territory and when did you become aware that this new body was to be established?

Mr Corbell: That question is out of order—completely out of order.

Members interjecting—

MR SPEAKER: Order! Mr Corbell has the floor. I will hear Mr Corbell first.

Mr Corbell: The substantive question from Ms Le Couteur related to the Prime Minister's announced reforms around planning for cities. Mr Seselja has now sought to ask a supplementary relating to administrative arrangements for a new land department within the territory. It is a completely different matter and does not relate to the substantive question. It is out of order.

MR SESELJA: Mr Speaker, on the point of order: supplementary questions need to be relevant to the question or the answer. In his answer—

Mr Corbell: Oh—

Mr Seselja: That is what the standing orders say.

Mr Corbell: One rule for Zed and one rule for everyone else.

MR SESELJA: Can I finish, Mr Speaker?

MR SPEAKER: Yes. Mr Corbell, Mr Seselja has the call.

MR SESELJA: In the answer, Mr Barr extolled the virtues of the planning system and the reforms that they had made. This is a new step in the reform process and it is reasonable to ask the question based on the answers that he has given.

MR SPEAKER: Mr Barr, the question is in order.

MR BARR: I thank Mr Seselja for the question. Firstly, I need to correct the premise in the question. The Chief Minister has not announced a new planning agency. As I think the Chief Minister has been at pains to explain to the Leader of the Opposition, who clearly is a slow learner in these matters, the agency that the Chief Minister has suggested creating relates to the delivery, encompassing the roles of the Land

Development Agency, the approvals area and the referral agencies within TAMS. It clearly has a role—

Mr Seselja: You seem to have most of his role in planning.

MR BARR: No—clearly separate, Mr Speaker. It is has a role clearly separate from the Planning and Land Authority, which will maintain its status as an independent statutory authority assigned for the task of strategic planning and also development assessment. The agency that the Chief Minister has announced his intention to create relates to the functions of the Land Development Agency and elements within the Department of Territory and Municipal Services.

Mr Seselja: When did you become aware? How much were you consulted?

MR BARR: I have been consulted extensively. I have been actively involved. As Minister for Planning, I take an interest in these matters, Mr Seselja. I get out of bed a little bit earlier than the Leader of the Opposition. I am actually interested in the future of this city and I take my responsibilities seriously, unlike the Leader of the Opposition, who would get an A-plus for cheap shots, for insubstantial contributions and for sound effects in question time.

Mr Seselja: On a point of order, Mr Speaker: the minister is not being relevant to the question at all now. He should come back to the substance of the matter.

MR SPEAKER: I think the minister has finished.

MR BARR: Mr Speaker, in the five seconds that remain I will observe that, yes, the sound effects man and his sidekick—that is the only contribution they can make to this debate.

MR SPEAKER: Thank you, Mr Barr; that is quite enough.

WorkCover

MS BRESNAN: My question is for the Minister for Industrial Relations and is in regard to WorkCover. Minister, I understand the government is undertaking, or planning to undertake, a review of WorkCover. Would you please advise the Assembly what the terms of reference are for this review and how union representatives and members of the public will be able to participate?

MR CORBELL: I will take that question from Ms Bresnan. WorkCover is of course part of the Office of Regulatory Services, which I am responsible for as Attorney-General. I can confirm that I have asked my department to undertake a review of the capability and functions of WorkCover. Indeed, I announced that publicly at a forum hosted by UnionsACT at Old Parliament House about three weeks ago. The purpose of the review is to look at the capability and the resourcing of WorkCover to respond to complaints around its regulatory functions and to ensure that we are well placed moving forward for WorkCover to perform its regulatory functions.

The review is being conducted by Ms Jenny Dempsey. She is a former official and senior public servant from New South Wales WorkCover and has undertaken a range of reviews of this nature in the occupational health and safety arena. That review is engaging a broad range of stakeholders, including union representatives such as the Construction, Forestry, Mining and Energy Union and UnionsACT as well as employer representatives such as the Canberra Business Council and a range of other bodies. That review is ongoing. I am happy to provide a copy of the terms of reference to Ms Bresnan, and I will endeavour to do that as soon as possible.

MR SPEAKER: A supplementary question, Ms Bresnan?

MS BRESNAN: Thank you, Mr Speaker. Will the review examine the capacities of WorkCover to handle complex inquiries, such as asbestos-related matters?

MR CORBELL: The review is looking at the capacity of WorkCover across the board, Mr Speaker.

MR SPEAKER: A supplementary question, Ms Le Couteur?

MS LE COUTEUR: Is the ACT government looking to improve the number of WorkCover inspections of liquor licensed premises and licensed brothels prior to the review being finished?

MR CORBELL: WorkCover does not do liquor licensing inspections.

MR SPEAKER: Ms Porter, a supplementary?

MS PORTER: Yes, thank you. Would the minister give us information about when he would expect a report from the review?

MR CORBELL: I expect to receive the report of the reviewer before the end of the year. The exact date is around the middle of December, and that is contingent, of course, on the reviewer being able to have completed her work by that time. In my meeting with the reviewer she indicated that that is the time frame she is working to, and I look forward to seeing her report.

Schools—closures

MR COE: My question is to the Minister for Territory and Municipal Services. Minister, the residents of Flynn have been through a horrible ordeal as a result of your government's mismanagement of the school closures issue. The anguish for concerned residents continues with the lack of certainty about the future of the site. Minister, will you make a commitment to the people of Flynn to protect the existing school building for use by the community, and has the government ever had plans to demolish the buildings and rezone the site for houses or other purposes?

MR STANHOPE: Thank you, Mr Coe; I welcome the question. Just in the context of a preamble, it is appropriate that I provide some response to that. It is appropriate to respond to the long, rambling preamble, I presume, is it, Mr Speaker?

MR SPEAKER: Yes.

MR STANHOPE: That is not being vexatious? Well, in the long, rambling preamble, which was out of order, some statements were made that were not factually correct, and I do need to correct the mistakes made in the preamble around delays engendered or created by this department.

It does need to be understood that a government sensitive to legal action instituted by the Flynn P&C, most particularly, championed by Mr Roger Nicoll, foresaw including Flynn in its decision making in relation to a future life or possibility for that particular school. That decision was taken consciously by the government out of respect for action initiated by Mr Roger Nicoll on behalf of the Flynn P&C.

We can debate this and we can argy-bargy it, but the government's initial delays in finalising the future of Flynn primary school were a direct and reasonable response by the ACT government, an appropriate response, to legal action initiated by Roger Nicoll, who then, of course, as we are all aware, put himself forward, courageously, as a candidate for the last election and campaigned on his attempts through his legal action to protect Flynn primary school.

Let us actually not rewrite history here and acknowledge exactly what happened. Mr Roger Nicoll, on behalf of the Flynn primary P&C, initiated action against the government. The government, out of respect, did not take any action in relation to that school in terms of its future. Mr Nicoll then, as is his due and his right—and I respect him—sought to attract support from the people of Belconnen in a campaign for election to the Assembly based around his support for Flynn primary school. He was not successful. In fact, I just pause on "he was not successful". I do not want to be unkind to Mr Nicoll by referring to the vote that he did achieve or the level of support that he received from the people of Belconnen in his campaign to protect Flynn primary school—

Mr Coe: On a point of order, Mr Speaker.

MR SPEAKER: Stop the clock, please.

Mr Coe: The question was about whether he could make a commitment to the people of Flynn about the future of the site and did the government ever have plans to demolish the buildings and rezone the site for houses or other purposes.

MR SPEAKER: Chief Minister, I think there was some latitude for a preamble there, but I think it would be good to go on to the question now, thank you.

MR STANHOPE: That is right; I am through the preamble now. I have corrected the history and the mistakes incorporated in the preamble.

As members are aware, the government consulted deeply with the community in relation to the future use of schools across the ACT. Indeed, the consultants engaged—Purdons—did include a consideration of future uses of Flynn primary

school in that assessment. Incorporated in the findings or the outcomes of that consultancy were recommendations in relation to Flynn primary school, recommendations which have not been actioned by the ACT government. But the ACT government are now working closely with that community. We have sought and I have asked my colleagues and officials to seek to bring—

Mr Hanson: You made it on the radio. Why won't you do it in the Assembly?

MR STANHOPE: I'm getting to that, if you'd stop interrupting, "Mr Burke". I have asked my ministerial colleagues and officials to seek to conclude this matter, in consultation with the community, before Christmas, hopefully. We are working to achieve that. I am hoping that we can have a good outcome for the people of Flynn and for the people of Belconnen that does suit the significance of that particular school and does provide a sound future. But the delay was caused by the Flynn P&C and Roger Nicoll in pursuing legal action against the government, and do not forget that.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Minister, given that neighbours of the school buildings have told me, the *Chronicle* and the Flynn community group that there are trespassers on the site regularly, including being on the roof, do you still maintain that trespassing is not a problem at the Flynn primary school buildings?

MR STANHOPE: I have never maintained that trespassing and inappropriate and even criminal behaviour was not a problem at Flynn primary school. It is such a problem, and we recognise it as such a significant problem, that we have back-to-base security at the school, we have regular patrols and indeed the school is closely monitored. We do not have a live-in security agent, we do not have full-time permanents watching over the school and the facility but we have applied a level of resourcing and a quite sophisticated level of security for Flynn primary school.

At the end of the day, as with all of our schools and all of our public buildings, we seek to protect them, and we seek to protect them to the extent that we have resources reasonably available. The level of protection being provided to Flynn primary school we believe is appropriate. It is quite resource intensive, it is a significant cost, but it is quite sophisticated. It is closely monitored and we do our best in relation to Flynn primary school, as we do in relation to all of our schools, all of our public facilities, all of our public areas, and indeed all of the community, recognising that there are, unfortunately, antisocial elements within our community, criminal elements within our community, that will from time to time engage in outrageous behaviour.

One cannot help but wonder whether it is the continuing politicising of issues like Flynn that has actually been something of a magnet, so every time Alistair Coe and other Liberals go out there and stir it up, they are actually saying to those elements in the community, if you want to get a ride, if you want to get a bit of public notoriety, just go and stir Alistair Coe up again. It works every time.

MR SPEAKER: Chief Minister, your time has expired.

Mr Stanhope: What a pity!

MR SPEAKER: I know you wanted to keep going, Chief Minister, but the time on the clock has expired.

MR SPEAKER: Supplementary question, Mrs Dunne?

MRS DUNNE: Minister, will you protect the Flynn primary school building for the Flynn community?

MR STANHOPE: Absolutely. To the greatest extent possible and reasonably consistent with our capacity to resource protection for Flynn primary school, we will protect it to the extent that we can. And of course we will, in consultation with the community, find an ongoing, continuing, alternative use for that very valuable resource. My only regret—as, I think, a significant number of the residents of Flynn regret—is that the government was not able to progress this issue earlier, as a result of actions taken by members of the Flynn community in pursuing legal action against the government which they then abandoned when they realised that it would not be successful—and, indeed, when the continuance of that legal action, I think it is fair to say, had no more utility in the context of a political campaign that came to nought.

MRS DUNNE: I have a supplementary question, Mr Speaker.

MR SPEAKER: Mrs Dunne, a further supplementary.

MRS DUNNE: What will you do, given this undertaking, Chief Minister, to improve the security at the Flynn school site?

MR STANHOPE: I have actually explained that the government has certain resources and makes certain decisions in relation to the allocation of resources that it has available. We have resourced significant security. There is a back-to-base alarm system. There is constant monitoring. There are regular patrols. Everybody with a responsibility, including police, is aware of issues at Flynn. There are regular patrols. It is regularly monitored. There is a 24-hour back-to-base alarm system. We are doing all that we believe is reasonable having regard to all of our other responsibilities for maintaining security across the whole of the ACT.

If the Liberals would like to suggest where we might lessen security or protection for other schools—which schools they would suggest that we reduce security on in order to enhance it at Flynn—please make those submissions to me and I will of course give consideration, in consultation with the school community that you identify as not requiring that level of security, to actually withdrawing it and applying it to Flynn.

Mrs Dunne, if you have schools that you think are overprotected and where you think we might reduce the level of resourcing, please let me know and I will consult with that school community and we will apply, if they agree, their part, of the resources available, to Flynn primary school.

These are issues that affect the community. We have a responsibility to all of the community to govern for all of the community, to seek to protect all community assets equally, and that is how we approach issues. We do not play favourites. We do everything that we can within the context of the budgets available to us, and that is our attitude to Flynn. It has our utter attention. We are looking for a resolution. We are looking for a speedy resolution. We are looking to do it in deep consultation with the Flynn community, and it is proceeding quite well except for the constant politicising of the issue by the opposition.

Hospitals—Calvary Public Hospital

MR DOSZPOT: My question is to the Treasurer. Treasurer, I refer you to the ACT general government sector cash flow statement in budget paper 3 which states that the ACT will run a cash deficit of $255 million over the forward estimates from 2009-10. Minister, given that the ACT general government sector balance sheet on page 229 of BP 3 states that there is only $138.1 million in the bank in 2009-10, how will you pay for both the cash deficit and the cash payment for the purchase of Calvary hospital?

MS GALLAGHER: I thought the opposition might not come to Calvary today after they had seem some of the results of the poll that was released—

Mrs Dunne: The push poll?

MS GALLAGHER: Push polls are they now, Mrs Dunne?

Mr Stanhope: Say that outside.

MS GALLAGHER: Yes, say that outside. Of course they will not.

Mr Doszpot: I have, in a media release if you would like to read it. I can get a copy of it.

MR SPEAKER: Order! Ms Gallagher.

MS GALLAGHER: You obviously do not have any clue what this polling means. Mr Speaker, I will get back to the question asked by Mr Doszpot. These are, of course, decisions that the government will be taking in future budgets. We have, of course, outlined the fact that we may require borrowings in order to manage our capital works program.

Opposition members interjecting—

MR SPEAKER: Members, Ms Gallagher is actually giving the information that Mr Doszpot sought.

MS GALLAGHER: How we finance purchase of Calvary Public Hospital, if it goes ahead, is a matter for budget consideration. Whether it will be financed depends on the terms of how best it is to manage that cost.

Mr Hanson: You should be able to work that one out. It is only $77 million.

MR SPEAKER: Order! Mr Hanson, your interjections are too loud and too frequent.

MS GALLAGHER: Regardless of how it is financed—this is the issue that the opposition cannot get away from—the financial analysis from Treasury shows that this is the most cost-effective way to manage the future health needs of our community. That is what the opposition are ignoring. They are ignoring the financial analysis—

Mr Hanson: That is not what it says.

MS GALLAGHER: Yes, it does, Mr Hanson. We know you got caught up on whether or not there should be a capital upgrades component factored into the financial analysis. We know we got stuck on that. For about half an hour of the briefing we had "do we really need to have a capital upgrade component when you are building a new hospital?" We did get to the minutiae, but the real issue of the financial analysis—

Mr Seselja: She got upset in that briefing, didn't she?

Mr Coe: She got very twitchy.

Mr Hanson: Sorry, you don't like us scrutinising you?

MS GALLAGHER: I have no problem being scrutinised at all, Mr Hanson. I think if anyone reviews the last year of question time they will see that there is no problem with the level of scrutiny that is being required of me. I have no problem with it at all. But the issue is that however we finance this purchase of the hospital, if it goes ahead, it is a matter for the budget. But let us remember, Mr Hanson, that we get something in return. Under the scenario that the Liberals are supporting—

Opposition members interjecting—

MR SPEAKER: Order! Ms Gallagher, one moment, please. Stop the clock, Clerk. Mr Coe, Mr Seselja and Mr Hanson, you are all interjecting too much and too loudly today. You are very close to the edge. Let us continue with question time, thank you.

MS GALLAGHER: Thank you, Mr Speaker. However we finance the sale, if it goes ahead with the support of this Assembly, we get something back in return.

Mr Coe: Is Jon the Wizard of Oz?

MR SPEAKER: Sorry, Ms Gallagher. Stop the clock. I am warning you, Mr Coe. Only 10 seconds ago I made the observation that question time is being conducted in an unsuitable manner. You are now warned.

MS GALLAGHER: If we purchase Calvary Public Hospital for $77 million we get an asset returned to the ACT community of the same value. If we support the

Liberal's position, which is to gift $200 million to a third party, we get nothing in return. Do you understand that, Mr Hanson?

Mr Hanson: Point of order, Mr Speaker.

MR SPEAKER: Stop the clock, Clerk. Mr Hanson, what is your point of order?

Mr Hanson: It is a point of order on relevance. We understand what she is buying. We want to know where the money is coming from.

Mr Seselja: It is a very clear question, Katy.

MR SPEAKER: Thank you. Ms Gallagher, if you could come to the question.

MS GALLAGHER: I have answered the question. The matter of how it is financed is for the government to consider. It will be done through borrowings or it will be done through our cash.

Mr Seselja: You haven't worked it out.

MS GALLAGHER: There are two ways to do it, Mr Seselja. I am surprised you had to ask the question. We have got the cash, and if you have looked at the financial statements that I tabled yesterday you will see that the operating cash surplus was $542 million with a total cash surplus of $186 million. We have got the cash, but if we did not, it is still a good deal and we would borrow for it. *(Time expired.)*

MR SPEAKER: Mr Doszpot, a supplementary question?

MR DOSZPOT: Treasurer, what impact will the financing arrangements for the $77 million cash purchase of the Calvary hospital have on the future performance of the territory's cash position?

MS GALLAGHER: It will be less $77 million. That is the impact it will have. If something costs $77 million, we take it out of our cash or we borrow, and we will be less $77 million. It is a pretty simple concept to understand. However, what will happen to our budget is that we will return to the people of the ACT an asset worth $77 million and any additional investments we make in that facility will be owned by the ACT. It will not be a gift of $200 million to an organisation, a third party, who, I think the opposition fail to understand, wants to sell it, and it will allow us to manage the rebuild of a north-side hospital in the most cost-effective manner. And nobody can dispute that; nobody has disputed it. Nobody has found that the Treasury analysis is wrong. Mr Hanson has not been able to do it. This is the most—

Mr Hanson: It's just the way you're spinning it.

MS GALLAGHER: Well, no, it is not the way we spin it, Mr Hanson. If you spend some money, you get something in return. We get a hospital, in return, as an asset on our balance sheet.

Mr Hanson: Isn't there already a hospital?

MS GALLAGHER: There is a hospital, Mr Hanson, but it is on the balance sheet of a third party. So your position, with respect to a party that no longer wants to run the hospital, is to gift them $200 million, improve their asset and finance it through our operating result. That is what you are proposing to do.

Mr Seselja: No, it's not.

MS GALLAGHER: That is what you are proposing to do.

Mr Seselja: Not true.

MS GALLAGHER: Oh, it's not true? So Mr Seselja contradicts his shadow minister for health! How about you two guys work out what your position is, because that is the position that has been put forward in the media statements by Mr Hanson—and I think Mr Seselja was standing next to him when he said it.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Minister, have you considered the opportunity cost of spending $70 million on Calvary hospital?

MS GALLAGHER: Yes. It is included in the financial analysis and I believe we answered that question with Mr Hanson at the financial briefing.

Mr Hanson: I didn't—

MS GALLAGHER: You did not listen or you did not—

Opposition members interjecting—

MS GALLAGHER: You got it, and it still adds up.

Education—student needs

MS PORTER: My question is to the minister for education. Can the minister advise the Assembly of the steps the ACT government is taking to ensure that our education system continues to meet the needs of students into the future?

MR BARR: I thank Ms Porter for the question and for her ongoing interest in the education portfolio. Again I can observe that Ms Porter has asked more questions on education in this place than the entire opposition combined. Ms Porter, thank you.

The government are committed to ensuring that our education system remains the best in the country. We believe that in a good city everybody learns. My starting point for the education and training system is that it should cater to the needs of every student; it should not just follow the stovepipes of a system designed for the 1890s or indeed the 1970s.

That is why I recently announced that the University of Canberra will form an education partnership with Kaleen high school and Lake Ginninderra college—three education institutions in Ms Porter's electorate. The partnership is a first for the ACT and will see the schools work more closely with the university to improve overall teaching and learning.

The main goal of this partnership is to improve the pathway for students from junior high school through college and on to tertiary education. The partnership will also further improve teacher quality, with school staff and UC teacher education staff sharing their expertise and experience. It is going to provide unique opportunities for the University of Canberra, the schools and the Department of Education and Training to conduct research. The partnership will also provide UC teacher trainees and teachers with the opportunity to upgrade their skills through the University of Canberra and the chance to work at Kaleen high school and Lake Ginninderra college under supervision.

There is no doubt that this is an exciting opportunity. We want to further develop the partnership opportunities with the school communities and the university over the course of the next few years. There will be a number of opportunities for those school communities to be involved in these partnership discussions. We are certainly urging education stakeholders, parents, carers and staff to be involved.

The partnership is an opportunity to ensure that the needs of students are better met under the learn or earn policy that was passed by this place yesterday. The plan will see students required to be at school or in training or work until the age of 17. This represents a fundamental change in our education system. It means that we must develop new education settings and methods to ensure that every ACT student finds their passion in education and training and finds an education system that can respond to their needs. The UC-Lake Ginninderra college-Kaleen high school partnership is part of this solution.

We are also investigating improvements to vocational education and training in our high schools and colleges, particularly looking at polytechnic models for linking training and education. As I have said before, we have taken a keen interest in reform experiences elsewhere in this country as well as around the world, looking at some international models for dual secular institutions. This is an area where the territory will work closely with the commonwealth and with local institutions, which of course have a degree of autonomy.

There is much to do here. There is much at stake. We are going to take our time to get things right. But I am looking forward to 2010 as a year when the Canberra community is engaged in a rich and rewarding discussion about future possibilities in education and training. We set very high standards in the ACT. Labor remains the party of excellence in education. This means reform and it means change.

