



**ACT**

Government

Justice and Community Safety

## **Open Access release outcome decision – Partial access granted**

**Document Category:** Ministerial Briefs

**Title of document:** Attorney General – Quarter 4 2018 briefs

**Description of the information:** Question Time and Annual Report Hearing Briefs provided to the Attorney General between 1 September to 31 December 2018.

The original record of this document contained information the release of which would be contrary to the public interest. This information has been redacted from this publicly available version of the document for the reasons outlined below.

### **Grounds for decision to withhold disclosure**

It was decided certain information contained in the document would not be disclosed as, on balance it would be contrary to the public interest test set out in section 17 of the *Freedom of Information Act 2016* (the FOI Act).

I have included below the relevant factors considered in making this decision.

#### **2.1 Factors favouring disclosure in the public interest**

*(a) Disclosure of the information could reasonably be expected to do any of the following:*

- (i) promote open discussion of public affairs and enhance the government's accountability;*
- (ii) contribute to positive and informed debate on important issues or matters of public interest;*
- (viii) reveal the reason for a government decision and any background or contextual information that informed the decision.*

I consider that the release of the ministerial briefs may be expected to help inform ongoing discussions and debate on matters of continued public importance. The disclosure of this information also helps to promote government accountability and transparency.

#### **2.2 Factors favouring non-disclosure in the public interest**

*(a) Disclosure of the information could reasonably be expected to do any of the following:*

- (iii) prejudice security, law enforcement or public safety;*
- (iv) prejudice trade secrets, business affairs or research of an agency or person;*
- (xvi) prejudice a deliberative process of government.*

On balance, I consider the ministerial briefs to be in the public interest to release, with minor redactions applied. In particular, information has been withheld from release where it may prejudice the integrity of deliberative processes of government and the business affairs of another party that was engaged as part of this process. Information has also been redacted where it may prejudice security and public safety through the potential compromise of identifiable Closed Circuit Television networks.

**Review rights**

My decision to withhold open access information is a reviewable decision as identified in Schedule 3 of the FOI Act. You can seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the Justice and Community Safety Directorate website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the ACT Ombudsman at:

The ACT Ombudsman  
Attention: ACT Strategy and FOI Section  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

**Further assistance**

If you have any queries regarding this Open Access release, please contact [JACSFOI@act.gov.au](mailto:JACSFOI@act.gov.au) or phone (02) 6207 2167.