MR SPEAKER: Ms Porter, a supplementary question?

MS PORTER: Thank you, Mr Speaker. Is the minister aware of community views on the ACT government's plans?

MR BARR: Yes, there is a great deal of interest in the community about this range of new proposals. I believe the appetite for change is real, but there does appear to be one community group that does not agree. The Liberal Party appear to even oppose the conversation, let alone any improvement or reform. If WIN News are to be believed, and I certainly trust them, then the ACT Liberals now believe that the school system is working fine under this government. Mr Doszpot participated in a news story that was run on WIN on Friday night. In the introduction to the story the newsreader said:

> The Opposition wants to know why Andrew Barr wants to make considerable changes to the current college system, when new figures show local students topped the national class in reading and writing.

The journalist went on to say:

> The Liberals say it is a case of Murphy's law—if it ain't broke, don't fix it.

Then Mr Doszpot asked:

> Do we need to make wholesale changes as the government has suggested, a la the polytechnic solution?

Let me put it this way: Mr Doszpot is half right—I will give him credit here; it is a 50 per cent improvement on his usual ranting. So, yes, the overall system is performing very well, but, no, that does not prove that change is therefore bad. What it shows is that Labor's reforms in education worked; it shows that this government was right to make hard decisions in 2006 and it shows the government is right to continue to push change and reform today. I only hope that the opposition realise that, in changing times, standing still means going backwards.

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

Supplementary answer to question without notice
WorkCover

MR CORBELL: Further to a question Ms Bresnan asked me in question time about the review of capability and capacity of WorkCover, I confirm that I have asked Ms Jenny Dempsey, a former senior New South Wales WorkCover executive who is currently providing consulting services for the New South Wales government, to conduct that review. I will table a copy of the terms of reference as soon as possible.

Canberra Hospital—tuberculosis exposure

Debate resumed.

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (3.02): I have an amendment to move, which I am just looking for. Perhaps my office can get me the amendment that I am

moving to this motion; I appear to have left it upstairs. I will circulate the amendment at the end of my speech.

The government will not be supporting the motion as it reads today. I think it is unfortunate that the opposition have felt the need to move a motion here in the chamber that really goes to individuals when there are other ways that I could have certainly provided information to the opposition if they had requested it and done so in a way that protected the privacy of a number of individuals involved in this matter.

The motion goes to questions around overnight stays for people in hospital, particularly in the postnatal ward. The policy which is in place at the hospital sets out the framework: ideally, if someone is having an overnight support person, they should be able to be in a single room. But the policy also allows for flexibility in those arrangements to cater for the needs of the patients who, of course, have very different experiences post-delivery and very different needs. The Canberra Hospital is a family-oriented hospital where, particularly in the maternity area, there is encouragement around providing a very caring and nurturing environment for mothers and their families and partners, of course. I do not think anyone in this place would object, as they are a very important part of the whole birthing process and integral to the ongoing care and support for the mums and babies.

There are many reasons why a support person would be allowed to stay overnight with a woman in the postnatal ward. It may be that they require support after a stillbirth or a neonatal death. They may have a very sick infant or may have had a very sick infant that has spent time in other parts of the hospital. It may be that the woman is unwell and exhausted and will benefit from the close support of her family. Other women have needs relating to culture, language and disability. So flexibility is required in these circumstances, and that is reflected in the wording of the policy. An individual assessment is made at the time as to whether a support person can stay overnight, depending on the circumstances and the needs of the family, and the policy is flexible enough to allow for that.

I will just circulate that amendment I spoke about.

On ABC radio on Saturday afternoon, there was a claim that it was a breach of policy to allow another person to stay overnight in a shared room. We clarified that the policy had not been breached and confirmed that there was capacity for a partner to stay overnight in a shared room and that a single room would be allocated if available. In the Sunday media, a patient claimed that her partner was not allowed to stay overnight in a shared room. This is the matter I referred to in question time in relation to the second allegation on the administration of the policy, and that is what is currently being reviewed. We will certainly have further discussions with the individual who made that complaint.

I have looked at the policy. Having been a mother in the antenatal and postnatal part of the hospital myself, I am coming from this from a number of ways—that is, from looking at it as someone who has been through the system but also as the Minister for Health. I strongly believe there is no need to review the visiting hours policy. It was put together based on experience and best practice guidelines that exist for public

maternity services. The problem is not with the visiting hours policy. Whilst I do accept there have been issues raised by an individual who has come through our system and been unhappy with that—we will look at that and how we can address those concerns if we are able to—the policy sets out a good way to manage individual needs within a large maternity hospital. It is ideal, if a support person stays, that that happen in a single room. However, if a single room is not available, there is flexibility in the policy to allow that to occur.

In relation to the management of contact tracing for TB cases, I can advise the Assembly that ACT Health adheres to the stringent World Health Organisation policy on contact tracing and screening for tuberculosis. The person with tuberculosis was not aware of the infection at the time. Indeed, the person's TB diagnosis was made after the period of contact, and that person has since commenced appropriate treatment. ACT Health contacted people who had prolonged contact with this person at TCH and elsewhere, and they are being managed in line with those routine protocols. These protocols include screening for high-risk contacts to determine whether they have been exposed to the disease, and all contacts have also been offered information and ongoing support regarding their exposure. Most of the patients involved have already had a great deal of ongoing support from the thoracic medicine unit at the Canberra Hospital.

Unfortunately, the close contacts of the individual case included newborn babies. Babies are more vulnerable to tuberculosis, and the infants, along with all the other confirmed contacts, have been screened and are being provided with ongoing care and treatment as necessary. All the infants have seen a paediatrician and are being managed in line with the strict protocols in place. As a mum, again, I can empathise with the anxiety that the parents of these babies are feeling, but I do know that they are receiving excellent clinical advice and management, and I hope that this goes some way to dealing with their anxiety to a very small degree.

I would say also that there is no alternative to the path that was taken. There was no way that we could prevent these babies from having the treatment they needed. Whilst I understand that concerns have been raised around the treatment regime that has been given to those babies, there is no alternative. It is not as if we would have been in a position to say, "Well, we don't need to treat you because you're anxious about the harm that it will cause your baby." These issues have been worked through, and whilst we are very sad that people have been placed in this position, the response has focused on the need to provide the best clinical advice and care to the families involved.

I would say as we move forward, though, that part of the decisions around the way the new women's and children's hospital will be built will be that labour, birthing, recovery and postnatal care will be provided within the one room. Under that approach, women would have their babies and recover in a single room—as these will all be single rooms—before being discharged home. Some of those decisions have very much been taken around infection control and privacy for individuals. We expect that 80 to 85 per cent of births in the women's and children's hospital will be done within that model of care, and the remaining women will recover in the new hospital's postnatal ward, which is planned to have around 76 per cent single rooms. So the new

facility will include a separate, expanded birth centre that will be located on the third floor of the building in close proximity to the labour, birthing, postnatal and recovery rooms. We expect a project manager will be appointed in the next month or so, and we look forward to getting on with this exciting project.

As I said earlier, ACT Health adheres to the stringent World Health Organisation policy on contact tracing and screening for tuberculosis. We have reviewed the circumstances relating to the contact with the infected person in maternity at Canberra Hospital and have determined that no policies or protocols were breached. Tuberculosis, commonly known as TB, is a disease caused by a bacterial infection. It commonly affects the lungs, but it also can infect any other organ of the body. It is spread from person to person through the air when someone with active TB of the lungs or throat coughs or sneezes. It is relatively uncommon in Australia; in the ACT there are on average 10 to 20 new cases of TB per year, and numbers have been steady for the past decade. Most people with TB infection are not contagious; only about 10 per cent of people infected with TB develop active tuberculosis disease that makes the person sick and causes symptoms.

An infected person who does not have active disease cannot transmit TB to another person. Only people with active disease of the lungs or upper airways can potentially pass on the infection to other people. People exposed to TB are only considered at high risk of contracting the infection if they have been in close proximity to the person with TB for long periods. Therefore, many exposed people are likely not to be considered at high risk of contracting TB. Those diagnosed with TB can be treated with antibiotics, after which complete recovery is expected. In the ACT there are on average 10 to 20 new cases of TB a year, and these cases and the contact tracing around them are well managed by the specialists in the thoracic medicine unit at the Canberra Hospital and the Health Protection Service.

The amendment that I have circulated simply acknowledges large parts of Mr Hanson's motion—that is, that a number of people, including newborn infants, were recently exposed to the risk of being infected by tuberculosis at the Canberra Hospital; that protocols and policies regarding partners staying overnight need to be flexible to allow for the best interests of the family, depending on their individual circumstances; calls on the health minister to clarify the policies and protocols with regard to partners staying overnight in the shared postnatal wards in ACT public hospitals; and to review the circumstances of the recent case where newborn infants were exposed. All of those matters are being done.

I would, in conclusion, say that, whilst I acknowledge all the pain and trauma and anxiety that have been caused to the individuals that have been involved in this episode, I have been disappointed that not one public comment has relayed any concern for the individual involved at the centre of this—the individual who is actually sick. My office has had contact with that family. They are extremely anxious about the level of publicity around this case. I really do not want to go into that any further. As a group of leaders within this community, we should take a second to think about everybody that is involved here and respect their privacy. As a caring community, we should understand that, from time to time, incidents like this will occur. We have to manage those incidents as they occur, but we should respect

everybody involved in them and take care and caution with our comments in public. That is what I have been trying to do on this.

That is not discounting anyone's anxiety or the trauma that has been involved in this, but, as a group of leaders, could we please just make sure that the debate stays at a mature level, respects everybody who is involved in it and expresses concern for everybody who is involved in it. There is a genuine anxiety that there are individuals who may be vilified in this community because of the level of debate that has occurred over this episode. If we could just think about that for a moment, I think the Assembly would be the right place for those considerations to start. As leaders, we need to be the ones that are managing that debate.

I think the amendment addresses the concerns that Mr Hanson has. If Mr Hanson wants a private briefing on the individual circumstances, I am very happy to arrange it. That has not been asked for prior to this. I do not think that I am in a position where I can bring back a review about an individual circumstance to this Assembly for further public debate. I do not think it is in the interests of anyone involved, but I am very happy to provide Mr Hanson with the review work that is undertaken around the management of this particular case.

I move the amendment circulated in my name:

> Omit all words after "That this Assembly", substitute:
>
> "(1) notes:
>
> (a) that a number of people, including new born infants, were recently exposed to the risk of being infected by tuberculosis at The Canberra Hospital; and
>
> (b) that protocols and policies regarding partners staying overnight in shared postnatal wards in ACT public hospitals need to be flexible to allow for the best interests of the family depending on their individual circumstances; and
>
> (2) calls on the ACT Health Minister to:
>
> (a) clarify policies and protocols with regard to partners staying overnight in shared postnatal wards in ACT public hospitals; and
>
> (b) review the circumstances of the recent case where newborn infants were exposed to tuberculosis and identify if any policies or protocols were breached".

MS BRESNAN (Brindabella) (3.16): This is obviously a very serious case in issue and one that, as we have heard, has caused stress and worry for all the people involved. I also think that we do need to have some understanding of the situation and respect the rights and privacy of all the people in this case. If Mr Hanson does want to go into further detail, I would suggest that he secure a private briefing with representatives of ACT Health, because we do need to remember that we are talking

about people's personal details, particularly in relation to the person who was found to have TB.

From the information that has been presented to date, it appears as though the situation could not have been prevented. The person in question who was found to have tuberculosis did not know they had it. Either way, they would have visited their partner or wife; they would have entered the hospital and come into contact with a number of patients, including new parents. We should remember that people at a hospital could be exposed to any number of diseases, and that includes, as has occurred very seriously in this case, newborns.

Ms Gallagher interjecting—

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Ms Gallagher, please hear Ms Bresnan in silence. Ms Bresnan, please continue.

MS BRESNAN: Thank you, Madam Assistant Speaker. It is a terrible situation that people, most significantly newborns, have been exposed in this case. It must be incredibly scary and also angering for parents to discover that their newborn child could have contracted TB. It must be a terrible experience for the parents. It is emotional, and I think ACT Health have acknowledged the emotions involved and tried to be sensitive to this in dealing with the situation. I also acknowledge that there may have been some misunderstanding via the media about whether or not policies have been breached, but I do believe that today the minister has confirmed that there were not any breaches.

I note the points and issues Mr Hanson has made, and we do support a number of the points he has raised in the motion. I refer to the call on the minister to clarify policies and protocols with regard to partners staying overnight in shared postnatal wards in ACT public hospitals, to review the circumstances of the recent case where newborn infants were exposed to tuberculosis, and to identify whether any policies or protocols were breached.

The Greens will be supporting the government's amendment to the motion, because I do think the matter has been addressed here today and does not warrant a review. I will point out that I do believe that it is important that protocols and policies regarding partners staying overnight in shared postnatal wards need to be flexible and allow for the best interests of families, depending on their circumstances. We do not know of the exact circumstances relating to why the person in question—that is, the person who was later found to have TB—was staying in the ward. At least I have not seen this information related. My understanding of this case is that the policies and protocols of visiting hours and overnight stays by parents in shared postnatal wards are clear. Again, I would say it does not warrant or require a review to be undertaken.

I did hear a discussion about the matter on ABC radio, and it seems the person who was later found to have TB was possibly requested to leave by TCH staff when visiting hours had finished but that this had not occurred. I will obviously stand corrected if this was not the case, and I apologise if it was so, but this is the information I have heard.

In relation to the subsequent complaint that was discussed in question time today, this is being investigated, as was advised by the minister. I do agree with a number of points that Mr Hanson has raised; it is a very serious issue. But I do believe that the minister has addressed it here today, and we will be supporting the amendment to Mr Hanson's motion. I will again also say that my sympathies and thoughts and best wishes go to all the parties involved in this case. Again, I would reiterate that we do need to be careful when we are discussing personal, private matters relating to people and debating them in the chamber, particularly in relation to the person who was infected which has led to this situation. I can imagine how distressing it is for them, and also that they are now seeing it discussed in the public arena. I think we need to keep that in mind at all times when we are discussing these sorts of matters.

MR SESELJA (Molonglo—Leader of the Opposition) (3.21): I would like to commend Mr Hanson for bringing this motion forward today. I think it is an important discussion and a very important motion and it is worth reflecting on a few of the issues. Mr Hanson has given a detailed account of the background to this case and the reasons and the rationale for bringing this motion forward. But it is worth while, in listening to the debate, to touch on a couple of issues, particularly some of the misinformation that has been put out or information that has been, at best, confusing from various members of the government. It is worth touching on that.

I should start obviously with the severe impact on a lot of individuals and the fact that this is a very distressing situation. For Ms Gallagher to somehow claim that, because Mr Hanson has taken up the case of those who have come to the opposition, in some way there is a lack of compassion for anyone else is ridiculous. It is not backed by anything that has been said. It is quite reasonable for us to have compassion for all of those who have been affected.

We have had the personal representations from Dr Jeannie Ellis who has given, in quite some detail, her concerns at how this process was handled. In a very long email to the opposition—I will not go through it all; Mr Hanson has read some of it—clearly some very serious issues are raised. I will quote from part of it. She says in the second paragraph:

> It is quite obvious to me that ACT health and Gallagher's office are attempting to cover up what was a severe deviation from usual practice on the post-natal ward between the 28th August and September 3rd. The lack of adherence to routine protocol is the undeniable cause of the exposure of the most vulnerable cohort of the population to a very serious infectious disease.

We do not take that lightly and we are not going to not talk about it because Ms Gallagher does not want us to talk about it. These are serious issues and there is a lot of distress that has been caused as a result of this situation. It is worth talking about the distress at the impact. Dr Ellis goes on to say:

> In simple terms, infants under 1 year of age are extemely vulnerable to any infections and are particularly susceptible to invasive, disseminated tuberculous disease. Infants under the age of 1 year are at the highest risk of mortality and morbidity. Possibly the most frightening aspect of this situation is that no-one

> can test any of the babies to reassure the parents that their newborn is free of infection as the tests in babies and children are completely unreliable. The side effects of the medications are very nasty, particularly the isoniazid. Transmission of TB depends on the infectiousness of the organism, the proximity of the contact and the duration of the contact.

She goes on in some detail. But it gives a bit of context as to how distressing this is for a parent who has had their baby exposed in this way. I think that we need to keep the real distress in very stark focus as we debate this issue. Anyone who has had children, particularly anyone who has had premature babies, as my family has, knows that they are just particularly vulnerable. All babies are vulnerable but the more premature they are, the more susceptible they are to all sorts of things and the more of a battle they face in those first few months. Of course this has signficiantly added to that distress.

There have been comments floating around that you could be exposed in a shopping centre or at a bus stop. Those are the kinds of comments, if anything, that are going to cause concern in the community because, as Ms Gallagher said, it is prolonged exposure that is the key and prolonged exposure in a confined space, as was the case here, is the difference. It is not casually passing someone in a shopping centre that we should be concerned about; it is prolonged exposure.

The misinformation that has underpinned those kinds of statements not only seeks to deflect what the real issue here is, it also potentially has the possibility of causing more concern in the community than is warranted. This is about prolonged exposure. We are dealing with a potential breach of protocol and breakdowns in systems that have led to this.

In seeking to defend their position, we have had members of the government, people representing the government, making comments that are unhelpful and do not, in any way, enunciate this. The health minister has acknowledged as much in her statements about the fact that prolonged exposure is what we are talking about—that is the key—and prolonged exposure in a confined space, as we have seen.

We have also seen—and this has been a pattern for the health minister—the rush to absolve everyone from any sort of blame. Without an analysis, without an investigation, we see that. And we see a contradiction actually between the amendment moved by Ms Gallagher and her public statements in the *Canberra Times* on this issue. We had a report that, on the day, 7 November, health minister Katy Gallagher said she was satisfied with how ACT Health had handled the exposure. Once again, she said she was satisfied. Yet, in her own amendment, she calls on herself to review the circumstances of the recent case where newborn infants were exposed to tuberculosis and identify whether any policies and protocols were breached. If you are satisfied that nothing is wrong, why would you seek the review?

Why do we see this constant lack of questioning from this minister? She has a situation brought to her and instead of saying, "This is a concern. It is a concern to me that this exposure has occurred. I want to get to the bottom of why it has occurred. I will have an investigation to determine whether there have been any breaches of protocols, whether it has been handled well or whether it could have been handled better," she says, "I am satisfied." She accepts now that she should investigate.

We see this as a pattern. We saw it in the recent case with the baby whose parents took the baby away after 7½ hours in the emergency department. We saw it in that case—7½ hours in the emergency department and the parents, frustrated, took the baby away, not feeling that they had had the care that they needed. Of course, Ms Gallagher, in the Assembly, on that case says, "I am satisfied that, while there was a long wait, the care provided was adequate."

It seems that the standards applied by the minister are consistently low. The questions that are asked are never detailed and she always starts with the proposition that there is no problem, that there is nothing to see here, that nothing has gone wrong. And that is what we saw as the first response in relation to this, that she was satisfied, and yet now she is saying that we should trust her to review the circumstances, with an open mind, to determine whether or not there were any policies or protocols breached.

This is not the way to handle these issues. The way that the minister should be handling these issues is to ask hard questions. It is to not automatically assume that nothing has gone wrong. People make mistakes. Sometimes policies and procedures are not up to scratch; sometimes the policies and procedures are not followed. When that happens or when that may have happened and we see a serious impact as a result, as we see here, we expect, and the people of the ACT expect, that their minister, on their behalf, will be asking those hard questions. They expect that their elected representatives will be asking those questions on their behalf, not simply absolving everyone, including themselves, of blame, not simply accepting that there are no problems.

In the end, we have a lot of distressed people in relation to this and we have a lot of sympathy for their plight. This is a difficult situation. It is a difficult situation for people to deal with, particularly when you are dealing with newborns, particularly when you are dealing with premature babies, and we should not underestimate that.

We are never going to have a perfect health system but when it goes wrong and when it apparently goes wrong, as it did in this case, it is our job to ask those questions and, indeed, it is—

Ms Gallagher: It did not go wrong.

MR SESELJA: Again, she says it did not go wrong. You are moving an amendment. This makes a mockery of the amendment. She is moving an amendment that she will review the circumstances and the policies and procedures but nothing ever goes wrong. Whenever anything is brought to her, she is always satisfied that it has been handled well. There is never any applying of her subjective judgement, of her objective judgement, asking questions about what it was or any sort of reasonable investigation before coming to the conclusion. She comes to the conclusion that there is nothing wrong; she refuses to investigate; and we have now this contradictory amendment which makes a mockery of it.

I commend Mr Hanson's motion and I commend him for his work in taking up this very important debate. *(Time expired.)*

MR HANSON (Molonglo) (3.31): In speaking on the amendment, first I would like to clarify some errors in fact and in judgement in the speeches of both Ms Gallagher and Ms Bresnan.

Firstly, they suggest that there is a lack of concern because I am highlighting what I and others consider to be a breakdown in the procedures and management of the Canberra Hospital and to be miscommunication. Because I am highlighting errors in one case does not mean that I have a lack of concern. If Ms Gallagher would like me to clarify it, I am very happy to do so, on the record.

Of course I have great concern for any individual who may be infected with tuberculosis and for everybody who has been affected in this case. In my opening speech, I went through in some detail how serious this disease is and I highlighted those concerns. But we have—

Ms Gallagher: You would like to acknowledge that.

MR HANSON: Ms Gallagher, if you continue to try to poke your finger at me, to try and suggest that I do not have any concern—this is typical Stanhope policy: when you are under attack for errors, mistakes, that may have been made, attack the opposition personally and make slurs. To suggest that, just because I have highlighted some procedural problems that have gone wrong, somehow I am lacking concern—it is just typical Stanhope politics.

On the other issue of the exposure, there was a little bit of banter going on between Ms Burch and Ms Bresnan about "you could get this at the movies or you could get it on an aeroplane". I would like to clarify the point. Exposed contact in confined spaces is a particular concern, and if you go to the Canberra Hospital TB unit, they talk long term of a period of about six hours. That is the period of concern.

I do not expect that many parents take their newborn infants who are 24 hours old, who are in some cases premature, to the movies or on flights. It makes a mockery of some of the comments that have been made about this being essentially no different from something you could get in a shopping centre—or in the workplace, as Mr Stanhope said—or in a bus shelter. It is very important that we address those facts.

In relation to Ms Gallagher's amendment, essentially it is the same motion but with a couple of omissions. I will therefore turn to the omissions. One thing that is proposed to be removed is:

> … that protocols and policies regarding partners staying overnight in shared postnatal wards in ACT public hospitals is unclear …

We know that it is unclear. Ms Bresnan thinks that the confusion has occurred because of the media. I contend that it is a breakdown in communication between the government and the department. But, regardless of that, the Greens—Ms Bresnan, in her own speech—admitted that it was unclear and that there was confusion. To then take out of the motion the fact that we note that it is unclear is ridiculous. We need to acknowledge that it is.

Two other elements have been taken out. One is:

> … review current ACT Health policies and protocols for visiting hours and overnight stays by partners in shared postnatal wards …

Why would we want to do that? There has been some real concern raised by a lot of people in the community—and, you could contend, experts—who have concerns about those protocols and procedures. Having just had this incident occur, why would we not take this opportunity to review our protocols and procedures? I think it astounding that Ms Gallagher would be so arrogant as to think that there can be no improvements that can be made, that it is all working tickety-boo, that the policies and procedures are perfect and could not benefit from a review.

I am astounded that she would want to take out what is an opportunity to learn from what has occurred—to make sure that this does not happen again or certainly make sure that the risk of it happening again is reduced. It may be that there is no change required, but why not have a review, have a look at the procedures and policies, to see if that is the case?

Finally, what Ms Gallagher has removed is the paragraph on the need to report back to the Assembly. I see no reason not to. Private briefings—we are not talking about the individuals in the case. What I want to know is what the outcome of the review is, whether the procedures are right and whether we have the appropriate protocols in place. Let us have the minister come back to this chamber and tell us that, yes, the review has been conducted and there were breaches or there were not. We do not need to go into names, numbers and specific incidents; we just need to be reassured that the review has been conducted, that we have learned from it and that we are going to do everything that we can to mitigate the risk in the future.

To take those elements out of it weakens the motion. For that reason the opposition will not be supporting Ms Gallagher's amendment.

Amendment agreed to.

MR HANSON (Molonglo) (3.37): I would like to thank members for their contributions to the debate. Mr Seselja, I thank you for the comments that you made. Ms Gallagher, I am a little bit disappointed by your response. I am heartened to see that you do acknowledge that there have been some problems here and that they are certainly a cause for concern.

Ms Gallagher: I do not think I said that.

MR HANSON: If you did not say that then you do not have any cause for concern.

Ms Gallagher: I extended my concern for individuals.

MR HANSON: If all you said was that you extend some concerns for individuals and you think that nothing could possibly have gone wrong or could be improved on in the future—if that is your position then I am very disappointed.

In terms of the Greens' position, clearly they have not done the research on this case. That was very evident from the way they structured the response to the motion and in what they put forward. I am somewhat disappointed.

There has been a lot of confusion and concern in the community about this. I have been approached by a number of constituents—not just Dr Ellis, but a number of other constituents—who are very upset about what has happened and also about how they have subsequently been treated by the ACT health system. Those constituents have used the term "cover-up". Two constituents individually used that term to describe how they feel that they have been treated in the circumstances.

The disease of tuberculosis is an insidious disease. It is infectious, particularly when you are exposed in confined spaces for protracted periods. That is why the focus of my motion, the focus of this issue, is the concern about partners staying in shared rooms, and the policies and procedures around that, both systemically and also as to what happened in a particular case.

In particular, I note that the disease is extremely prevalent in children who are one year or under. They face a greater risk of infection. And of course the side-effects of the treatment for young babies is not nice and the ability to test them is very erratic at best. The concerns that we have are not about screening or whether people get exposed in a shopping centre scenario. This is about procedures around partners staying in postnatal wards and who has been exposed. It is about information management after this event—who has said what and why there seems to be so much confusion. There has been limited information provided by the minister. I wish that she would clarify the position and make sure that the facts in this case, without naming individuals, get put on the table.

In terms of the position, it is clear that the chief medical officer, Charles Guest, and the minister were at odds. There was a breakdown in communication. If there is a breakdown in communication between the Chief Health Officer and the minister, it does not give us much assurance that communication with the individuals concerned or the broader public is going to be as clear.

The question is: what is going on? The situation does need to be clarified. What are the procedures? Were there any breaches? Is it being investigated? Should it be investigated? Why isn't it? It seems that at various stages the minister's office has been somewhat shy in coming forward. I am somewhat disappointed by that—that she seems to hide behind her bureaucrats. Given the number of times I have seen a spokeswoman for the minister when it is bad news, it is starting to become somewhat tiresome.

We also have other reports. I do not think that we have necessarily heard the end of this. There are reports of a father who was not allowed to stay in a shared ward. My understanding of the policies, although they are a little confused, is that you stay in a shared ward only if there is a particular reason to do so, if there is support required, as in the case of a stillborn. They are basically the words of Charles Guest. So why is it—we need to confirm it—that one father was allowed to stay in this case but another

father was told not to? I have asked that that be investigated to make sure that there was not a breakdown in procedures.

I think it is fair to say that when a healthy woman arrives at the Canberra Hospital to have a baby, she will expect that every possible care is taken to militate against the risks of infection to her child. I am not confident that every possible policy procedure was followed in this case to ensure that that risk was mitigated.

Mr Stanhope: That is garbage. What else would you have done?

MR HANSON: I would like to remind the minister—

Mr Stanhope: Just tell us what you would have done.

MR HANSON: I will tell you what I would do now, Mr Stanhope.

Mr Stanhope: Tell us what you would have done.

MR HANSON: I would make sure that policies are clear. I would make sure that the lines of communication between the minister and the Chief Health Officer are clear. If I were concerned, as I am, that policies and procedures may have been breached in this case, I would ensure that there was an investigation to clarify that issue. What I certainly would do is write a letter to the parents involved, who currently have their babies under medication which is quite harmful and toxic in some cases, and apologise to them. Would you do that, Chief Minister? Will the minister do that? Have you signed that letter yet?

Mr Stanhope: Come on; tell us what you would have done before the event?

MR HANSON: I think I have made it very clear that we would make sure that the policies and procedures would be adhered to. What is clear from the interjections here is that the minister and the Chief Minister are refusing to accept that there can be lessons learnt from this episode. They are refusing to accept that anything possibly went wrong or that anything could have been done differently.

Why do we not have the review, as I am asking for? Then, Chief Minister, we will know exactly what could be done better in the future. That is why I think it is a prudent thing to have the review.

Clearly, Ms Gallagher is choosing only to selectively review the policies and procedures and, through her amendment, not wanting to review current ACT Health policies and protocols for visiting hours and overnight stays by partners in shared postnatal wards. Clearly, the minister is of the view that nothing needs to be addressed in this case. I am not so sure; I would certainly look for review.

Mr Stanhope: What would you have done?

MR HANSON: I think you know what I would do, Mr Stanhope. I have outlined it for you here. I certainly look forward to the opportunity when, as health minister,

when there are mistakes made in the hospital, or when there appear to have been mistakes made, I will make sure that there are open and accountable reviews; I will make sure that the line of communication with my chief health officer is clear; I will make sure that the line of communication with individuals who have been put at risk of infection are clear; and I will make sure that the line of communication to the public is clear. I will take responsibility and I will be accountable. I will not hide behind bureaucrats and I will not hide behind a spokeswoman.

Motion, as amended, agreed to.

Environment—urban street trees

MS LE COUTEUR (Molonglo) (3.45): I move:

That this Assembly:

(1) notes the importance of urban trees for:

(a) habitat for wildlife species;

(b) their key role in the carbon cycle;

(c) landscape amenity; and

(d) improving the liveability of cities and suburbs and in particular reducing heat load in summer; and

(2) calls upon the Government to ensure that:

(a) urban tree programs are funded separately to climate change initiatives;

(b) local communities are thoroughly consulted in all urban tree removal and planting activities and are encouraged to participate in decision making in relation to any major tree work in the local area;

(c) any potential risk to the public posed by a tree is assessed in consultation with the community and managed by risk mitigation actions that prioritise the continued life of the tree;

(d) the environmental value of trees is prioritised in tree management decisions;

(e) timber from removed trees is used sustainably to minimise greenhouse gas emissions;

(f) solar access to buildings is given high consideration in tree replacements and appropriate tree species are selected to suit each site;

(g) when urban trees are removed, they are promptly replaced with the same or a greater number of trees;

(h) urban trees are cared for to ensure their survival and good health;

(i) strong safeguards are in place and requirements are formalised when employing tree contractors, to ensure they follow best practice and strictly adhere to the Government's tree policies;

(j) tree management in parks emphasises keeping communities of trees intact and retaining trees for habitat; and

(k) sufficient resources are allocated for the management of urban trees as described in this motion.

This is a perfect time for the Assembly to discuss my motion on urban trees and to commit to a thoughtful, consultative and environmentally sound way to move forward on urban tree management. This week the government announced the temporary suspension of its spring tree replacement program because the program had caused a lot of angst in the community. It is a sign of how important trees are to the community and how critical it is that the government run the programs effectively.

Recently, the government has also declared its intention to begin a new program of tree replacement, the urban forest renewal program, and this will greatly affect the number of trees it removes from Canberra's suburbs and replaces with others. This significant program will require a significant effort from the government on implementation and consultation. We cannot afford anything but the very best management of our valuable trees.

If there is to be support from the Greens, or the community in general, for ongoing tree management programs, we need to have a good program from the government which is going to require commitment, such as I have outlined in my motion, to properly consult and involve the community; prioritise the environmental benefits of trees over economics, convenience and aesthetics; take a sensible approach to managing risk to the public, without either overreacting or cutting corners in tree management; and not misrepresent the urban tree replacement program as a climate change initiative.

Canberra is obviously a very special city when it comes to street trees. People visiting from other Australian cities—in fact other cities from all over the world—are always struck by the prominence of trees in our landscape. We deserve our title of the "bush capital". We have become used to trees being present in all our streets. But it is an unfortunate reality that trees are not permanent. As in a natural forest, urban trees grow old, drop limbs and eventually die. If the ageing trees were out in the country or the forest, they could mature gracefully; but urban trees are in an unnatural environment and their life and their health have also been significantly shortened, in most cases by the ongoing drought, so there is a possibility of harm to property or people from trees dropping limbs.

Most of Canberra's one million trees were planted in two main waves. A large number of these will become mature in the next 20 years. This advice has come from an ANU report on Canberra's trees, as well as from a number of Canberra tree experts and ecologists. Proactive management of this issue will lead to a greater good for Canberrans now and in the future, but we need good management and we need commitment from government to the principles of best practice.

I would like now to talk briefly about the crucial role of trees for the environment. Trees can reduce the heat load of the city. The CSIRO has documented the relationship between greenery, greenhouse gas emissions and heat stress. The conclusion is that the more greenery in a suburb the less the heat output and so the smaller the contribution to global warming.

Research from the University of Melbourne made a conservative estimate that about 10 tonnes of carbon are contained in each mature tree and, when the tree is cut down, eventually that will be released into the atmosphere. If you multiply that by the million trees that we are talking about, that is a lot of carbon emissions.

So the government must also look at how it uses the timber from the trees that it removes. My understanding is that at present this is very ad hoc and the trees are largely chipped. We need to look at sustainable uses for the timber to lock in carbon, such as using it for construction or speciality timber or furniture. The trees also contribute very positively to local micro-climates—the climate in each block and street—because they create shade for people, shade that helps our gardens flourish and shade that attracts frogs and lizards to gardens.

The Greens say that the government should prioritise environmental factors in tree management decisions. What we and many of the community fear is that the government will let economics, aesthetics, or even convenience, override the environmental considerations. Certainly, it may be cheaper and easier in the short term to forge ahead and cut out whole blocks of trees, or whole streets of trees, or to disregard community concerns, or to manage risks simply by removing entire trees. But we want to see a balance which prioritises environmental issues.

My motion calls on the government to ensure that local communities are thoroughly consulted in all urban tree removal and planting activities and encouraged to participate in decision making in relation to any major tree work in the local area. Unfortunately, that is not the case at the moment. I am encouraged that the government has put a moratorium on south side tree removals because of the community outcry. It needs to use this time to review the processes. I have discovered that residents whose houses adjoin the trees that are going to be removed are notified either directly or by a calling card, or sometimes there has been consultation or notification in advance by a letter, but the letters have not come from the government and they have not been addressed to the residents individually. So these calling cards and letters get disregarded in the collection of junk mail and people feel that they were not told anything about it in the circumstances.

The government's current guidelines also do not provide for notification if a dead tree is removed, but dead trees are important habitats for native birds and other animals and the presence of this wildlife is something that local communities value. We need also to do much better than this after-the-fact notification. We need to be more proactive. One simple suggestion is that we erect signs at trees which are scheduled for removal, in the same way as ACTPLA does for DAs. That would mean that at least people who walked past the trees might be aware of what is happening and can comment on it before it is too late. The government's new community noticeboard

could also be used. But, ultimately, the government needs to work out a full model of consultation and participation rather than notification.

This program is too big a program and will cover too much of the community for the community not to have ownership of it. There are many questions that the government and the community need to talk about, such as: will we keep the same species as were there before? Will we end up putting in fruit trees, native trees or others? A couple of practical suggestions might be that the government employ tree education officers dedicated specifically to talking to the community about trees and that they develop programs that help the community to actively become involved in managing street trees. Frankston City Council has a successful "adopt a baby street tree" program, which gives buckets to householders which they use to collect greywater to water the newly planted trees.

This brings me to another important part of my motion: tree replacement and care. Care is particularly needed when new trees replace established trees. I have had a lot of complaints that the government has planted fewer trees than the number it cut down, and that the trees planted in their place have unfortunately been neglected, causing them to die or to become unhealthy. I have been told that the government has not been watering the trees adequately—only about once every six months. In the current drought environment this is disastrous to the trees' health and usually leads to death. The irony is that mismanagement of trees will lead to them being more dangerous, which then means the government is more likely to have to remove them and plant others and the whole cycle continues in a way which is neither cost effective nor satisfactory for the community or the environment.

My motion also calls on the government to ensure that any potential risk to the public is assessed in consultation with the community and managed by risk mitigation actions that prioritise the continued life of the tree. Trees can, of course, be dangerous in urban environments and we need to manage them for the safety of everyone. But I would like to see the government commit to a balanced approach when it assesses the threat of an accident or indeed of litigation. The government should assess risk sensibly, taking into account the area around the tree, the wishes of the community and the reality that trees do, of course, age. It should not take the easy approach of removing all ageing trees instead of looking after them, pruning them where appropriate and managing them.

Solar access to buildings is another important issue and one which was never a consideration when most of our street trees were planted. With the climate crisis looming, we need to ensure that new trees do not block the northern sun from houses' roofs and windows. We need to think about when deciduous trees are more appropriate, about the aspects of the trees and about their implications. Possibly we can plant shorter or deciduous trees on the northern sides of houses and still plant the endemic species of eucalypts on the southern, south-western or even western sides of houses to maintain wildlife habitat and late afternoon summer shading. This is clearly an area where we will need the input of local residents.

As trees age and form hollows, they become homes for native birds and other wildlife. The government tells me that its contractors are not supposed to remove trees when

there are still active nests. Yet recently in Turner this is exactly what happened. Trees were removed and active nesting sites were destroyed. I understand that Parks, Conservation and Lands have an informal policy of telling contractors to avoid active nesting sites. But this is not really satisfactory. They need to have something other than an informal policy. Far too often we have the situation where governments stay at arm's length from the actions of contractors and things sometimes go wrong.

This is why my motion calls on the government to make a commitment today that, if it uses contractors as part of its tree removal programs, it has strong safeguards and guidelines in place. It needs to formalise the requirements to make sure that contractors only follow best practice. This points to a large issue about how the government implements its policies and guidelines. When the residents complain about the government's practices around trees, the typical response is: "All tree maintenance activities are governed by well-developed guidelines and procedures so that work is not carried out indiscriminately and so that public safety is not compromised." That sounds absolutely fine. But are these procedures and guidelines always adhered to and are they as strong as they should be? Has the government lost touch with the details of its guidelines as it strives to cut costs and grow efficiency?

This and other concerns I have mentioned have led me to write to the Commissioner for Sustainability and the Environment, requesting that she consider conducting an investigation into the ACT government's implementation of the street tree replacement program and its strategy for managing trees on public land.

Lastly, I would like to touch on the issue of resources. Tree management is a long-term project which obviously requires long-term attention and resources, and these resources will need to be significantly boosted in recognition of the magnitude of the urban forest renewal program. I have met quite a number of public servants who work on tree issues. They are all dedicated and knowledgeable people, but I am concerned that there are not sufficient resources to do what is required of them. The tree protection unit, for example, has only two people to manage tree issues on private land for the whole of Canberra. In their spare time they are supposed to identify exceptional trees for the tree register, and not surprisingly they hardly have time for this.

We all know that the TAMS budget is in deficit—in fact, I believe that last year it was a $7 million deficit—and this is a reason for us to be concerned about this program because we do not want to see a situation where tree management suffers because of the current budgetary pressures on TAMS. This is a project which cannot be driven purely by short-term economics which may mean that corners get cut and thus trees have to be cut down needlessly.

My motion also calls on the government to ensure that the urban tree programs are not funded as climate change initiatives. The government in the 2008-09 budget rebadged its urban forest replacement program as a climate change initiative, even though in fact it has been carrying on a small-scale urban forest replacement program for many years; TAMS has been doing this for many years. This just seems to be a way of saying that the government is spending more on climate change initiatives than it really is.

The urban tree replacement program is positive from a climate point of view. The ability of trees to sequester carbon, and their role in the carbon cycle, is crucial. But we are funding the urban tree program for lots of other reasons as well—for urban amenity, for wildlife, for the fact that people just love their trees. There are lots of reasons and it is unfair to put it all down under climate change.

In conclusion, let me stress that the approach we take to street trees over the next decade or two provides a once in a lifetime opportunity for the trees, a once in a century approach. The government has in-principle support from the Greens for the urban forest renewal program. There is seriously a greater good to be gained for Canberrans now and in the future. But we really need to ensure that the program is well done. It will be a tragedy if the government fails on the implementation challenges. *(Time expired.)*

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (4.01): I am happy to speak to this motion. I do, I think, have some level of regret in relation to the extent to which a basic management issue such as the removal of dead, dying or dangerous trees has been politicised to the extent that it has and that the concerns within the community on the government's approach and attitude to the issue have been raised, I think, quite unnecessarily. I must say that I think the innuendo and the charge that members of TAMS, members of Parks, Conservation and Lands, our dedicated rangers—those that actually identify trees that are in decline, dead or dying and then refer their concern to an expert tree assessor within TAMS, one of our most experienced and respected rangers, who then makes an assessment as to whether or not a tree is in decline, dangerous, dying or dead and on the basis of that assessment arranges for its removal—in some way are not doing their job are not justified.

I believe there are 282 trees that are currently being removed in this particular cycle, 282 trees that are part of the annual tree maintenance program, an annual tree maintenance program that was initiated in 1994 and has run and been managed without controversy since 1994. It is the same process, the same program, the same rationale. We are talking about 282 trees across the entire ACT. We have an urban forest of 600,000 and, of the 600,000 trees in the urban forest, 282 have been identified as in decline, dead, dying or dangerous. The 282, after individual inspection and assessment by an expert assessor, were identified as dead, dying, in decline or dangerous and were slated for removal.

Some of the confusion and some of the concern over and above that is, of course, that the government has, for most of this year, raised, in anticipation of a detailed public consultation, its desire to initiate a long-term strategic tree replacement program, acknowledging, on the basis of expert advice from the ANU and the CSIRO, that we face, with our urban forest, something of a tsunami of decline and that we have wanted to be strategic about how we deal with that. So we have appointed an expert panel. And the expert panel has been giving us advice on how to proceed. On the basis of the work of that expert panel, we had intended, anticipated, a major round of

public consultation, of communication and of education in relation to the issues that we face.

But I read this morning on the front page of the *Canberra Times* that the Greens—and I must say it is a pity that my office or my department were not approached or the issue was not discussed with us—

Mr Rattenbury: Do not worry about the facts. Do not let the facts get in the way, mate.

MR STANHOPE: No. I read on the front page of the *Canberra Times* today that the ACT Greens, and this is confirmed, have approached the commissioner with a view to having an inquiry into this issue. I must say that I think it is a matter of regret that you did not feel the need to consult the minister or his department in relation to your decision or your desire for the government's attitude to tree maintenance and management to be the subject of an independent review by a statutory commissioner. I think that might even be in breach of the parliamentary agreement, that you actually decided to pursue that issue without any consultation or discussion with me or my department.

Be that as it may, you have done it; you have approached the commissioner; you have sought an independent investigation and review. As a result of the fact that you have initiated that—and I understand why you have done it—I too, subsequent to your approach for that independent assessment inquiry, have sought, in communication with the commissioner, to ensure the terms of reference for any inquiry which the commission will now do actually encompass all of the issues that will allow us, as a government and as a community, to move forward in relation to the management of our street trees and our urban forests. So the government accepts that.