**Authorised by**



Lauren Callow  
Information Officer  
2 January 2024



## OPEN ACCESS Q4 2018 SCHEDULE PORTFOLIO: ATTORNEY-GENERAL

No.	Folio	Description	Date	Status	Reason for non-release or deferral
<b>Question Time Briefs - Sitting Week 18-20 September 2018</b>					
1	1	Question Time Brief Index 18-20 September 2018	September	Full release	
2	2-4	Gambling and Racing Matters	September	Full release	
3	5-6	Government response to Stevens Report and community club contributions	September	Full release	
4	7-8	Gaming machine harm reduction measures	September	Full release	
5	9-12	Greyhound racing	September	Full release	
6	13-15	Thoroughbred racing developments – Recent Racing NSW announcements	September	Partial release	Schedule 2,2.2(a)(xi)(xvi)
7	16-20	Community club grants	September	Full release	
8	21-27	DPP resourcing	September	Full release	
9	28-33	Resourcing of Magistrates and Coroner's Court	September	Full release	
10	34-35	Reforms to the operation of the Coroner's Court	September	Full release	
11	36-37	Drug and Alcohol Court	September	Full release	
12	38-41	ACT Law Courts PPP - Progress	September	Partial release	Schedule 2,2.2(a)(xi)
13	42-44	Bail laws	September	Full release	
14	45-46	Eastman trial update	September	Full release	
15	47-50	National security issues (Including biometrics)	September	Full release	
16	51-54	OMCG incidents	September	Full release	
17	55-57	Serious and organised crime response	September	Full release	
18	58-59	Child Abuse Royal Commission – Criminal justice reforms	September	Full release	
19	60-61	Commonwealth Redress Scheme for Survivors of Institutional Sexual Abuse	September	Full release	
20	62-63	Residential tenancies	September	Full release	
21	64-65	Crimes (Consent) Amendment Bill 2018	September	Full release	
<b>Question Time Briefs – Sitting weeks 23-25 October and 30-1 November 2018</b>					
22	66	Question Time Brief Index 23-25 October and 30-1 November 2018	October / November	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
23	67-69	Gambling and Racing Matters	October / November	Full release	
24	70-72	Government response to Stevens Report and community club contributions	October / November	Full release	
25	73-74	Gaming machine harm reduction measures	October / November	Full release	
26	75-78	Greyhound industry transition	October / November	Partial release	Schedule 2,2.2(a)(xi)(xvi)
27	79-84	Thoroughbred racing developments – Recent Racing NSW announcements	October / November	Full release	
28	85-89	Community club grants	October / November	Full release	
29	90-96	DPP resourcing	October / November	Full release	
30	97-102	Resourcing of Magistrates and Coroner's Court	October / November	Full release	
31	103-104	Reforms to the operation of the Coroner's Court	October / November	Full release	
32	105-106	Drug and Alcohol Court	October / November	Full release	
33	107-110	ACT Law Courts PPP - Progress	October / November	Partial release	Schedule 2,2.2(a)(xi)
34	111-113	Bail laws	October / November	Full release	
35	114-115	Eastman trial update	October / November	Full release	
36	116-117	Courts Coat of Arms	October / November	Full release	
37	118-121	National security issues (Including biometrics)	October / November	Full release	
38	122-124	OMCG incidents	October / November	Full release	
39	125-127	Serious and organised crime response	October / November	Full release	
40	128-129	ACT Government Closed Circuit Television cyber risks	October / November	Partial release	Schedule 2,2.2(a0)(iii)
41	13-132	Child Abuse Royal Commission – Criminal justice reforms	October / November	Full release	
42	133-134	Commonwealth Redress Scheme for Survivors of Institutional Sexual Abuse	October / November	Full release	
43	135-137	Residential tenancies	October / November	Full release	
44	138-139	Crimes (Consent) Amendment Bill 2018	October / November	Full release	
<b>2017-18 Annual Report Hearings- 7 November 2018</b>					
45	140-143	Attorney General 2017-18 Annual Reports Hearings Index	November	Full release	
46	144-150	Output 1.1 – Policy Advice and Justice Programs – Strategic and accountability indicators	November	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
47	151-152	Output 1.3 – Strategic and Accountability Indicators – Parliamentary Counsel’s Office	November	Full release	
48	153-158	Output 1.4 Director of Public Prosecutions	November	Full release	
49	159-166	Output 3.1 - ACT Courts and Tribunal Strategic and Accountability Indicators	November	Full release	
50	167-170	Financial Statement Variance Explanations – Controlled (Directorate)	November	Full release	
51	171-172	Financial Statement Variance Explanation – Territorial	November	Full release	
52	173-175	Financial Statement Variance Explanation – Output Class 1 Justice Services	November	Full release	
53	176-177	Output 1.1 – Policy Advice and Justice Programs Financial Summary	November	Full release	
54	178	Financial Summary – Output 1.2 – Legal Services to Government	November	Full release	
55	179	Output 1.3 – Legislative Drafting and Publishing Services Financial Summary	November	Full release	
56	180	Output 1.4 – Public Prosecutions Financial Summary	November	Full release	
57	181-182	Financial Statement Variance Explanation – Output Class 3 Courts and Tribunal	November	Full release	
58	183-186	Staffing profile	November	Full release	
59	187-188	Staff Survey	November	Full release	
60	189-192	Bullying and Harassment	November	Full release	
61	193-194	Attraction and Retention Incentives	November	Full release	
62	195-196	Voluntary Redundancies (whole of Directorate)	November	Full release	
63	197-198	Procurement	November	Full release	
64	199-200	Fraud and integrity	November	Full release	
65	201	Public Interest Disclosures	November	Full release	
66	202-204	Freedom of Information Statistics (whole of Directorate)	November	Full release	
67	205-207	Freedom of Information Statistics (whole of Government)	November	Full release	
68	208	International travel	November	Full release	
69	209-210	Work health and safety performance	November	Full release	
70	211-215	Sustainability	November	Full release	
71	216-218	2017-18 Better Infrastructure Fund	November	Full release	
72	219-220	Internal Audit	November	Full release	
73	221-222	JACS Executive Retreat	November	Full release	
74	223-224	Misconduct matters	November	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
75	225-230	Gambling tax revenue	November	Full release	
76	231-233	Gambling and racing matters	November	Full release	
77	234-237	Government response to Stevens Report and community club contributions	November	Full release	
78	238-239	Gaming machine harm reduction measures	November	Full release	
79	240-243	Greyhound industry transition	November	Full release	
80	244-249	Thoroughbred racing developments – Recent Racing NSW announcements	November	Partial release	Schedule 2,2.2(a)(xi)(xvi)
81	250-254	Community club grants	November	Full release	
82	255-258	National security issues (including biometrics)	November	Full release	
83	259-262	OMCG incidents	November	Full release	
84	263-265	Serious and organised crime response	November	Full release	
85	266-267	ACT Government Closed Circuit Television cyber risks	November	Partial release	Schedule 2, 2.2(a)(iii)
86	268-270	Underspensing in translation and interpreting services (TIS) under <i>Safer Families – enhancing access to just for non-English speakers</i>	November	Full release	
87	271-274	Child Abuse Royal Commission – Criminal justice reforms	November	Full release	
88	275-278	Commonwealth Redress Scheme for Survivors of Institutional Sexual Abuse	November	Full release	
89	279-283	Residential tenancies	November	Full release	
90	284-286	Crimes (Consent) Amendment Bill 2018	November	Full release	
91	287-288	Strategic and Accountability Indicators – ACT Government Solicitor	November	Full release	
92	289-290	Counsel Briefing Policy	November	Full release	
93	291-292	External legal services	November	Full release	
94	293-294	Model Litigant Guidelines	November	Full release	
95	295-296	ACT Legislation Register Replacement Project	November	Full release	
96	297-299	Drug and Alcohol Court	November	Full release	
97	300-303	ACT Law Courts Public Private Partnership (PPP) – Progress	November	Partial release	Schedule 2,2.2(a)(xi)
98	304-305	Courts and Tribunal technologies	November	Full release	
99	306-307	Courts Coat of Arms	November	Full release	
100	308-314	DPP Resourcing	November	Full release	
101	315-320	Resourcing of Magistrates and Coroner's Courts	November	Full release	
102	321-322	Reforms to the operation of the Coroner's Court	November	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
103	323-325	Bail laws	November	Full release	
104	326-327	Eastman trial update	November	Full release	
105	328-330	Legal Aid ACT Service Levels	November	Full release	
106	331-332	Legal Aid ACT Financial Outcomes	November	