I have circulated an amendment actually acknowledging and noting the steps that have been taken, over and above the moving of this particular motion today. The Greens have, in tandem, moved a motion here in the Assembly, a motion, which it seems to me, the Greens have then allowed to be overtaken by events by simultaneously seeking an independent inquiry by a statutory commissioner into exactly the same issues. So we now have running an inquiry by the commissioner and a motion in the Assembly.

Over and above that of course too, the government, through the department, has been working up a program for urban forest renewal. It seems to me that, if we actually now sequence these, we might as well just commit ourselves to the inquiry, with broad terms of reference, and see what the commissioner has to say.

In the interim, the government has decided not to proceed with the urban renewal program until the commissioner has reported. The commissioner's current priority is, of course, an inquiry into grassland management and the impacts of drought and kangaroos et cetera. She will need a number of months to conclude that. She will not be able to conclude the inquiry which the Greens have asked for into urban tree management before the end of the financial year. The government, of course, will not pre-empt the outcomes of that; so we will not proceed with the urban tree renewal

program at all until that review is completed, until the commissioner has concluded all of her public consultations, and the community has had an opportunity to engage with her on all of the questions which the Greens raise in their motion today.

The government will respond some time before the end of 2010 and we will then reassess our capacity to take forward the urban tree renewal program in the form or design that the government had anticipated and on which, coincidentally, as I believe the Greens are aware, we had intended to begin detailed community consultation in 10 days time or 12 days time. But of course there is not much sense in proceeding with that now whilst we are doing a full commissioner for sustainability review into all aspects of tree management which will encompass and involve detailed and significant community consultation by itself.

I think, through this process, this new process, we will perhaps tick all the boxes. There will be a rigorous, scientific assessment of all the issues that Ms Le Couteur raises in her motion today by the Commissioner for Sustainability and the Environment. The government will not, of course, pre-empt the outcome of that. We will await the outcome of that scientific, rigorous investigation; we will await the outcomes of the community consultation the commissioner will pursue. We will not proceed with the urban forestry renewal program; we will put that on hold.

I will disband the expert reference group, because there is no need for them to meet now until the second half of next year, until after the commissioner actually brings down her report and the government has an opportunity to respond to it. Then, hopefully, there will be some unanimity within the Assembly, some agreement on the way forward, some acceptance that poor old TAMS rangers do not go out and deliberately find healthy trees to cut down because it is much more fun cutting down healthy trees than cutting down diseased or dead trees, which seems to be the view or the attitude that the Greens in particular take to the work of TAMS rangers in Parks, Conservation and Lands—that somehow they get some particular glee from rushing around finding healthy trees to cut down. Of course they do not.

There are 282 trees in this current sweep. Every time TAMS has sought to cut down a tree, this matter has been raised. I think every single one of the trees that have been cut down in the last two months has been subjected to some third-degree cross-examination: it really was not dying; it really was not dead; it really was not dangerous; TAMS just cut it down for the fun of it; they have actually got that—what do they call it?—chainsaw fever or something or other; and a chainsaw perhaps is much more fun to operate on a healthy tree than an unhealthy tree or some such. I do not fully understand it.

But the concern that is being expressed at the moment is in relation to 282 trees. It is not the urban forest renewal program that it is now being so confused in the public discussion and the political response to these particular issues that it has made it essentially impossible to proceed in this particular environment, with that particular program, until I think we can find a new start.

I have circulated an amendment. I move:

Omit paragraph (2), substitute:

"(2) notes that:

(a) the ACT Greens have requested that the Commissioner for Sustainability and the Environment consider investigating a number of tree management issues;

(b) subsequently the Minister for Territory and Municipal Services has formally requested that the Commissioner investigate the Government's tree management practices, including the need for an enhanced program to manage and renew Canberra's urban forest, with a report to Government by 30 June 2010;

(c) the Minister has asked that the Commissioner investigate and report on the following matters:

(i) the scope and urgency of any enhancement that may be required to the Government's existing tree management programs;

(ii) the benefits and drawbacks of considering funding for urban tree programs separately to climate change initiatives;

(iii) improved notification and consultation processes to support greater community involvement in urban tree planning and management, including risk mitigation, tree removal and planting;

(iv) the priority given in tree management decisions to environmental values, solar access and the retention of communities of trees in parks;

(v) the sustainable reuse of timber from felled trees;

(vi) when replanting should occur following the removal of trees, and principles for the number and species of trees that should be replanted;

(vii) the need for enhanced management to maintain the survival and good health of trees;

(viii) appropriate safeguards to ensure contractors follow best practice and adhere to Government tree policies;

(ix) principles for the decision-making process where it is proposed that a tree is removed;

(x) improvements to the Tree Protection Act or other relevant Acts in light of the above matters; and

(xi) resource implications associated with an enhanced program;

(d) the Government will not proceed to implement the Urban Forest Renewal Program until the Commissioner's report has been received and responded to; and

(e) trees that pose a significant risk to the public will continue to be pruned and, where necessary, removed. An enhanced process of consultation will occur with affected residents including the opportunity to discuss risk mitigation options.".

The shadow minister for territory and municipal services has circulated an amendment which, I must say, I think is quite sensible and reasonable. Anyway, excuse my blushes!

To summarise the government's position, the government accepts the legitimacy of many of the issues which Ms Le Couteur raises but, in the context of where we are up to—where we are going and what we are doing—we have got an urban tree maintenance program. The current tranche involves 282 trees which had been certified by ACT rangers as dead, dying, in decline or dangerous, and we have a duty of care, most particularly in relation to those that are dangerous, to remove them. And we will continue to do that.

But there certainly has been some agitation and community concern expressed. There has been political intervention in relation to almost every single tree that has been removed, that has been identified as dead, dangerous, in decline or dying.

Mr Rattenbury: Really? Where is your evidence for that, Jon?

MR STANHOPE: Evidence for what?

Mr Rattenbury: Political interference on every single tree.

MR STANHOPE: I did not say "political interference". I said "political involvement".

Mr Rattenbury: You did.

MR STANHOPE: I did not say "interference". No, I said "involvement". I did not say "interference". I said "involvement".

Mr Rattenbury: Let us see some evidence of that then.

MR STANHOPE: I see it on the front page of today's paper and I see it on page 3 of today's paper.

MADAM DEPUTY SPEAKER: Mr Rattenbury, please do not interject. You have not got the floor at the moment.

MR STANHOPE: I see it on page 3 of today's paper. I see it in a motion about to be moved. I see it in correspondence to the Commissioner for Sustainability and the

Environment. I see it in the determination by the Greens for there to be a full-scale inquiry by the Commissioner for Sustainability and the Environment on every aspect of tree management in the ACT. I see it in the concern now in relation to the moratorium which TAMS felt a need to impose in relation to those trees identified as dead, dying or dangerous.

It concerns me that I have staff now too nervous to remove trees that they have identified as dead or dangerous and have imposed a suspension of activity. I am worried about the duty of care. I need this resolved. So I am happy to receive and support an inquiry by the commissioner for sustainability into all of those aspects, in the hope that we can have a fresh start, that we can go forward, and that we can get some consensus even in this place, which would be useful, to go forward in relation to the urban tree program.

But there is no sense in going forward with it when we now have an active investigation by the commissioner. And if the commissioner is going to investigate this, I have asked her to have broad terms of reference so that we cover all of the issues, so that we can go forward confidently, so that TAMS rangers out there trying to do their job are not looking over their shoulder all the time in relation to trees which they have identified as dangerous or potentially dangerous. There are some basic issues of governance here and of municipal administration which we need some confidence to go forward on, and I need to give TAMS the capacity to do that in relation to their day-to-day responsibilities for protecting this community from dangerous trees. *(Time expired.)*

MR COE (Ginninderra) (4.16): This issue, I think, is an issue that we are just on the cusp of. I think this issue is going to grow and grow and affect more and more people as time goes on here in Canberra. You do not get the joys of living in the bush capital without having the costs of dealing with the trees, at planting, at management and at eventual removal of those trees; thus the cycle is starting again. So it is an important issue and it is an emotional issue for many people.

I know that, especially in the inner north and inner south, where you do have houses that are 80 or 90 years old and many houses that are in the 50 or so age bracket, all these suburbs almost exclusively have trees that were planted at the time of the gazettal of these suburbs. Here you have trees that are the exact same age as all the houses in the suburbs. The trees that exist in these suburbs are synonymous with the actual suburb itself, with the character of the suburb, with the community in that suburb. So it is a very emotional issue and something that I think it is important that we get right.

It is of course important that we do have this dialogue and have this conversation about how to manage it so that we can make sure that we are including everyone in this process. But I am a bit cautious about being too prescriptive on issues such as this. I do see merit in the commissioner for the environment looking at this issue—whether it is in the way that it has been conducted or whether it is in another way, I am not sure—but I think, if the environment commissioner is worth her weight in salt, then this is what she should be doing, looking at issues like this. So I think it is important.

The amendment that I will be moving, which is an amendment to Mr Stanhope's amendment, adds paragraphs to the base of his. The motion, as amended, would be Ms Le Couteur's No 1, Mr Stanhope's No 2 and then my paragraphs would follow and would be numbered 3, 4, 5, 6 and 7.

As I have already mentioned, the first paragraph, noting the importance of urban trees, is something which I have covered, as is the fact that many of the trees do in fact go back to the original gazettal of the suburbs; so they are very much a part of Canberra's history. Especially given that many older residents do live in the inner north and inner south, often in their original homes built perhaps in the 1940s or 1950s, the removal of these trees is going to be quite traumatic for them. So it is important that they are consulted and it is important that they are a part of the decision-making process and very much kept up to speed as to what is actually happening and how they can be involved.

I do think it is also important that we remember that we do not necessarily need to replace all the existing trees, after they are removed, with the same particular type of tree. I think there are many experiments in Canberra, with regard to trees, that have not necessarily worked well and I think this is a prime opportunity to actually look at what sort of treescape we want in our suburbs and what sorts of specimens we do want to plant and which ones are going to be the best for our climate, which are going to be best for our quality of life and which are also going to be easiest to maintain at a reasonable cost to the taxpayer.

All these issues are never going to be easy and in many ways I do not envy the government in having to deal with this issue. It is not a pleasant one and it is going to be an issue that I hope the Canberra Liberals will be taking on in 2012, in October, because it is certainly something that is going to be a significant issue for many decades, not just the coming few years.

The issue of consultation is absolutely vital and I cannot reiterate enough that it is a real imperative the government does engage people properly on this. I do not think anybody wants to go out in front of their house one day and see a chainsaw. No-one wants to drive home and find that a tree at the front of their house has been removed. So it is absolutely vital that the government does communicate exactly what it is going to do. This problem did not come about overnight and the solution does not need to come about overnight either. The solution should be a gradual process and one that does engage the community properly.

I move my amendment to Mr Stanhope's amendment and I urge all in this place to support it. I move:

> Add the following paragraphs:
>
> "(3) notes the importance of urban trees which help define the character of our suburbs;
>
> (4) recognises the significance of trees in older suburbs where the existing trees are the plantings that were made at the time of gazettal of the suburb, thus being of special value to residents;

(5) acknowledges the harsh consequences that the removal of trees can have on residents' quality of life;

(6) expresses concern about any policies that result in widespread removal of trees without individual tree assessments; and

(7) calls on the Government to ensure that:

(a) all trees are managed to ensure maximum lifespan for the benefit of the community;

(b) local communities are extensively consulted in all urban tree removal and replacement activities and are encouraged to participate in decisionmaking in relation to tree work undertaken in the local area;

(c) any potential risk posed by a tree to the public is assessed in consultation with the community and managed appropriately; and

(d) appropriate expertise is utilised to manage the process.".

MR RATTENBURY (Molonglo) (4.22): I rise in support of Ms Le Couteur's motion today. Given the way the debate has gone so far, I feel it is important to reflect on the actual motion itself. We know that this is an issue of considerable concern to the Canberra community. I think anybody who reads the *Canberra Times*, and we all do, knows how much of a concern this is to residents in many parts of Canberra, particularly the older parts of Canberra where it is the beautiful, older specimens of trees that do end up being felled. I think this is an issue that is extremely difficult. The Greens have spent a lot of time thinking about this issue and seeking briefings from various parts of TAMS, particularly the team working specifically on this project. We have met with the expert reference group, and we have taken a very considered approach to this issue.

We are conscious of the fact that over the next 25 years, as the Chief Minister has gone to some length to explain in various places, including his opinion piece in last week's paper, this is going to take some time. It is going to be a process that is going to be difficult and it is going to cost a lot of money. I think the intention of Ms Le Couteur's motion today is to say that, at the start of this process, let us get it right. Let us set out in this Assembly the principles that we believe are important for a significant urban tree replacement program, this is the basis on which we want to operate and these are the principles by which this Assembly believes urban tree replacement should take place.

That is where I found the Chief Minister's contribution, for want of a better word, so disappointing, because he has not actually commented on the substance of anything Ms Le Couteur's motion says. I would like to reflect on a few of those paragraphs, because I cannot understand where the aggravation comes from, other than perhaps having got out of the wrong side of the bed this morning. Ms Le Couteur's motion calls upon the government to, amongst other things, ensure that timber from removed trees is used sustainably to minimise greenhouse gas emissions. Is there a problem? I

do not see one. She talks about ensuring that solar access to buildings is given higher consideration with tree replacements and that appropriate tree species are chosen. That is a very sensible contribution to a public debate. I do not understand where the agitation is in this motion.

Ms Le Couteur goes on to make a number of other important statements of principle in this motion that can set forth potentially—although it does not seem possible—a tripartisan approach to saying that these are the principles that this Assembly believes are important underlying factors as we go forward in a major tree replacement program. There was the absolute potential for there to be no politics in this. We could have had three parties that stood up and said, "These are the principles we agree to." But, instead, the Chief Minister has chosen to launch a scathing attack on Ms Le Couteur, and I find that an unfortunate way to take this debate forward.

Mr Stanhope: I'm supporting her commissioner for sustainability inquiry with all those issues to be addressed. I have agreed that they should all be addressed by the commissioner.

MR RATTENBURY: There seems to be some agitation about the commissioner for the environment getting involved but then, at the same time, it has actually been agreed that this is a good thing to do.

Mr Stanhope: Well, I must say I am a little surprised you didn't feel the need to consult with the government—your partners.

MR RATTENBURY: In so many ways, the Labor Party taught us everything we know, Mr Stanhope! I would simply urge the Assembly to look carefully again at Ms Le Couteur's motion, because she has made some important points in it about the sorts of principles that we would want as the basis to go forward for a tree replacement program. I urge the Assembly to support the motion.

MRS DUNNE (Ginninderra) (4.26): I can see that there is going to have to be chocolate and champagne for unhappy partners, but I am not quite sure who is buying what for whom! I congratulate and thank Ms Le Couteur for bringing this matter forward, simply because it is one of the things that I had been planning to do, but she got there first. I do not begrudge her that; I just want to put that on the record as a way of demonstrating the extent to which this matter is occupying the minds of the people of the ACT.

I think that there is a general level of agreement in the chamber that this is a sensitive matter; it is an important matter; it is a matter that will take the wisdom of Solomon to resolve to maximum satisfaction. It is going to be an extraordinarily difficult task, and it will be an extraordinarily difficult task for many years to come. There is no way that you can brush off how important this will be to people in the ACT. The fact that every person in this place who has spoken has a strong view on this reflects the fact there are strong views in the community on this subject.

There are a few things that I need to put on the record: I think that the process that we have gone through in dealing with this has, up until now, been imperfect. That is not a

reflection on anyone in particular. I understand and have experienced at first hand the work of the tree advisory committee. The Chief Minister afforded members of this place the opportunity to meet with the tree advisory committee, and it is an impressive group. It is a very large group. They are very aware of the issues, and I was really gratified at the extent of the thinking and the understanding and the preparedness to be flexible about issues that was demonstrated by that group when Mr Seselja and Ms Le Couteur and, I think, Ms Hunter and I had an opportunity to meet with that group. There is no-one who thought that this was an easy task.

The thing that I am concerned about is that it seems to me that the level of thinking that is going on in the tree advisory group is not being reflected in the on-the-ground policy work and the on-ground implementation through urban services. I heard an official from TAMS only the other day opining the view that perhaps TAMS needs to be better at articulating and getting its message out. Without being able to get the message out there clearly and without taking communities with them and without dealing intimately with communities on these subjects, this will be forever a fraught subject.

Even with the best will in the world it will be a fraught subject, because eventually, in certain suburbs around the ACT, the treescape that people have come to know and love and accept as part of their suburb and the place that they live—and it is about their identity—will be changed not irrevocably but for many years, possibly decades. This will have a huge impact on people's perception of where they live. It will have a huge impact on the values of their properties and the amenity of their properties. All of these things will change, because inevitably we will have to cut down substantial old trees. Cutting down a substantial old tree in a streetscape will scar that streetscape for many years to come. If we have to cut down a third of the trees in a streetscape, it will have a substantial impact.

What we are saying here today, and what the clear message is, is that this has to be done in a thorough way, in an evidence-based way, to coin the Chief Minister's phrase which he is so fond of, and in a way that takes the community with us and does not alienate the community. Especially on that last part, we have not yet succeeded in doing that. The Chief Minister may bemoan the fact that everyone wants to be forensic about the tree outside their house and say, "It's not dead yet. It's really quite alive, really." They don't want to see their streetscapes changed, because they will be ruined for some time to come. They do not want to see that, and they want to work through that process. It will be an onerous task for us all for many years to come.

At the end of today, the combined motions and amendments put forward by the parties will actually get us to a place where we will be better able to achieve that, but that will not be the end of the process. We cannot say the commissioner for the environment has done her work and we do not need to do anything more, because house by house, street by street, suburb by suburb in affected areas, we are going to have to communicate and discuss with individual communities about how we take that forward. They have to have confidence in what we do.

It would be good for the confidence of the community to have the experience that Mr Seselja and Ms Le Couteur and Ms Hunter and I had of seeing the commitment

and the expertise that was in that expert tree committee. There was not a person there who was wanting to willy-nilly cut down trees. I do not think there is a person in the territory who wants to willy-nilly cut down trees. But what we have to do now is communicate that and take the community with us, and that will not be easy. We actually have to work together rather than against one another. I hope that we have started that here today, because it will be a problem not just for this government but for the Canberra Liberal government in 2012 and for years and years after that.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.33): I rise to support Ms Le Couteur's motion and to echo some of the comments that have been made here today. I am not clear why there was such an attack on Ms Le Couteur. What was being put forward was a way whereby everybody could be quite clear on how we are going to move forward around the renewal of our trees and a major issue facing this territory that will go on for decades—that is, the urban forest. So the motion is just clearly putting down some of those important principles of how we are going to move forward.

I just want to pick up on a couple of points around what seemed to be quite an attack on the Commissioner for Sustainability and the Environment and some suggestion that this was operating outside the parliamentary agreement. It is our right as a party in this Assembly to be writing to commissioners, people who are supposed to be independent, to put forward views and ideas and opinions and, in this case, a request for this issue to be looked at. That is not in any way breaching any sort of arrangement, and it is perfectly within our rights. I think it is important to make that point.

I think it is also incredibly important to understand that this is a major issue. I go back to us visiting and being a part of a presentation from the expert reference group, and it was incredibly impressive. This is an impressive group of people who are putting a lot of rigour, a lot of work, a lot of research into how we might move forward here in the territory with the renewal of our urban forest. Each of the four MLAs were asked what we saw as the biggest issues, and I said to the group that the biggest issue is going to be communication; it is going to be consultation; it is going to be around community engagement. Canberra is well known for its trees; Canberrans do love their trees, and that is where so much work and so much focus have to go in this whole issue.

As Ms Le Couteur has pointed out, there have been a number of trees that have been taken down in suburbs recently that have appeared in our local papers, and it just shows the sort of emotive response that people do have. So we do need to get that community engagement right. What Ms Le Couteur was doing here was not bringing in the politics but simply saying, "This is so important, so let's get down some principles about how we are going to go about it." We certainly in no way want to put in place obstacles and difficulties for those workers within TAMS who are part of this tree program. That is not what this is about. But it is about clearly putting down what is a good way to go forward.

I am quite surprised that this has met with such reaction, and I would hope that this afternoon, as Mrs Dunne has just said, we can all move forward. I think that we all

know the importance of this issue, that this is a long-term issue and that we do need to get it right. The motivation behind this motion was to get it right. It should not have come as a surprise. This is a revised motion, but the previous motion, which was very, very similar, has been sitting on the notice paper for some time now. This, the revised motion, was sent up to Mr Stanhope's office yesterday. I guess I am surprised that there was not a discussion in that time and that there has been such a reaction here in the chamber. The motion has been on the notice paper; it has been there for people to see what was happening.

I do go back to the point that, as a third party in this chamber, we do have the right to write and put forward opinions or ideas to commissioners who, when I last looked, were independent. I would just like to say that I support what Ms Le Couteur is doing here, and I do see it as an incredibly important issue that needs to be responded to well in the early stages if we are to do a good job in the next few decades.

MS LE COUTEUR (Molonglo) (4.39): I must admit that when I got up this morning I thought that this was going to be a tripartisan agreement. The motion I had written was fairly straightforward, about the principles, about managing trees. What is obvious from this debate is that we all think it is a really important issue and that it is really important to get it right.

It is really important for the Assembly to put on the record that the Assembly does feel that it is important and does want to see that this program—which is going to impact on our city for at least the next 60 years, if not longer—is done well. To be charitable, I suppose that the reason for Mr Stanhope's outburst might be that he sees this as an important program.

I would like to comment on some of Mr Stanhope's statements. Mr Stanhope says that I am trying to politicise this. That is not at all what I am trying to do. If I was trying to politicise it, I would be going out and saying that the program is wrong. I have not gone out to say that. I have concerns that it needs to be done properly; that is what this motion is about.

The reason we referred this issue to the commissioner was—again, it was along the non-politicising line—that a number of people have come to me and said that they have problems with the program as it is implemented outside their house, on their nature strip or next door. I do not claim to be an expert in tree management. I have been thinking about what we can do. We thought, "There is an independent expert who works in environmental areas in the ACT. She's called the Commissioner for Sustainability and the Environment."

I understand that it is the right of all citizens of the ACT to suggest to the commissioner what she might wish to inquire in. The commissioner herself makes the decision as to what she actually does inquire into, although I believe that the government can direct her. The Greens are not part of the government and are not in a position to direct the commissioner as to what she may inquire into. We have made a suggestion. As a result of this debate, I feel even clearer that it was a good and timely suggestion, because there has been a considerable amount of angst on this.

Let me go to other things that Mr Stanhope said. I have never suggested for a minute that anyone in TAMS is enjoying cutting down trees.

Mr Stanhope: That's what they will think you are saying, let me tell you. That is what they will think you are doing.

MS LE COUTEUR: I cannot comment on what Mr Stanhope thinks some people in TAMS may say. All I can say is that I have never said this and I do not think this. I do not believe that anybody has said that.

Mr Stanhope also seems to believe that this has come somehow out of the blue. For Mr Stanhope's reference, I and my office have had numerous communications with his office on the general issue of urban tree management. We have had a number of briefings on it, including the briefing that Ms Hunter and Mrs Dunne referred to with the urban tree reference group.

We have not gone out of our way to politicise it. I must admit that if in fact all 282 trees that have been cut down in the ACT have had political intervention, all I can say is that the Liberal Party must have been incredibly active, because I have not managed to do anything like that number of interventions.

What we get from this is that it is a very emotional issue. That is why we had such an emotional outburst from Mr Stanhope. I guess that shows what I would say is my wisdom in trying to put forward a non-emotional motion which would enable the Assembly to all say collectively to the people of Canberra that we think this is a really important issue and that we are not going to cut down trees willy-nilly.

Mr Stanhope: Do you think we are already? There you go again.

MS LE COUTEUR: Mr Stanhope, that is not what I said, and you know that is not what I said.

Mr Stanhope: Do you think that we are cutting down trees willy-nilly?

MS LE COUTEUR: As you know, that is not what I said. Mr Stanhope, what this Assembly needs to do is stop saying mischievous things like the ones you are saying. I thought that as a tripartite group we could all say that we believe that the trees of Canberra are important, we intend to look after them as well as we can, we will cut them down only if it is necessary to cut them down, and if they are cut down we will replace them and look after the trees that we replace them with. Mr Stanhope, you know that this is the sort of thing we are trying to say.

Another point I would like to make is this. Why are you disbanding the urban forest reference group? This seemed like a really useful expert group. Given that I think there is tripartite agreement that sooner or later we will have to deal with this issue, keeping the reference group together to work on how to better do it would be one of the more positive things the government could do. Mr Stanhope appears to be cutting off his nose to spite his face.

Let me get back to the actual amendments. I do not support Mr Coe's amendment, because in general it does not make any useful additions to what I said and it waters down the strength of the motion. It does not mention environmental issues such as the role of trees in the carbon cycle or make reference to wildlife and solar access. Also, importantly, it removes the reference to providing sufficient resources. As we all know, without sufficient resources it is not possible to do a job properly. That is probably one of the most important things that we are going to need to do to get this program working.

In terms of Mr Stanhope's amendment, I foreshadow that I will move an amendment. I have no problems with the things that Mr Stanhope is suggesting. It is an excellent idea if he wishes to formally refer the program to the commissioner for the environment. I also have no problem with paragraph (e) of his amendment, which states:

> … trees that pose a significant risk to the public will continue to be pruned and, where necessary, removed.

I would like to make it clear that I do not have any problem with that. I foreshadow that I will be moving an amendment the intent of which is to agree to my motion and then add on to it Mr Stanhope's useful contribution of formally referring this program to the commissioner for the environment.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (4.46): I would like to speak to Mr Coe's amendment and clarify something in relation to that. What the government has done today is this. This is the issue and this is the point that I go to. What the Greens have done is refer the matter to the commissioner for investigation. They have come into this place and essentially moved a motion consistent with the referral to the commissioner.

Let us be a bit rigorous about this. For the sake of going forward, let us support—all of us—a reference to the commissioner. Let us ensure—because we are all wanting to support each other in this difficult issue, we have discovered today—that we refer all of the issues which Ms Le Couteur raises to the commissioner for rigorous assessment. Ms Le Couteur, I am not disagreeing with the sense of the issues you raise in your motion today. What I am saying is "Okay; let us have them assessed." Let us expose—shock, horror—the suggestions of Ms Le Couteur and the Greens to expert scrutiny and to community examination. Let us put your ideas to the commissioner. She will pursue a rigorous, professional inquiry, as she always does. She will engage closely with the community; she will have terms of reference which are essentially identical to your motion. I am not opposing your motion, Ms Le Couteur; I am essentially saying, "Let us have some rigour here. Let us take this through some steps. Let us get to an end point where we can all move forward."

I am agreeing in my amendment that the issues you raise today be submitted to the commissioner for investigation and report following detailed community consultation.

I am not, Ms Hunter, as you suggested, opposing or expressing angst. I am just saying, "Okay; this is the Greens' process." The Greens' process has raised a number of issues in two places—here and with the commissioner. That is a bit confusing. Let us deal with them through one process, namely the commissioner for the environment. It was your choice: you made the reference.

But then what do you want me to do? Run a parallel process? Run the urban tree renewal process parallel with the commissioner for the environment process? Why would I do that—confuse everybody, create problems, have a double process with two separate organisations, two separate approaches, confusion, lack of consensus and lack of bipartisanship on an issue that requires bipartisanship? You cannot come in here and say, "You are not supporting us. What do you object to?" We are not objecting to anything.

I am objecting a bit to the fact that you went to the commissioner at the same time as you moved a motion in here without telling other parties in this place that you had gone to the commissioner on the issue that you are raising in here. It would have been a courtesy to let us know that you were going to the commissioner with a reference and that at the same time you were raising in this place a motion on the same issue—just so that we could have a rigorous approach on this and get ourselves to an end point where we can move forward on this very difficult, controversial and emotive issue. That is what we are saying.

Don't stand there and say, "I don't know why you are opposing this very reasonable motion." We are not. We are saying, "Refer the issues that you raise to the commissioner for environment and sustainability to incorporate within a reference which you have asked for." That is what we are saying.

If I have expressed angst, I must say that it is angst at the fact that you went to the commissioner without any advice to anybody in this place and at the same time asked us to debate a motion on exactly the same subject that you want to be the subject of an independent review. What sort of confusion would that have created—sending the government off on the basis of a number of criteria at the same time as asking the commissioner to investigate essentially those criteria? How would that have given us certainty and a way forward?

This has been an aggravating issue. I want certainty. I want us all to agree. This is now your process. At the end of this process, I am hoping that you will sign up to it, because it is your process; that we will get agreement on the methodology and the way forward in relation to the removal of dead and dangerous trees and the broader, longer term, strategic issue of the replacement of our urban forest; and that we will do it without politics. That is what I am after.

I have been trying to manage this for the last year, without bipartisan support and without support from members in this place. It has led the department to unilaterally suspend the program for the removal of dangerous trees, which has caused me enormous anxiety. My department has unilaterally suspended its program for removing dangerous trees as a result of the responses that there have been to its removal of trees that it has identified as dead or dangerous. Then you stand here and

say, "There is nothing personal in this; we are not suggesting that they are cutting down trees that should not be cut down or trees that are not dangerous, trees that are not dead." That is precisely what you are doing.

These are experts who have made expert decisions and who are cutting down trees that they think are dangerous or that are dead or dying. Let us suspend it? I cannot have that. That is why, in my motion, I am now agreeing so that my officers can have some certainty and some confidence in what they do going forward and you can have the comfort that you need that there will be an external rigorous investigation of all of the processes, which will be subject to full community consultation.

In the interim, I simply need my officers to know that they have my support, the government's support and certainly this Assembly's support to cut down dangerous trees before they kill somebody. That is what I am looking for—a process that allows the government to govern and public servants to do their job. That is what I am looking for.

At the moment, we have an agency that has suspended one of its activities because it is just not quite sure what to do. Every time it cuts down a tree, it gets kicked to death. That is the reality within which I am operating. My officers have laid down tools and said, "Look, let us just stop doing this for a while." I cannot have that. I need a clear way forward and some clear water forward. These amendments today—this process at least—gives us that so that we can re-establish, start again, get the community on side, get some bipartisanship into this issue and move forward. That is my position.

Mr Coe's amendment to Mr Stanhope's proposed amendment agreed to.

MADAM DEPUTY SPEAKER: The question is that Mr Stanhope's amendment, as amended, be agreed to.

MS LE COUTEUR (Molonglo) (4.55): I wanted to seek leave to move the motion I tried to move a few minutes ago, but now that it has been changed I probably cannot do this because the numbering will not work. I think I have been defeated by this one.

Mr Seselja: Did you want a few minutes, Ms Le Couteur? I could put together a speech for a couple of minutes if you like. I can speak on trees.

MS LE COUTEUR: Okay. Can I have a suspension for a minute to see if I can work out how to redo the amendment, given how it has been changed?

MR SESELJA (Molonglo—Leader of the Opposition) (4.57): I will speak generally about the motion and about trees. I would just like to add a few words by way of filling in some time for the Assembly. This is a really important issue to a lot of people. The reason that we are getting so much feedback from the community is that people do value their trees. They value their street trees in particular. If tomorrow you were to remove all the trees in a particular street in the inner south or the inner north or in parts of Tuggeranong or Belconnen with established trees, the streets would look amazingly different and the amenity would significantly change.

I will say a couple of words now that I am on my feet. We do understand the challenges. Those of us who have had some of the briefings and heard from the reference group understand that there are real challenges here. But I would just put one other issue into the mix. I think that there is a degree of hypocrisy here from the government. We heard Mr Stanhope talking about the difficulty they are facing, that they are downing tools because they are not sure of whether they will be kicked, as he puts it. I understand that concern, but we also hear regularly from householders needing or wanting to remove significant trees in their backyards which they deem to be dangerous or otherwise and often being knocked back. We hear of the difficulties that they are facing.

I would put it to the Assembly and to the government that I no more think that most householders are looking to kill trees in their backyards or remove significant trees for no particular reason than I believe that TAMS officers are desperate to go and kill trees willy-nilly. Most Canberrans would make that assessment based on a reasonable assessment. Sometimes it will be as a result of looking to extend a home; sometimes it will be a safety issue. We have heard of many instances where people are concerned about dropping branches and in some cases they have been knocked back.

If we are going to pursue that argument to its logical end, we do need to consider individuals. I simply do not accept that Canberrans are looking to get rid of the trees in their backyard for no good reason. Most of us value the trees in our backyards but occasionally there are very good reasons to remove trees, for safety reasons or otherwise. I put that on the record.

I would also say that this is a complex issue but it is understandable. We accept absolutely that there is genuine community concern about the removal of trees in the community. We will continue to consult widely. We are getting the feedback. We are meeting with people. We are hearing from concerned residents and we will continue to do that.

It is important that we debate these issues in the Assembly. We have no qualms with this being brought forward, but it is worth putting some of those additional facts on the record.

MS LE COUTEUR (Molonglo) (5.00), by leave: I thank Mr Seselja for his useful and very timely contribution to this debate. I move:

> Omit "Omit paragraph (2), substitute", substitute "Add (3)".

The effect of my amendment would be basically to have the text of my original motion plus then the text of Mr Stanhope's amendment—which I have no problems with. As I said, I have no problems with it at all. Then, as Mr Stanhope's motion was amended by Mr Coe, it would also have the text of Mr Coe's motion. If my amendment was passed, we would have a tripartisan motion because we would have the text of every single party in it. The text would possibly be repetitious but I do not think it would be contradictory. From that point of view, I think it would be an excellent thing to do to pass a tripartite motion. I commend my amendment to the house.

Ms Le Couteur's amendment to Mr Stanhope's proposed amendment negatived.

Mr Stanhope's amendment, as amended, agreed to.

Motion, as amended, agreed to.

Supermarkets—competition policy

MR SESELJA (Molonglo—Leader of the Opposition) (5.02): I move:

> That this Assembly:
>
> (1) notes:
>
> (a) the comments by Graeme Samuel, Chairman of the Australian Competition and Consumer Commission, in relation to certain recommendations contained in the Review of ACT Supermarket Competition Policy at a Senate Estimates hearing on 22 October 2009;
>
> (b) supermarket industry concerns and confusion about certain recommendations contained in the Review of ACT Supermarket Competition Policy;
>
> (c) the important contribution that small independent supermarket operators make to the grocery sector in the ACT and to the ACT economy more broadly; and
>
> (d) that robust competition is required in the grocery market to maintain downward pressure on grocery prices in the ACT; and
>
> (2) calls on the government to:
>
> (a) ensure:
>
> (i) that independent supermarket operators are not excluded from bidding for new supermarket sites in the ACT; and
>
> (ii) that a competitive and transparent process is used to allocate new supermarket sites to supermarket operators in the ACT;
>
> (b) report to the Legislative Assembly on the process used to allocate each new supermarket site in the ACT to supermarket operators; and
>
> (c) seek the Australian Competition and Consumer Commission's views on the recommendations contained in the Review of ACT Supermarket Competition Policy and report to the Assembly before the recommendations are implemented.

I rise today to speak in support of small business and in support of competition. Small business is the engine room of the economy and the lifeblood of our community.

Small businesses in Canberra employ thousands of people and make a significant contribution to the everyday lives of Canberrans. I think we can all agree that competition is important in any market. A strong competition regime in any market is important to ensure that consumers are well-off and that business runs efficiently, thus maximising economic growth.

It was therefore with much interest that we received the ACT government's *Review of ACT supermarket competition policy* in October of this year. There are a number of good aspects of the review, as I noted at the time, and it contains many recommendations that relate to planning which are worth supporting. However, we are concerned about two particular recommendations which I have noted before and will note again. These recommendations, Nos 6 and 8, appear to seek to exclude some businesses from opening up new stores. I and many of my colleagues have spoken to many IGA store owners recently and they are very concerned by recommendation 6, which states:

> An alternative source of wholesale supply would be encouraged by a restricted approach for particular sites that precluded Metcash-controlled ventures as well as the two major chains.

Hardworking IGA owners, like most small business owners, want to expand their business. There is much confusion in the grocery sector about whether these businesses will have the opportunity to expand into new supermarket sites, as they are seen to be connected with Metcash. Recommendation 8 is also restrictive. It would appear that it supports criteria for new independent supermarket entrants to include a minimum 10 years trading history in full-line supermarkets. Once again, there is much confusion in the grocery sector. Will a small business owner who has run a small supermarket but not a full-line supermarket be excluded from new sites?

This is just one of several eligibility criteria which appear to restrict who can bid for certain sites. Indeed Ken Henrick, Chief Executive of the National Association of Retail Grocers of Australia, which represents 4,500 independent supermarkets around Australia, has described these criteria as "really a bit bureaucratic and unnecessary".

That is at the heart of this motion. We already know what Mr Stanhope will be arguing because we have seen the press release go out from Mr Stanhope in relation to this. It bears no resemblance to the truth. It bears no resemblance whatsoever to the truth in terms of what this motion is.

It is a very simple motion and perhaps Mr Stanhope had not read it when he put out the press release, or perhaps he just chose to deliberately misrepresent, which is something that he seems to do quite often. It gives the context, it notes the comments by Graeme Samuel in relation to the review, it notes supermarket industry concerns and confusion about certain recommendations contained in the review, it notes the important contribution that small independent supermarket operators make to the grocery sector in the ACT and the ACT economy more broadly, and it notes that robust competition is required in the grocery market to maintain downward pressure on grocery prices.

The motion also calls on the government to do a few simple things. We have not heard yet whether the government or the Greens will be supporting this but given the Chief Minister's public statements it would appear that he is unlikely to and he will need to say which of these things he does not support: ensuring that independent supermarket operators are not excluded from bidding for new supermarket sites in the ACT, ensuring that a competitive and transparent process is used to allocate new supermarket sites to supermarket operators in the ACT, reporting to the Legislative Assembly on the process used to allocate each new supermarket site in the ACT to supermarket operators, and seeking the ACCC's views on the recommendations contained in the *Review of ACT supermarket competition policy* and report to the Assembly before the recommendations are implemented.

It will be interesting to see which of those this government does not support. I will go through each of them but I will first go through some of the concerns and the stakeholder views that have been raised. We have seen NARGA CEO, Ken Henrick, say he is worried about the restrictions on new entrants to the ACT market. He says:

> Anybody bidding for a site will need to be a full-line retailer and competitor to the major supermarket chains, demonstrated ability and infrastructure to run several full-line supermarkets.
>
> That would effectively rule out every family-owned business in Australia.

He says it will encourage foreign companies to expand. He goes on:

> What it would do would probably, certainly, allow Supabarn to open additional sites and that's a good thing.
>
> But it would also facilitate the entry of foreign competitors while keeping out Australian family-owned businesses.

What is it that the government has against family owned businesses here in the ACT? What is it that this government has against locally owned IGAs which may want to expand their businesses and bid for some of these sites?

These are our concerns and these are concerns highlighted and shared by the CEO of NARGA, Ken Henrick, in quite eloquent terms. IGA owner Marinos Haridemos has contacted our office by fax and he states:

> I am concerned that the eligibility criteria being developed for land tenders will be used to exclude me from the process. I want to be able to tender for new land releases. I will bring competitive tension to the ACT supermarket sector.

This is at the heart of it. This is the question that we need resolved. This is the concern that is there in the community. I am sure that other members of the Assembly will have been contacted by concerned IGA owners, and we have met with several of these concerned business owners here in the ACT. They own small to medium businesses. Many of them have run these businesses for many years and they are concerned at the restrictions that have been placed on them. They are concerned about the recommendations and what they will mean.

A number of other stakeholders have raised concerns. We have seen the Shopping Centre Council of Australia say:

> Supermarket chains such as Franklins, Supabarn and Aldi will no doubt be pleased with this free kick through the ACT's planning system but it shouldn't be described as enhancing competition for consumers.

As we said at the outset, there are a number of things that are good in this review and I said that to John Martin when we met with him and had a briefing on this issue. We should be looking particularly to find ways of encouraging competition in our group centres. The only note of caution there is we do need to do that in a phased way. If we were to turn around tomorrow and try and introduce competition into all of our group centres there would potentially be some other centres that would suffer significantly.

So that will have to be handled carefully. But, on the face of it, expanding competition in places particularly like Dickson is a good thing. There is the demand there for it and we want to ensure that there are not monopolies in some of these areas and that we do see genuine competition in the supermarket sector.

But the fundamental question is, in seeking to enhance competition and expand competition in the grocery sector in the ACT, do we want to exclude a bunch of local operators, a bunch of local business men and women who are contributing to our ACT economy and who have strong roots here in the ACT? Do we want to say to them, "Well, no, you can't bid"? What is the rationale for that? That is the concern here and that is at the heart of this motion. Preventing our local independent operators from being able to bid for some of these sites does not enhance competition.

We do see the example of the Supa IGAs around the region. We have seen the example in Karabar. In fact, Karabar is an instructive one because what we had there was the ACCC reasonably concluding that Woolworths should not be able to bid. We do not have a problem with that. The ACCC found that it would be against competition for Woolworths to be allowed to bid for that site because there would be too much market concentration. That is a good thing.

But then what happened was we actually had a competitive process and Supa IGA won that and is providing a supermarket there in Karabar. We know there is a Supa IGA in Hawker. Why would we want to restrict Supa IGA from expanding, from bidding for sites as we go forward with certain tender processes? We do not want to see that.

We, unlike the government, believe that IGAs should be able to contribute, should not be artificially restricted, and that is a concern. And it is not just the opposition. The ACCC, which has been doing extensive work in relation to competition in the grocery market, in the supermarket sector, has had something to say about this. We saw in Senate estimates recently these particular recommendations in the supermarket review put to Graeme Samuel. He said, in relation to two of the recommendations, recommendations 6 and 8:

> How do I put this in as tactful a way as possible? They are recommendations that would not appear to be consistent with the findings of the ACCC in its grocery inquiry report of 2008.

He is asked by Senator Bushby:

> Is it consistent with the principles of the Trade Practices Act?

Mr Samuel responds:

> Those recommendations would not be consistent with the principles of competition and opening up markets to competition.

I repeat: Mr Samuel, the head of the ACCC, says, "Those recommendations," recommendations 6 and 8, "would not be consistent with the principles of competition and opening up markets to competition." Senator Bushby asked him:

> What about the recommendation that essentially would render a small business or a family business not having 10 years of experience running a supermarket ineligible to be allowed to operate a supermarket?

Mr Samuel says:

> It would appear to be an artificial constraint that would not be supported by any of the principles of competition that we would be advocating.

That is a note of caution from Graeme Samuel. That is a note of caution that is worthy of consideration from the ACT government and the ACT Assembly.

It is worth us pausing and saying there are a lot of good things in this supermarket review. We want to see more competition. Mr Samuel says some of the recommendations may actually be anticompetitive. Do we want to allow a situation where in seeking to expand competition we artificially constrain it? I say no.

I say that what we want to see is actual structural reforms that do increase competition without artificial constraints. Why would we place artificial constraints on our local independent operators? We want to see them compete in the market. We want to see them grow. We want to see them compete on an equal footing as much as possible and we do not want to see Coles and Woolies dominating. We want to see that scaled back. We do want to see more competition in the market.

Why would you do that by artificially constraining the ability of IGAs to bid? And the ACCC has said some of these recommendations would artificially constrain. That is our concern. That is the concern of IGA operators and other independent operators, and they have been contacting us to make this very point.

There is no doubt that the intention behind this review is a good one. There is no doubt that there are a number of aspects in it that are worth supporting. But what we need to do now is make sure that we do not blindly accept all of the recommendations and therefore hurt small business in the ACT, hurt local independent operators, and artificially constrain competition so that we actually do not get the kind of results that we would want to see.

Mr Stanhope in his press release says, "This is about protecting Woolies and Coles." What a ridiculous statement. The press release that was put out by the Chief Minister is a work of fiction. It is not based in fact at all. He either did not read the motion or he chose to deliberately misrepresent it completely. Either way, he is not interested in a rational debate, which is what we had the last time this was considered. The last time this was discussed in the Assembly it appeared we could have a rational debate. But instead the Chief Minister has gone and simply made things up because he believes it suits his argument. We have a very clear position that says do not squeeze out our independent local operators. Do not make it harder for them to expand their businesses.

Make sure if there is any ambiguity that you clear it up, that you ensure that these concerns are addressed and that when we see some of these sites released we have the maximum number of independent operators being able to bid. We have to ensure that we do not exclude Supa IGAs because someone may not have been running a full-line supermarket for 10 years. Why would we put in that kind of restraint? Why the tie-in to Metcash? Why would we want, simply because Metcash is the wholesaler for these independent operators, to exclude them from bidding?

These are serious concerns. They are concerns that not just local small business operators have but the ACCC has, that the association that represents independent grocers has and that we in the opposition have. We in the Canberra Liberals believe very strongly in the role of small business. We do not want to see competition artificially constrained in this way. We do not want to see them discriminated against.

That is why this motion should be supported. We look forward to the support of the Assembly for this very important motion. *(Time expired.)*

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (5.18): There should be no misunderstanding about what would happen today if the Leader of the Opposition's motion was passed. It would be the end of supermarket competition reform in this town. It would be the end of the reform which we are seeking to achieve now and into the future. It would, for the sake of a tiny short-term political advantage, mean the end of an exercise in quite robust policy development—policy overwhelmingly applauded and embraced by almost everyone in our community, from grocery buyers to the business community, mums and dads and local shop owners.

The government rejects this motion and rejects it in its entirety. It is a motion that puts the truth out there for every Canberran to see—that Zed Seselja and the Liberals want to protect or stand up for or stick up for or continue to stick up for Woolies and Coles. But this government, the Stanhope government, is on the side of the consumer. It is that simple: the Liberals are on the side of the big boys; Labor is on the side of the mums and dads, those that are out there pushing the shopping trolleys; on the side of working men and women popping into the local shop for a litre of milk on the way home from work. That is who we are sticking up for.

I will turn to some of the substantive parts of Mr Seselja's motion that go to these issues. He raised Mr Graeme Samuel and his appearance before the Senate estimates committee on 22 October, and I am pleased he did. Mr Samuel was asked by Senator Bushby, Liberal senator from Tasmania, whether he was aware of the review of the ACT supermarket policy—great to see a Tasmanian Liberal senator taking an interest in ACT matters—conducted by John Martin. Mr Samuel replied that he was aware of the review but was not involved at all—not involved at all—in the preparation of the report.

Mr Seselja: Well, why wasn't he? That's a good question.

MR STANHOPE: My information, Mr Seselja, and I am glad you asked again, is that, contrary to that assertion, there has been considerable consultation with the ACCC and indeed with Mr Samuel in the context of the review.

Mr Seselja: So is he lying? Is he lying?

MR STANHOPE: Just listen to this. He said that he was aware of the review but was not involved at all. My information is that issues relating to the review of ACT supermarket competition policy were discussed at a meeting between John Martin and Graeme Samuel, attended also by ACCC Commissioner Joe Dimasi and General Manager, Mergers, Tim Holland, on 7 July 2009 at the ACCC offices. I understand that Mr John Martin has a record of that meeting.

Mrs Dunne: Graeme Samuel has lied? Is that what you are saying?

MR STANHOPE: What I am saying is that I think some further explanation from Mr Samuel would be warranted in that he informed the Senate that he was not involved at all in the preparation of the report. Mr John Martin has a record of a meeting held on 7 July between him, Mr Samuel, Commissioner Joe Dimasi and General Manager, Mergers, Tim Holland at which the issue was discussed and, further, the ACCC meeting of 7 July did discuss earlier advice the ACCC had provided to David Dawes, Deputy Chief Executive of the Chief Minister's Department, in a letter dated 11 February 2009 referring to the possible Woolworths bid for the Kingston car park site. The letter from Mr Samuel's organisation, the ACCC, to the Chief Minister's Department stated:

> … notwithstanding a decision by the ACCC not to oppose a proposed acquisition under s50, the ACT Government may still independently form the view that a direct sale—

these are the words of the ACCC—

> or some form of modified bid process is appropriate. For instance, it may form the view that this is likely to result in an increase in supermarket competition in the ACT when compared with the alternatives.

There was the ACCC explicitly endorsing direct sales in some circumstances to enhance competition.

Mr Seselja: No-one is arguing against direct sales. Who is arguing against them?

MR STANHOPE: Mr Samuel is. Now he is, in the Senate. He was not then, when he wrote that letter. Those are the ACCC's own words—their own words. On the basis of those words, that advice of the ACCC is reflected in John Martin's report at recommendation 4, which states:

> The ACT Government note that it is in no way constrained from intervening through the planning and land allocation system to achieve increased supermarket competition at sites where proposed acquisitions by a major chain have received informal ACCC clearance.

I understand that John Martin subsequently emailed Graeme Samuel, following discussions he had with Neil Savery, head of the ACT Planning and Land Authority, seeking Graeme Samuel's comments. And John Martin advised that he did not receive a reply to that particular email to Mr Samuel.

There was a further meeting on 15 September between Graeme Samuel, David Dawes and John Martin prior to the release of the final report. This was a courtesy meeting at the ACT government's instigation to alert the ACCC on the directions of the soon to be released Martin report. Mr Martin is adamant that the ACCC was given every opportunity for input into the report.

Mr Martin has expressed the view that efforts by the ACT government to facilitate the entry of new full-line supermarkets at some sites would be pro-competitive; whereas Mr Samuel appears now to have a contrary opinion. Mr Martin believes that unrestricted auctions may sometimes have the effect of actually limiting the number of interested bidders, rather than promoting competition.

We note that other interested stakeholders have been very supportive of and have recognised the depth of the ACT's response. The Australian Consumers Association has welcomed the ACT government's decision to accept the recommendations of the Martin review. The Canberra Business Council and the ACT Retail Traders Association have supported the government's announcement to enhance competition in the ACT supermarket sector by increasing opportunities for independent supermarket operators. The ACT Council of Social Service supports the expansion of supermarket competition in the ACT with greater diversity leading to greater choice in prices which will benefit many Canberrans struggling to make ends meet.

Aldi has also stated that it is pleased that the government has accepted all 15 recommendations which will assist in bringing more Aldi stores to the ACT. Aldi acknowledged that one of the largest impediments to its expansion in the ACT is the inability to identify and access correctly zoned sites. As recently as yesterday, two leading consumer advocates were arguing that the ACT government's new approach could even act to curb fast-rising grocery prices, a problem besetting not just the ACT but the nation as a whole.

University of New South Wales Associate Professor Frank Zumbo joined Choice spokesman Christopher Zinn to argue in the pages of the *Canberra Times* that the

ACT government's policy enabling Aldi, Supabarn and Franklins to expand their presence in the ACT would force the two supermarket giants, Coles and Woolworths, to lower their prices. Professor Zumbo also said that Graeme Samuel's criticisms of the ACT policy were, the *Canberra Times* reports, "not warranted'.

I assume that when Mr Seselja refers to supermarket industry concerns and confusion in relation to certain recommendations contained in the review of ACT supermarket competition policy he refers, quite specifically or most specifically, to recommendations 6 and 8. It is a pity, perhaps, that the wording of Mr Seselja's own motion is so confusing as to make this a matter for conjecture rather than certainty. But we must assume that this is what the Leader of the Opposition means.

In relation to recommendation 6, a number of local players in the ACT supermarket sector have sought and been given clarification from the government on this wording, as has Mr Seselja himself in a personal briefing from Mr Martin. What the recommendation is seeking to support—this was essentially half of Mr Seselja's presentation just now, which misrepresented what we are seeking to achieve, and which through our more detailed response we will achieve—is a process whereby genuine independent operators are given maximum opportunity to participate in future site allocation processes.

As you would be aware, Metcash is the dominant wholesaler to independent supermarkets outside the operations of Coles and Woolworths, but Metcash also supports some IGAs and retailers more directly. Since the release of the Martin report, the local supermarket sector has advised my department that none of the local IGAs in the ACT are Metcash controlled, so it follows that no existing operators would be precluded from any site eligibility process.

The ACT government has also agreed to endorse appropriate competition criteria which are transparent and objective as outlined in recommendation 8. The Supermarket Competition Coordination Committee is currently reviewing the competition and assessment criteria in the Martin review, including the length of experience by a supermarket operator. My department is liaising closely with the industry to develop the assessment criteria and you can be sure that they will be robust and transparent.

The government recognises the important contribution that small independent supermarket operators make to the grocery sector in the ACT and to the ACT economy more broadly. Indeed, it does not require Mr Seselja to remind the chamber of this. The thrust of the government's new policy does so in no uncertain terms. The Martin review noted that there are more than 50 smaller independent supermarkets in the ACT. These supermarkets make an important contribution in terms of convenience shopping, particularly at local centres. The ACT government has agreed to remove some of the planning constraints that prevented some of the successful local supermarkets from expanding.

Similarly, in relation to the Leader of the Opposition's next point, the thrust of our new supermarket policy is to promote competition and diversity to provide downward pressure on grocery prices, reduce queues and provide better levels of service for

Canberra shoppers. All that is perhaps missing from the wording in these parts of Mr Seselja's motion are phrases congratulating the ACT government for recognising and articulating these truths and pursuing them through concrete policy development.

I refer again to the welcome endorsement of the government's stance by two leading consumer advocates, Christopher Zinn of Choice and University of New South Wales Professor Frank Zumbo. They have agreed that the ACT government's new supermarket policy will curb fast-rising grocery prices so long as independent players can grow quickly enough.

While the ACT government has said that it will implement the recommendations of the Martin report, it has also indicated that it will do this through an implementation plan. This phased process will allow further refinement and consultation to deliver the best possible result. The Leader of the Opposition is well aware that this is the course being pursued.

The Supermarket Competition Coordination Committee, which the government has established, is currently developing the implementation plan and reviewing the proposed competition criteria in the Martin review. Input from the supermarket industry is being sought to develop the criteria as part of the implementation plan. It is clear from these discussions that the eligibility criteria proposed in John Martin's report will be refined and this process is now proceeding. Again, the Leader of the Opposition is aware of this.

The implementation plan is well underway and will be submitted to the government by the end of this month. It is likely that the implementation plan will address some of the apparent confusions in the mind of Mr Samuel, but foremost it will be designed to promote competitive tension between all of the players. Since the release of John Martin's report there has been considerable interest generated and a number of national and local supermarket operators have indicated that they would like to expand their operations in the ACT.

The new policy will provide opportunities for further investment in areas where Canberra shoppers have been disadvantaged by an undersupply of supermarket capacity. Mr Martin drew attention to the lack of choice for shoppers in areas such as Dickson and Kingston. Robust competition criteria are being developed for use in assessing eligibility for supermarket sites in those places and other supermarket sites across Canberra.

Coles and Woolworths are not outside this process but a part of it. Both are busily working on innovative proposals to improve the quality of the Canberra shopping experience. Supabarn is seeking to expand its wholesaling operations. New entrants such as Franklins have expressed their interest in operating new stores in Canberra, and international players such as Costco have become aware of the opportunities in the ACT. The implementation plan is being developed with strong community and stakeholder engagement and will provide further opportunities for existing and new entrants to the Canberra market.

The ACCC's own grocery inquiry in 2008 considered Australian consumers would significantly benefit if Coles and Woolworths faced more competition. One can only

assume that it stands by this finding in 2009. The ACCC recommended that governments lower barriers to entry and expansion in both retailing and wholesaling to independent supermarkets and potential new entrants. The ACCC considered more regard should be had to competition issues in considering zoning or planning proposals:

> … all appropriate levels of government consider ways in which zoning and planning laws and decisions in respect of individual planning applications where additional retail space for the purpose of operating a supermarket is contemplated should have specific regard to the likely impact of the proposal on competition between supermarkets in the area. Particular regard should be had to whether the proposal will facilitate the entry of a supermarket operator not currently trading in the area.

The ACT government could not agree more. That is why we acted to ensure that the ACT would become the first jurisdiction in Australia to change its zoning and planning laws to promote competition. It is why we have been the first to take up the challenge thrown down by the ACCC and, as stated earlier, in taking up the challenge we did as a matter of course seek to involve the ACCC in the development of our new policy, rendering the last part of the Leader of the Opposition's motion redundant.

This motion does not deserve the chamber's support. It would lead, inexorably, to the abandonment of a policy that has been embraced wholeheartedly by virtually all commentators, and it should be rejected.

MR COE (Ginninderra) (5.32): We on this side of the chamber are absolutely committed to a fair and transparent marketplace and a marketplace that will ensure that business men and women, consumers and all others concerned will be delivered the best possible results. Largely, that is what I believe is the mandate of the ACCC. It is to ensure that the competitive environment that exists is one that does actually promote an environment which supports industry, supports jobs, supports competition and therefore supports wider society. It does concern me when you have people such as the head of the ACCC casting doubt about elements of this report, *The review of ACT supermarket competition policy*, and the impact it will have on Canberra business, Canberra families, Canberra consumers.

Canberra is a place that does not have much industry other than the government sector. Relatively speaking, Canberra is a government town. So it really does beggar belief when you do have a possible policy on the table that may hurt the very few businesses we do have in Canberra, relatively speaking. Family businesses are the lifeblood of any economy but in Canberra I think family businesses, as a proportion of the private sector, represent a very sizeable chunk. So it is for that reason that the Canberra Liberals are absolutely committed to ensuring that family businesses are given a fair go when it comes to operating their businesses, to expanding their businesses, to employing new staff and to delivering services for Canberrans.

In my electorate of Ginninderra, there are a number of business men and women that have contacted my office to express concerns about this document, *The review of ACT supermarket competition policy*, as tabled by the Chief Minister. This report does have the ability to limit the role that such businesses can have in Ginninderra.

A number of IGA owners have contacted the opposition—and I imagine they have contacted other members of this place—to express concern, in particular, I believe, with recommendation 8 within this report. Recommendation 8, I believe, is the recommendation which does put in doubt the suitable criteria for new, full-line supermarket competition. I will directly quote from page 23 of the report:

> The ACT Government endorse the above market and competition analysis approach together with the adoption of suitable eligibility criteria to identify and facilitate entry by new full line supermarket competitors.

We run the risk of this policy, instead of supporting the industry, actually hindering the industry. If that is going to happen then we on this side of the chamber will not be at all supportive. I am very grateful for the contribution that the small business men and women make to my electorate of Ginninderra and it would be a great tragedy if their efforts were in any way restricted by a policy which does restrict competition.

I spoke earlier about the comments that Graeme Samuel, the head of the Australian Competition and Consumer Commission, made; yet the Chief Minister earlier today said that he has a different recollection, that he does not share the same view as the ACCC chairman. So in effect we have the Chief Minister of the ACT bringing into question the integrity of the head of the ACCC. That is where we are going with this. That is what the Chief Minister has said. His recollection differs from that of the ACCC chairman, differs from the recollection as presented to a federal parliamentary inquiry. That is a pretty serious allegation. It is a pretty serious difference of opinion and one that I hope that the Chief Minister can verify. If not, it does bring into serious question his own integrity and the government's position on this issue.

In conclusion, I will reiterate that we on this side of the chamber are very much committed to an equal, fair and open marketplace whereby, when tenders are available, it is open to all people to submit tenders so that we can make sure that we get the best possible result for consumers and for employment in the territory.

MRS DUNNE (Ginninderra) (5.37): I congratulate Mr Seselja on bringing forward this motion today. I have to say I am left a little perplexed, a bit head-scratching, by the hysterical response to this motion both in press release and in debate today by the Chief Minister. It was pretty much that the whole world is going to come to an end.

I think it is about time we actually reflected on the words that are in Mr Seselja's motion. I reflect on paragraph 2, which is what we are calling on the government to do. We call on the government to ensure "that independent supermarket operators are not excluded from bidding for new supermarket sites in the ACT". It seems that the world is going to come to an end and Woolies and Coles are going to take over everything because of this motion.

We also call on the government to ensure "that a competitive and transparent process is used to allocate new supermarket sites to supermarket operators in the ACT". We are calling on the government "to report to the Legislative Assembly on the process used to allocate each new supermarket site in the ACT to supermarket operators". How is the world going to come to an end because of that? We also call on the

government to seek the ACCC's views on the recommendations contained in the review of ACT supermarkets and report to the Assembly before the recommendations are implemented. But if you were to believe Mr Stanhope's press release spin and believe Mr Stanhope in the chamber today, it is as if the whole word is going to come to an end. When you really delve down into what he said, there was a high level of agreement between what Mr Seselja said and what Mr Stanhope said but it was cast over with a thin veneer of outrage that anyone could occupy the same space as he.

There are a few issues that you have to raise here. Why is it that there seems to be, in the ACT, with the Chief Minister, some abhorrence of the IGA chain of supermarkets? IGA has been part of the Canberra landscape for as long as I have lived here, in its current form and in its previous form. The supermarket operators who operate those supermarkets in my electorate and elsewhere, the people who have spoken to me, are upright members of the community that provide an essential service. The Supa IGA in Hawker, the IGA that I use on a regular basis at Florey, the IGAs across the community, across my electorate, are strong supporters of the community and are strong supporters in the community.

We can look at places like the IGA at Melba. A few years ago that Melba shopping centre was derelict but the people who run the IGA at Melba contributed to the turning around of that shopping centre from a burnt-out hulk to the vibrant shopping centre it is today. They have made a substantial contribution to the life and the community in the suburb of Melba, which is a somewhat disadvantaged suburb. In Evatt, Fraser, Holt, Kaleen—a substantial supermarket again—and Nicholls, the IGA people make a substantial contribution to my electorate.

There seems to be a problem between Mr Stanhope and the IGA chain, and it is time that Mr Stanhope either got over it or got around it. He is there saying he wants genuine independent people in the supermarket business. We have those genuine independent people. By his own admission today, Metcash does not run any of these supermarkets. But at the same time he is putting impediments in their way or it appears from recommendations 6 and 8 of the Martin report that there are impediments in the way of these people.

What we need from the Chief Minister today is for him to get off his high horse and recognise that we should all be on the one page on this. We want good interaction and good development of supermarkets in our communities. We do not want a preponderance of the big players in our supermarkets. We do not want to perpetuate the thing which is already wrong with the supermarket industry in the ACT, which is the preponderance and the domination of Woolworths and Coles. You can travel overseas and talk to people about supermarkets. It is interesting in that I was recently briefly in the UK and people complained to me about Tesco. They all ended up saying, "You don't want to have Tesco come to Australia; it's terrible." Tesco may have problems, and people may have problems with it, but it does not occupy as much space in the retail supermarket business in the UK as Woolworths and Coles do here.

We in the ACT, and across the country, are held captive by that. And instead of the Chief Minister embracing competition and real independence, we have this—I do not know what we had today. You made the point before, Mr Speaker, that he obviously

got out of bed on the wrong side today. He has been a very grumpy Chief Minister all day. And it was quite a schizophrenic speech, on the one hand saying that Mr Seselja's motion was going to bring the end of civilisation, it seems; and, on the other hand, essentially agreeing with him. But he cannot actually bring himself to vote in agreement with this.

This is an important addition to the work done by the Martin inquiry. There is no doubt that there is wide-scale agreement with the recommendations and the direction of the Martin inquiry but there are concerns in a couple of areas. They are substantial concerns. Those substantial concerns have been raised by individual supermarket operators in the territory with successive members of the opposition. They have been raised by Ken Henrick of the National Association of Grocers. And they are concerns which have been reflected by Graeme Samuel from the ACCC in evidence before the Senate estimates committee last month.

These concerns need to be addressed and these concerns need to be resolved so that we can truly move forward with real competition in the supermarket industry. I think that everyone is on the one page and, if the Chief Minister got over his grumpy mood, he would probably realise that we were all on the one page as well. I commend Mr Seselja for his motion, and I commend it to the house.

MR DOSZPOT (Brindabella) (5.45): I would like to echo my colleagues' sentiments on the motion brought to us by Mr Seselja and reiterate the importance of small business to the community and the opposition's view that small, independent supermarkets are major contributors to the grocery sector in the ACT and, in turn, to the ACT economy. Where there is strong competition, there are benefits for the consumer, and healthy, robust competition ensures that downward pressure on prices is steadily applied. This is a particularly important aspect of this debate today—benefits to the consumer.

The review of the ACT supermarket competition policy found that the ACT had a particularly high concentration of the two major chains, Coles and Woolworths, and that meant that there is currently a lack of choice and diversity when it comes to large, full-line supermarkets in the ACT. It also shows that previous decisions by the ACCC to allow the two big chains to dominate mean that we have fewer independent chains and therefore less competition, which equals higher prices. This lack of competition can be directly linked to an undersupply of suitable supermarket space in key areas of the ACT.

Planning processes play a huge role in the allocation of supermarket sites, and this is at the heart of Mr Seselja's motion. There is no doubt that confusion reigns when it comes to policies in the ACT. We have heard the concerns of the chairman of the ACCC. We have heard that there is confusion amongst supermarket operators and that numerous concerns have been raised over the review of ACT supermarket competition policy. This has been referred to by my colleagues at length. However, emphasis must continue to be placed on these concerns.

During the Senate estimates inquiry on 22 October, in response to a question regarding recommendations 6 and 8 of the review, which seek to force landlords to

exclude the major supermarket chains from their operations and limit the commercial decision that they might be able to make to actually choose who they might have as tenants, Mr Samuels said:

> I would have to say that they are recommendations that would not have been made had the ACCC prepared that report. How do I put this in as tactful a way as possible? They are recommendations that would not appear to be consistent with the findings of the ACCC in its grocery inquiry report of 2008.

Another very important aspect of this motion is the benefit and support of small business. There are a number of other recommendations in the review that relate to the eligibility criteria for anyone wishing to operate a supermarket. One requirement states that they must have at least 10 years experience as a full-line supermarket before they can enter the ACT market.

We are now looking at a level of exclusion that will only limit competition and diversity in this industry. Where is the benefit for small business? The opposition has had representations from IGA supermarket operators in Tuggeranong who have said that they are concerned:

> … that the eligibility criteria being developed for land tenders will be used to exclude me from the process. I want to be able to tender for new land releases. I will bring competitive tension to the ACT supermarket sector.

The government have an obligation to ensure that independent supermarket operators are not excluded from bidding for new supermarket sites in the ACT, and that they are afforded every opportunity to set up business, especially in the suburban areas of the ACT. The government must also ensure that a competitive and transparent process is used to allocate new supermarket sites to supermarket operators in the ACT.

It was only in August this year that Ms Burch moved a motion acknowledging the contribution of the local business sector and the benefits that small business bring to the ACT. Ms Burch said at the time:

> It is the hard work of Canberra businesspeople that has helped the ACT economy to grow.

In the same debate in August, Mr Barr said, in relation to his government's policies:

> We seek to put in place a robust set of policies to foster an economic environment in which local businesses can flourish.

Why then would we make it more difficult for independent supermarket operators? I commend Mr Seselja's motion to the Assembly today and urge the government to ensure that independent supermarket operators get a fair go.

MS LE COUTEUR (Molonglo) (5.50): I apologise for the considerable confusion on this. I had thought that possibly this would be adjourned, and we are not as organised as we should be. I thank Mr Seselja and the Liberal Party for bringing this motion on because it is a really important issue. I foreshadow that I am about to move an amendment which will be circulated in my name, as soon as I get around to signing it.

I thank the Liberals very much for bringing this motion on because supermarket policy is really important. It is one of the things that the Greens have been talking about with the government for quite some time. We were very pleased when the government announced the John Martin review and then the report because John Martin has considerable experience in supermarket issues and I thought it was really useful to have the involvement of someone with that sort of experience.

The thing he probably did not have experience in as far as supermarkets go is the role of shops in local communities and in larger communities. I thank John Martin very much for incorporating part of our submission in the report which talked about the role of local shops and the importance of ensuring that they continue. We suggested, and I think John Martin foreshadowed the possibility of, some planning changes to make currently unviable local shops or marginally viable local shops more viable.

However, these are not the major issues that are dealt with in Mr Seselja's motion. I have a number of comments to make on Mr Seselja's motion. First, it possibly is premature because I understand the government is still doing consultation on this issue that will not be finished until 20 November. However, I think it is quite reasonable that Mr Seselja would not be aware that the government was doing consultation; I only worked it out yesterday because the North Canberra Community Council sent around an email alerting people. Consultation clearly does not work if people in general are not aware of it.

Like Mr Seselja, I have had a procession of IGA operators come and see me. They have all been very concerned that the upshot of this review could be a considerable problem for their business. I am really unsure what is going to happen in this regard. I heard John Martin's comments about Metcash control. They do seem to be very interesting comments. We are madly working on some amendments to Mr Seselja's motion. The main thing we are going to call on the government to do is to clarify what is actually meant by an "independent supermarket". I think that is the nub of the question. All three sides are probably in furious agreement on the concept that we want more competition in supermarkets and we want to make sure that independent operators, particularly locally based independent operators, are encouraged rather than discouraged.

If the Martin report has ended up discouraging them then I am sure that is a result that none of us wants. But John Martin had some very persuasive arguments about control and independence, and the roles of wholesaling. I think that we need to call upon the government to clarify the situation in this regard. I think we are all in agreement as to the eventual aims. The government just needs to clarify what the situation is as far as this goes. That is what I have got in paragraph (2) of my proposed amendment, which calls on the government to clarify the definition of "controlled by a major wholesaler" as outlined in the eligibility criteria for assessing candidates for new entry facilitation.

In terms of Mr Seselja's motion, the other thing I want to do is to delete the paragraph which states "report to the Legislative Assembly on the process used to allocate each new supermarket site in the ACT to supermarket operators". The ACT has put together, after considerable time and angst, a process for the direct sale of sites. We have already talked today about the phrase "getting politics out of planning". If we agreed to this suggestion in Mr Seselja's motion, we would be putting politics back

into planning by reporting on the process. I really do not think that we want to have to report on every single supermarket site sale. What we want is the right process and then the government can implement it. So we want to delete that paragraph.

As far as paragraph (2)(c) is concerned, I think we are fairly clear, particularly after listening to Mr Stanhope's chronology of the process, that the ACCC has already been consulted and that the government, and, in particular John Martin, are well aware of the ACCC's views. I assume that they basically have been taken into account. There seems to be little need to get the ACCC's views once again. Those are the major points of the amendment, which I now move:

> Omit all words after "notes", substitute:
>
> "(a) that the ACCC has been consulted throughout the Martin Review process;
>
> (b) supermarket industry concerns and confusion about certain recommendations contained in the *Review of ACT Supermarket Competition Policy;*
>
> (c) the important contribution that small independent supermarket operators make to the grocery sector in the ACT and to the ACT economy more broadly;
>
> (d) that robust competition is required in the grocery market to maintain downward pressure on grocery prices in the ACT; and
>
> (e) notes that the Government is yet to make an official response to the Review, and that a consultation process on some of the details is underway; and
>
> (2) calls on the Government to:
>
> (a) clarify that the definition of "controlled by a major wholesaler" as outlined in the eligibility criteria for assessing candidates for new entry facilitation; and
>
> (b) ensure that a competitive and transparent process is used to allocate new supermarket sites to supermarket operators in the ACT as per the eligibility criteria outlined in the Review.".

MR SESELJA (Molonglo—Leader of the Opposition) (5.56): The opposition will not be supporting this amendment. There are a number of problems with it. Firstly, the amendment does not seem to reflect what was in Ms Le Couteur's speech. It should be made clear that the amendment actually removes the entirety of the motion and replaces it with a Greens motion. There are a number of things that we cannot support in this, and there are a number of points that are missed in the proposed amendment from Ms Le Couteur.

The Greens are proposing to insert the assertion that the ACCC has been consulted throughout the Martin review process. I cannot speak to the veracity of that; I cannot speak to whether or not that is, indeed, the case. I am not sure what information has been provided to the Assembly that would make that crystal clear and that would

allow us to vote for a motion asserting it to be so. It picks up, obviously, a number of the elements of our motion going through but then misses the point when it calls on the government to clarify the definition of "controlled by a major wholesaler". That is part of the issue, but it does not actually go to the other issues which have been raised, which presumably the Greens are not concerned about—that is, issues around whether or not a supermarket operator has 10 years as a full-line supermarket.

There are two issues: first, as the ACCC has noted, why would you introduce an artificial constraint like that? Why would we want to limit competition in that way to stop people who have not quite done 10 years in supermarkets actually coming in? Second, there is still confusion as to how a full-line supermarket will exactly be interpreted. This proposed amendment from the Greens considerably waters down the process. It muddies the waters; it makes assertions that I certainly cannot attest to the veracity of, and I do not think the Assembly should be either; it misses a number of the serious concerns with the supermarket review which have been raised by local small business owners, local IGA owners in particular.

I think this is a relatively poorly worded amendment. I think it is unfortunate that the Greens have now got into the habit of not providing such amendments with a bit of time to discuss them and just gutting motions and replacing them with something else. Presumably, if the government supports this, it will be because they see it as, once again, being less onerous and less of a process and giving them more flexibility to do what they will with—

At 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MR SESELJA: So we cannot support this amendment for the reasons outlined. This amendment has only just been circulated, and it does not address all of the issues. It certainly does not address the issues around some of the artificial constraints on competition that are being proposed here. It does not address all of the concerns that have been raised by these supermarkets. It makes assertions which I certainly cannot sign off on, because I have been given no definitive information that would allow us particularly to sign off on the assertion that the ACCC has been consulted through the Martin review process.

I would make the general point that there was absolutely nothing wrong with this motion as brought forward by the Liberal Party. There was no real critique of it put forward by the Greens, and, indeed, even Mr Stanhope seemed to be agreeing with most of it, although claiming it was being done. So it is difficult to see what part of it the Labor Party and the Greens are voting against. Of course, they will be voting against all of the words that we have put in; they will be voting against what was a broad motion, a well-considered motion and a motion that reflected the concerns of many local small business owners. Those concerns are being rejected here if this amendment goes ahead, and we will not be supporting it.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development,

Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (6.02): I will not take up much of the Assembly's time in relation to this. The government would be pleased to support Ms Le Couteur's amendment. I think it goes to the reality of the situation we find ourselves in in relation to this. Without acknowledging it explicitly, it acknowledges that the government is involved, as everybody in this place knows, as we have broadcast and said repeatedly, in a process to respond. We have accepted the recommendations, and we have been explicit in our undertakings to respond fully around their implementation.

It is for that reason that I established an all-of-government coordinating committee to deal with the very issues that Mr Seselja is agitated about. We recognise there are issues of interpretation and implementation, most particularly in relation to a number of the recommendations. We are taking this seriously. We are consulting with all of the stakeholders. That implementation group has had meetings with the very people that Mr Seselja pretends to represent to talk through all of the issues that they have raised publicly in their correspondence. All of those issues are being dealt with directly, and my understanding at this stage is that almost all of the concerns are being addressed.

Mrs Dunne: Well, you shouldn't have a problem supporting the motion.

MR STANHOPE: Well, no, we are doing it, but you are pre-empting it. I go back to one of the most significant aspects. That part of Mr Seselja's motion, which he actually pretends does not impact on the report and will not impact on the capacity to deal with the duopoly, is that there be no restriction on access—

Mr Seselja: I didn't say that.

MR STANHOPE: You do. Your motion says that quite explicitly—a competitive process. A competitive process in this place means to go to the market and sell.

Mr Seselja: No, it doesn't.

MR STANHOPE: Yes, it does. Yes, it does, and Woolworths and Coles—

Mr Seselja: "Competitive process" normally means more than one.

MR STANHOPE: It does. That is what I mean.

Mr Seselja: You can't make up what's in the motion, Jon.

MR STANHOPE: That is what I mean—you go to the market; you do not actually direct grant. Your motion would prevent any of the significant recommendations being implemented.

Mr Seselja: No, you can have limited tenders. What a stupid thing to say. When you don't know, you just make it up, don't you, Jon?

MR STANHOPE: No, no, no, you are caught out here. You are caught out here.

Mr Seselja: You make it up, make it up. Where is it explicitly, Jon?

MR STANHOPE: The Liberal Party motion says—

Mr Seselja: Tell us where it is explicitly. You have misled. You have misled again.

MR STANHOPE: Let me read it. Actually, if you would let me get this through, Mr Speaker, it would be welcome.

MR SPEAKER: Mr Seselja!

MR STANHOPE: Let me read the Liberal Party's proposal in relation to supermarket competition: ensure a competitive process to allocate new supermarket sites. Ensure a competitive process—in other words, put it to the market. When you put it to the market, guess who buys them: Woolworths or Coles. Who buys them when you ensure a competitive, straight-to-the-market, put-them-to-auction process that Mr Seselja is advocating today? The Liberal Party's position in this is to keep putting them to the market. Ensure a competitive process. Ensure, in other words, that only Coles or Woolies ever get to buy your major full-line supermarket sites. That is what the Liberal Party motion today is about.

The Greens, in their wisdom, as always, actually amend that by saying that it is as per the eligibility criteria in the review. They deal with the very issue at the heart of the Martin review. That is the whole point. Without the words that the Greens add, "as per the eligibility criteria" outlined in the review, Mr Seselja and the Liberals propose today in this motion that all full-line supermarket sites in the ACT in future be delivered through a competitive process. For "competitive process", read the subtext, "to the highest bidder".

Mr Seselja: You're against competitive process now? You're against any competitive process? So if you could have a limited tender with three, you're against that?

MR STANHOPE: Mr Seselja, you cannot be that dumb not to know that the entire Martin review is about how you ensure other entrants into the market, having regard to the enormous buying power of Woolworths. That is what the entire report is about. Have you missed the point? He has missed the point. He moves today a motion which requires the government to ensure a competitive process is used to allocate new supermarket sites. What does that mean? That means only Coles and Woolies will buy them, because that is our experience. We know that to be the case. The Greens very politely have suggested to Mr Seselja—

Mr Seselja: You really should just read what is given to you by your department.

MR STANHOPE: Well, Mr Seselja, don't you mean "as per the eligibility criteria set out in the review", the entire point of the recommendations? Of course that is what the Martin review intended. If you do not have those words proposed by the Greens in this motion, Mr Seselja, if the motion were passed as presented by you, what you would be saying to the government is, "We do not accept the Martin review

recommendations." That is what you would be saying. The government would be directed by the Assembly to drop the Martin review. That would be the effect, the implication, of your motion. That is why it is fair and reasonable for me to say that here we have the same old Liberal Party sticking up for the big boys, sticking up for the big providers with no care for the consumer.

You cannot have it both ways. You cannot move a motion demanding that the government restrict itself to a competitive process—in other words to the highest bidder—and ignore the Martin review that you propose. It is on that basis that the government is happy to support the Greens amendments, because the Greens amendments essentially reflect the process that is in train, accepting, of course, that this entire debate brought on today pre-empts the fact that we have a process with time lines and that we are still taking public submissions. But never mind that. Never mind what the community thinks; never mind the public consultation process; never mind that we are in the middle of it. Just introduce motions, pre-empt public consultation and undermine processes that the government has running. Never mind any of that. There is this essential acknowledgement that there is a process, that the government is working through all the recommendations, that the government is consulting with all the stakeholders, that it is ensuring that there is an appropriate understanding and acceptance of the issues of IGA, of smaller grocery retailers, that the report in its entirety deals with their issues and allows them to expand, as it does Coles and Woolworths.

The proposals in relation to removal of the main-line supermarket policy from group centres will assist and aid. Already I am receiving representations from owners of sites around Canberra in group centres in association with one of the two major retailers saying: "Goodie, here's an opportunity. So we're not going to be restricted to a single Woolies or Coles at group centres in future." So who is lining up? Coles and Woolworths. They are not stupid. Franklins is lining up. Aldi—

Mr Seselja: You're all over the shop. Are you now expanding the duopoly?

MR STANHOPE: No, we are not. No, you have actually outsmarted yourself here today. You have introduced a motion demanding that the government restrict the release of main-line supermarket sites to Woolworths and Coles. You have been caught out; you have outsmarted yourself. It is only as a result of the amendment proposed by the Greens that we can actually get back to the implementation of the very strong policy provided to the government through the Martin review. So the government is happy to support Ms Le Couteur's amendment.

MRS DUNNE (Ginninderra) (6.10): What a difference a motion makes. About half an hour ago the Greens were the worst in the world because they did not consult; they did not come and ask Mr Stanhope's permission before they referred matters in relation to trees, and the world was going to come to an end. Then we have another motion and we have another group of people who are bogeymen. I have some advice for the Chief Minister, especially for his staff: put away the red cordial and do not let him have any more at lunchtime, because he has been out of control ever since lunchtime. I can only put it down to either jelly beans or too much red cordial. Just take a powder, Mr Stanhope, and listen to the people in your electorate. The people in

your electorate must have been coming to you, because they have been coming to me and they have been coming to Mr Coe and saying, "We have problems with some of the recommendations of the Martin review." But these are recommendations which, almost sight unseen, you said that you were going to adopt.

Mr Stanhope: Yes, but we are going to refine them. We said that as well.

Mrs DUNNE: So you are going to adopt them? Which thing is it? What we have here today is a complete diatribe, a senseless, rambling diatribe, from the Chief Minister, who has completely gone off the reservation today. I do not actually know what particular thing has brought him to this place, but it is clear that he has a vendetta against the IGA chains in the ACT. I do not know why. These are Canberra families running businesses that employ Canberrans. These are Canberra families who supply well-priced groceries to the families in their suburbs who use them. What we actually have here is a compete diatribe that goes against the facts.

The most recent supermarket establishment in the region was at Karabar, where Woolworths was specifically excluded because the ACCC said it was anticompetitive, and there was a competitive process where people bid to take over the supermarket at Karabar. What happened? The ACCC said it would be anticompetitive to have Woolworths in there. A whole lot of other people, including Supabarn and the Supa IGA, bid for the prize and one of them won the process, and we have a Supa IGA there.

Mr Stanhope: So is that the Liberal policy, is it? That's the Liberal policy, is it? That's interesting. So that's your policy, is it? Now we have it. We now have the Liberal Party's policy position.

MR SPEAKER: Order, Mr Stanhope! I cannot hear Mrs Dunne. Mrs Dunne has the floor.

Mr Stanhope: She had finished, Mr Speaker.

MRS DUNNE: You only wish, Chief Minister. What we saw with Karabar was a competitive process that allowed local supermarkets to bid for it, and a local supermarket won out. The Chief Minister seems to have a problem with that. I do not know; the Chief Minister seems to have a problem with IGA, and I think he needs to come clean here and tell the people of the ACT why he hates IGA and why he has a vendetta against the families in my electorate that run reputable supermarkets that contribute to the community and employ young kids in their first jobs. They keep people in employment; they provide services to the community; they provide well-priced groceries to the community; they support their local community. What is your problem with the IGA, Mr Stanhope? Come clean and tell us. Tell us what you have got against the families who run those supermarkets.

MR SESELJA (Molonglo—Leader of the Opposition) (6.14): I thank members for their contributions. Mr Stanhope's comments displayed an extraordinary level of ignorance—an extraordinary level of ignorance. We can sometimes say that he either does not understand or he is being dishonest; it has got to be one or the other. But

when it comes to the absolute misinformation that has been put out by Jon Stanhope on this issue, it is extraordinary.

There is no regard for the truth. This is what Jon Stanhope is now against. He is now against competitive and transparent processes. He is against that. He says you cannot do it. You cannot have a competitive and transparent process in the grocery sector any more under his regime. You cannot have a competitive and transparent process. All of the options that are available to have a competitive and transparent process, such as limited tenders and taking account of competition, this is the thing that Jon Stanhope does not understand. He does not understand that you actually can have nuance. You actually can be in favour of competition and you can actually have an open process. This is the problem.

We saw the difference in the Chief Minister as soon as he did not have his notes. He could not quite get his head around the concept that you might actually have ways of having open and transparent processes for a competitive supermarket sector in the ACT. But what Jon Stanhope has said today, through his ignorance or his dishonesty, whichever way you want to look at it—

Mr Stanhope: A point or order, Mr Speaker.

MR SPEAKER: Stop the clock, please.

Mr Stanhope: I have shown enormous forbearance but the Leader of the Opposition has just accused me twice now of being dishonest.

MR SESELJA: I have not, actually.

Mr Stanhope: Yes, you have.

MR SESELJA: I said it is one or the other.

Mr Stanhope: You have just accused me of being dishonest, Mr Seselja, and if you wish to proceed with those allegations you need to move a substantive motion—

Mrs Dunne: So you are admitting that you are ignorant; okay.

Mr Stanhope: Well, if you want a censure motion, move it.

MR SPEAKER: Thank you, Mr Stanhope; the point is made. Mr Seselja, you should withdraw the inference of dishonesty by the Chief Minister.

MR SESELJA: I withdraw, Mr Speaker. Mr Speaker, we can only—

Mrs Dunne: A point or order, Mr Speaker.

MR SPEAKER: I am sorry, Mr Seselja. Mrs Dunne.

Mrs Dunne: On a point of order: Mr Stanhope said that he had exercised enormous forbearance. He has not. He has interjected consistently through this and I think it is time that you closed him down.

MR SPEAKER: Mrs Dunne, I think it would be fair to say that Mr Seselja interjected considerably during Mr Stanhope's contribution. If I am to be consistent, whilst I do not condone the Chief Minister's actions, some consistency is required on my part.

Mrs Dunne: But he did not exercise forbearance.

MR SPEAKER: Mr Seselja, you have the floor.

MR SESELJA: Thank you, Mr Speaker. The Chief Minister has confirmed that he is ignorant, not dishonest. This is what we see. This is the level of debate that he subjects this place to. He manufactures issues. He manufactures a straw man and then has an argument with it. The Chief Minister has put his rambling contribution on the record today in the chamber. He has been out of control, as Mrs Dunne has pointed out. From question time onwards, he has been unable to control himself and the words that have been coming out of his mouth have not been making sense.

But he has put forward a new policy from the ACT government. The new policy is that they are against competitive and transparent processes. They are against competitive and transparent processes in whatever form. Presumably they will only now deal with direct grants to one individual supermarket with no other process looking at any competition in the supermarket sector. That is the policy that has been put forward by the Chief Minister in his arguments. There is no other way of looking at it. He says that if you dare to have an open and transparent process, you will be handing it to Woolies or Coles.

That is the Chief Minister's position. It is a ridiculous position, Mr Speaker. It demonstrates that when he cannot read his notes and he has to make it up as he goes along, he comes up with these ridiculous conclusions—these rambling conclusions—which any reasonable observer would conclude do not make any sense. They are not good policy and they are ridiculous. We have been subjected to that, unfortunately, from the Chief Minister today.

We have seen it on a number of issues but most importantly at the moment we have seen a new policy from this government that they are against competitive and transparent processes of any form—of any form. They are only for uncompetitive, closed, hidden processes that are not open or transparent.

Mr Coe: New South Wales Labor.

MR SESELJA: Well, it is; it is a bit like New South Wales Labor. But that is what the Chief Minister has said today, and that will no doubt cause significant concern. It will heighten concern in the community about some of these processes. We want to see competition.

You do not increase competition by excluding a whole group—ie, small independent retailers based here in the ACT. That does not increase competition. You do not increase competition by outright rejecting competitive and transparent processes in relation to supermarket policy here in the ACT. That is the new policy of the ACT government as enunciated by the Chief Minister here in the chamber today.

Mr Speaker, we, unlike the government, do not have a vendetta against IGAs, do not believe that they should be artificially constrained from bidding.

Ms Porter: Neither do we, Mr Seselja.

MR SESELJA: Ms Porter interjects, but the reality is that that is what this is about. That is what this is about. For no particular reason the government seem intent on excluding IGA from this process and, indeed, have gone further today and said they are against any open and transparent process.

Surely we should be looking to balance competition so we can ensure that we do not see the duopoly being extended more than it should be. However, we heard the rambling that went on when the Chief Minister said, "Actually, maybe this will see Coles and Woolies get more market share. Maybe this will give them more opportunities than they otherwise would have had."

Can we assume from that that we will actually be seeing Coles and Woolies taking a larger market share as a result of some of these reforms? The Chief Minister needs to answer that because there was this back and forth. He was against Coles and Woolies and then he was for Coles and Woolies. But we know one thing clearly as a result of today's debate: he is against competition, which includes small independent operators here in the ACT. He is against open and transparent processes in order to balance competition with best value for money for the community.

That is the balancing act that a responsible government would undertake and Jon Stanhope has ruled it out today. He has ruled it out through his ignorance because he simply does not understand that you could possibly balance those two issues. He has said that he is no longer about openness and transparency and certainly not as it applies to supermarkets.

Mr Speaker, this motion is an important motion that should be supported by the Assembly. It should be supported by the Assembly because it is about getting this process right. There is common ground. There is some common ground where we say that we have the same answer. We do want to see competition increased; we do want to see a more vibrant grocery sector here in the ACT; we do want to see downward pressure put on prices here in the ACT as a result of that.

There are a number of ways to achieve that. But part of what this government wants to do will not achieve that. As the ACCC says, it will work against that. It will work against competition. Instead of simply ignoring that and essentially denigrating the head of the ACCC, we should actually be listening to that advice and asking, "How can we make this better?"

That is what this motion is about. It is about getting competition according to, particularly, some of the advice from the ACCC. It is about increasing competition in the grocery sector here in the ACT. It is about ensuring that local Canberra businesses have the opportunity to survive, thrive and expand and to make a great contribution to our community through their local supermarkets, through bidding for larger

supermarkets as well. That is what this is about. That is what the Canberra Liberals stand for and that is what the Labor Party and the Greens will be voting against today here in this chamber.

Question put:

> That **Ms Le Couteur's** amendment be agreed to.

The Assembly voted—

Ayes 10		Noes 5
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Rattenbury	Mr Hanson
Ms Gallagher	Mr Stanhope	Mr Seselja

Question so resolved in the affirmative.

Motion, as amended, agreed to.

Sport in the community

MS PORTER (Ginninderra) (6.27): I move:

> That this Assembly:
>
> (1) recognises the role that sport plays in contributing towards improved health and community participation in the ACT;
>
> (2) acknowledges that the need to adapt to the changing context within which local sport operates; and
>
> (3) encourages the ACT Government to explore policy initiatives that capitalise on existing and emerging sports facilities and human resources in the ACT.

It is with great pleasure that I rise to move this motion. This motion, I believe, is critical to ensuring that sport continues to play a central role in promoting stronger communities and healthy lifestyles in the ACT, as well as providing a vehicle through which Canberrans can pursue excellence in their chosen field.

The findings of the Crawford report, a major review of the Australian sports system, are due to be made public at some point before the end of the year. These findings are likely to significantly influence the way we consider sports policy and will, in all probability, represent a significant repositioning of federal policy in relation to sport. Many sporting associations are awaiting the release of this report with much trepidation and anticipation. Sports that are not considered to have a realistic chance to achieve success on the highest stage, in particular, will be experiencing an anxious wait.

It is fair to say that sport plays a central role in Australian society. We have been successfully competing against nations with much larger populations and often better competitive geography. By competitive geography, I refer to the opportunities European nations, for example, have to compete against each other on a more regular basis due to their close proximity. More often than not, we also compete against nations that are expanding their investment in elite sport. We celebrate the achievements of our elite sportspersons, who have of recent times achieved fantastic results in a difficult context.

In the ACT, the government, through a range of institutions, contributes strongly to elite-level sport in Australia. Funding for ACTAS and ACT Sport helps these bodies contribute to the nation's pool of elite athletes. Significant funding has also been provided to this city's top sporting clubs, such as the Brumbies, the Raiders and the Capitals—as well as my beloved Canberra United, which competes with distinction in the W-League.

When one considers the size of the ACT, it is fair to say that we have a number of outstanding teams to support, including a national champion basketball club and, as I said, the women's soccer team, which came within a whisker of achieving the same status. I think you would agree that we punch above our weight here in the ACT.

In Australia over the past decade, there has been a tendency to emphasise a pathway from participation in sport to the elite level. Australians take great pride in our national sporting teams. This has been reflected in the federal sports policies designed to achieve outstanding results in elite international competition such as the Olympic Games. However, sport should not be considered only as a source of national pride; it also plays an important role in building stronger communities and promoting healthy lifestyles that contribute to the wellbeing of all Australians, and of course all Canberrans.

Indeed, this pathway is perhaps not the best model for achieving these positive community and health outcomes. In New Zealand, a circular model is used to promote a system where participants are encouraged to opt in or opt out where they choose. The merit of such a model is that it promotes ongoing participation where people who are no longer striving to achieve an elite level of performance are nonetheless encouraged to participate in sport and enjoy positive outcomes such as improved wellbeing and a stronger sense of social inclusion.

The economic benefit derived from professional sport is well understood by governments. However, this government accepts that non-professional teams can also serve as an economic driver, particularly through the organisation of large-scale amateur tournaments. Often such events are designed to bring communities of competitors in minor sports together in one place. Canberra has proven to be an ideal location for such events, as is evidenced in the enormously successful Kanga Cup.

I would be surprised if the Crawford report did not highlight the need to strike a balance between elite sport and community-based participation that will lead to stronger communities and more active lifestyles. As is clearly outlined in this

government's "get a move on" policy statement, published in September 2007, the minister for sport intends to facilitate stronger community links through a closer relationship between Sport and Recreation Services and the Department of Education and Training.

The range of opportunities made available through community-based sport and recreation programs and Sport and Recreation Services will include sport leadership training for student-led activity in schools; skill development programs culminating in game play; and accessible pathways into participation programs and local competitions.

Programs targeting culturally and linguistically diverse groups are also integral to the government's strategy. Programs aimed at reaching children with disabilities and Indigenous students will be further supported to ensure that all primary-aged children are provided with the opportunity to be physically active.

The ACT has the highest level of participation in sport across all demographics. However, it says much for this government that we are not satisfied with achieving national leading results: we aim to go one step further. There are compelling reasons to seek to further improve on these figures. We may lead the rest of the country in respect of participation in sport across all demographics, but we need to achieve an even higher level if we are to address health-related issues which are the result of an increasingly sedentary lifestyle and develop stronger communities throughout the ACT.

As I said, participation in sport and recreation brings significant health benefits. A recent study by Mathers, Vox and Stevenson found that sedentary or relatively inactive lifestyles are second only to tobacco as a cause of the burden of disease or injury in Australia. I believe that another recent survey suggested that over 60 per cent of Canberrans are sedentary or have a low level of physical activity, which costs the ACT many millions of dollars each year in terms of health services required to address the resultant health problems.

This is one of the reasons why the government continues to work to create more accessible pathways into participation programs and local competitions. However, this objective relies on the access local sporting clubs and other groups have to facilities. This is not a problem unique to the ACT. In fact, several sporting bodies across Australia have ceased to plan for participation growth within their sport, simply because there are insufficient facilities to support such an objective. Where growth exists, pressure is placed on already overused facilities and this increases the maintenance cost to government. This situation is no different in the local context.

If clubs across the country cannot actively seek to increase participation in sport and leisure activities due to the modest level of available facilities or the clubs' incapacity to afford the existing facilities, then the capacity for these community-based clubs to contribute to community building and positive health outcomes is obviously diminished. Naturally, without local sporting teams actively looking to increase participation in sport and leisure activities, the capacity to encourage participation in sport is diminished.

Throughout 2009, I have hosted regular meetings with sporting clubs within my electorate of Ginninderra. I have engaged with representatives from a variety of sports in these meetings. These are just a few examples: volleyball, fencing, gridiron, golf, Australian Rules, soccer and cricket. I have also spoken to representatives of softball and tennis clubs off site.

Despite the massive investment the ACT Labor government has made and continues to make in sporting facilities, there is always more to be done to meet the need of sporting groups. I am working on a discussion paper in this regard, which I hope to put before the government for consideration in the near future.

I believe that the current context is perfect to engage the local community in discussions on initiatives that capitalise on existing and emerging sport facilities and human resources in the ACT. Not only does it seem highly likely that the Crawford report will re-emphasise participation in grassroots-level sports but also facilities built through the "building the education revolution" funding have provided an incredible opportunity that we need to capitalise on.

Many schools in the ACT have the BER funding to build indoor sport facilities and are obliged to allow community groups to access these facilities outside school hours. The BER guidelines state:

> The school must agree to provide access at no, or low cost to the community to … multipurpose halls funded under this element of BER. This must include reasonable access by any community or not-for-profit groups in the local community.

With this in mind, I am consulting with relevant groups to see if there is scope for enhanced collaboration between sporting groups and local schools whereby such facilities are made available to local clubs in exchange for human resources to be used to help schools promote more active lifestyles amongst the students.

Obviously, the exchange between local teams, organisations and schools would not be limited to those facilities built with the BER funding. However, the numerous school sporting halls and other facilities that are a direct consequence of this funding provide a unique opportunity to consider and eventually progress this proposal. Bringing together schools and sporting clubs through resource-friendly policy is an opportunity to build a stronger sense of community cohesion and cooperation around two institutions valued and appreciated by all Australians.

This government has a history of supporting progressive policies to give Canberrans every opportunity to enjoy healthy lifestyles. It starts in school. In 2009-10, $300,000 has been allocated so that this government will deliver on Labor's election commitment to support the work of the Children's Physical Activity Foundation, promoting active and healthy lifestyles in ACT children.

This government also has a demonstrated record of financially supporting community sport. For instance, funding has been allocated to further develop the Lyneham sports

precinct, to construct and enclose a sporting facility in Gungahlin and for the development of a basketball centre of excellence in Bruce.

Although this government have a demonstrated record in providing for high-quality sporting facilities, the current financial context requires that we consider resource-friendly initiatives if we are to further develop sports facilities available to all people in Canberra. The current environment is conducive to policy initiatives that can capitalise on existing and emerging sports facilities and the human resources that we have in the ACT.

We are reaching an important moment in our nation's narrative on sport. This government is determined to make a positive contribution through a balanced approach to sports-related policy. I look forward to continuing my discussions about these policies with the minister, the sporting community and the wider community—as I have up to this point. I look forward to having these further discussions and I ask fellow members for their support for this motion.

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

Adjournment

Motion (by **Mr Barr**) proposed:

> That the Assembly do now adjourn.

World Osteoporosis Day

MR COE (Ginninderra) (6.40): Last month I was very pleased to host an event here at the Legislative Assembly to mark World Osteoporosis Day, Tuesday, 20 October 2009. World Osteoporosis Day is about raising awareness for the better prevention and treatment of osteoporosis.

Locally, Arthritis ACT, incorporating Osteoporosis ACT, is a non-profit organisation that assists people in the ACT suffering from arthritis, osteoporosis and related conditions. It is an organisation that relies on the support of volunteers and donations.

I was pleased to be joined by other Assembly champions of Arthritis ACT: Greens MLA Amanda Bresnan and Labor MLA Joy Burch. As Assembly champions, we hope to raise the profile of Arthritis ACT and the great work done in the Canberra community for sufferers of arthritis, osteoporosis and other related diseases.

The President of Arthritis ACT is a former member of the Legislative Assembly, Mr Bill Wood. Bill is a widely respected former member and has kindly volunteered his time in his retirement in support of this important organisation. Arthritis ACT benefits from Bill's experiences in public life, and I would like to place on the record my appreciation for the role he continues to play in the community. I would also like to extend my thanks to Ms Anna Hackett, the vice-president; Ms Kristine Riethmiller, the secretary; Mr Andrew Fleming, the Treasurer; and other members of the board, including Ms Helen Cody, Dr David Graham, Ms Helen Tyrrell and Mr Tony Holland.

Tony Holland is the CEO of Arthritis ACT, and he was one of the co-hosts at the event on 20 October. Tony is doing a great job running the organisation and is professionalising the organisation very quickly. I would like to pay a particular tribute to the organisation's website, which is very professional and presents a very modern image of Arthritis ACT.

The level of awareness about osteoporosis is still very low, so it is important that we try to raise awareness at a local level. Osteoporosis is a disease of the bone that results in bone weakness and increased risk of fracture. Fractures are a major cause of suffering, disability and, unfortunately, even death, especially in our elderly population.

This disease can be prevented by lifestyle changes and/or medication. Exercises and a focus on preventing falls are a key component of the prevention of osteoporosis, along with medications that help strengthen the bone. We had a presentation by physiotherapist Mr Bjarne Kragh, who spoke to us about osteoporosis and provided us with a practical demonstration of exercises for osteoporosis. I thank him for his donation of time towards Arthritis ACT.

Recently I was also pleased to attend the Arthritis ACT wine tasting. The tasting was presented by John Fitzgerald, who is a former president of the Canberra Wine Society. The tasting featured wines of the Canberra region. It was good to see so many in the local community come to support Arthritis ACT in their fundraising efforts. Fundraising events are not easy to organise, and I commend Tony Holland and all those involved for such a well-organised and successful event.

I look forward to working with Arthritis ACT in the future to ensure that its good work can continue.

All Saints Anglican church
Remembrance Day

MR SESELJA (Molonglo—Leader of the Opposition) (6.44): I would like to mention a couple of events. One was the All Saints Anglican church 50-year celebrations, which I had the pleasure of attending on 1 November this year. There has been a wonderful contribution to our community from All Saints Anglican church over those 50 years. Like so many other church communities around the ACT, All Saints Anglican has contributed in many ways—not just in the spiritual development of those who attend the parish, but, like most church organisations, in outreach into the community, in doing charitable works. All Saints Anglican has been a major contributor to the fabric of the ACT and a major contributor to the growth of Canberra.

It was a very enjoyable mass, and afterwards I felt very welcome when talking to a number of the parishioners. I would like to make mention of the celebrant, the Right Reverend Allan Ewing; the acting rector, Reverend Dr Colin Dundon; the All Saints choir; the music director, Matthew Stuckings; and the organist, Les Davey.

It was, as I say, a wonderful celebration of 50 years. I particularly pay tribute to the All Saints Anglican church in Ainslie for their contribution to our community over the

last 50 years. May there be many more years when All Saints Anglican continues to contribute to our community.

On this Remembrance Day, I would also like to pay tribute to all of our armed services members. I would like to pay tribute to all of those who have fought for Australia over many years. Today at the Remembrance Day ceremony, we heard that 102,000 Australians have died in various overseas wars. That is quite a sobering statistic.

Remembrance Day was originally Armistice Day, and was about the end of World War I, in which so many Australians died. Per capita, I think we lost more than perhaps any of the allies. Australia's contribution to World War I was very significant. We have seen that contribution continue in World War II, in Vietnam and in a number of other conflicts. Indeed, our diggers are still involved, particularly in Afghanistan but in all sorts of places in peace-keeping roles around the world. We have seen them recently in East Timor as well.

I would like to place on the record my gratitude to each and every one of these brave men and women. Those of us who have not served really cannot appreciate the great sacrifice that is involved, particularly the ultimate sacrifice that many of our men and women have made in the defence of Australia, in the defence of freedom. We as a nation, and we as a city, should be eternally grateful to them, for the contribution they have made to preserving the nation, the society that we enjoy today here in Australia and the freedom that we enjoy today.

I make note of the War Memorial and their organisation of the Remembrance Day ceremony. It is always done in a thoroughly professional manner, as it was again today. It was a moving ceremony, a beautiful ceremony. There were a number of different organisations that contributed to that. I will not have the opportunity to mention them all, but particular acknowledgements go to Ross Symonds, the master of ceremonies; the Federation Guard; the Band of the Royal Military College of Australia; and the Australian Rugby Choir.

A number of schools were represented from around the country: the Ballarat Christian school; Casuarina Street primary school; the Good Shepherd Catholic school; Junee public school; St Joseph's school; St Mary's primary school; and Wesley college. It was great to see Good Shepherd representing the ACT at the Remembrance Day ceremony. I was thoroughly impressed by the reverence that the students showed for the occasion.

Once again, I say to the War Memorial: well done for another ceremony that has given honour to those who have fallen. And I put on record my personal gratitude and the gratitude of the Canberra Liberals to all of those who have served our nation and continue to serve our nation in theatres of conflict to protect Australia and to protect freedom around the world.

Environment—climate change

MS BRESNAN (Brindabella) (6.49): Last week I attended, on behalf of the ACT, the 18th Australia and the Pacific regional seminar for the Commonwealth Parliamentary Association, in Wellington, New Zealand.

One of the most interesting aspects of the meeting for me was the presence of representatives from the Pacific, in particular Samoa, the Cook Islands and Kiribati. What was so interesting about that, particularly in relation to climate change, was that each of the representatives from these countries spoke about that and the particular impact that climate change is already having in their countries.

The speech from Mr Bauro Tongaai, a member of parliament in Kiribati, was particularly compelling. He spoke about the impact that they are now experiencing and the impact it is having on their culture and their way of life. I want to read a couple of excerpts from his speech, because it was a very compelling speech, as I said. He said:

> … for many years we have tirelessly appealed to the international community—asking them to do something about climate change and to provide solutions for those seriously affected by its detrimental impact, especially those whose very existence are being threatened. These appeals have failed to produce practical solutions for people living in low-lying Small Island Developing States like Kiribati. While the international community continues to point fingers at each other regarding responsibility for and leadership on this issue, our people continue to experience the impact of climate change and sea level rise. And practical solutions continue to evade us.

I will quote another excerpt as well:

> The question now facing us … is what we will do when people start fleeing their countries, not because of political persecution, but because of environmental catastrophe? This is the question I want to put forward as a challenge for this seminar and to which I wish to provide a possible answer, at least from the perspective of a country whose very existence is under serious threat. The relocation of 100,000 people of Kiribati, for example, cannot be done overnight. It requires long term forward planning and the sooner we act, the less stressful and the less painful it would be for all concerned.

The thing that was so poignant about the speech that Mr Tongaai delivered was that he stated that the people of Kiribati want to be able to deal with the situation they are facing with dignity. It is incumbent on both Australia and New Zealand to be focusing much more on the region of the Pacific when it comes to the issue of climate change: this region is being impacted now and will be impacted further in the immediate future. Both New Zealand and Australia will have to take some responsibility for the impact these people are going to experience—including, as Mr Tongaai said, the fact that a lot of people will have to leave their countries.

We are going to need to deal with that. We are not just talking about people losing their land; we are talking about people losing their culture and their identity. That was one of the key issues they put forward. We are going to have to deal with the emotional impact that is going to come with what is going to happen to them.

As Mr Tongaai said to us, as other countries argue about whose responsibility climate change is—indeed, still, today, whether or not climate change is actually happening—and what are the causes of climate change, these countries in the Pacific are seeing

their current way of life disappear. We all need to considerer that when we are talking about climate change and the various arguments about that—that there are people experiencing problems now and, as Mr Tongaai said, we are going to need to help these people deal with their situation with dignity and allow people the time to get used to the fact that they are going to have to leave their homes at some point.

Question resolved in the affirmative.

The Assembly adjourned at 6.54 pm.

Schedule of amendments

Schedule 1

Civil Partnerships Amendment Bill 2009

Amendments moved by the Attorney-General

1
Clause 6
Proposed new section 6A (b)
Page 3, line 8—

before

making

insert

unless the couple may marry under the *Marriage Act 1961* (Cwlth),

2
Clause 8
Proposed new section 8C
Page 5, line 2—

insert

8C When civil partnership has effect

(1) A civil partnership entered into as mentioned in section 6A (a) has effect when the registrar-general registers the relationship under section 8 (1) (a).

(2) A civil partnership entered into as mentioned in section 6A (b) has effect when the 2 people make a declaration before the civil partnership notary in accordance with section 8B.

3
Proposed new clause 10A
Page 9, line 6—

insert

10A Evidence of identity and age
Section 13 (1)

after

section 7 (2) (b)

insert

and section 8A (2) (b)

4
Schedule 1
Amendment 1.3
Proposed new section 8A (1) (a)
Page 14, line 10—

substitute

(a) if the civil partnership was entered into by registration under the *Civil Partnerships Act 2008*, section 8—the date and place of registration;

(ab) if the civil partnership was entered into before a civil partnership notary under the *Civil Partnerships Act 2008*, section 8B—

(i) the date and place of the declaration before the notary; and

(ii) the full name of at least 1 witness to the civil partnership;

5
Schedule 1
Amendment 1.4
Page 14, line 11—

omit
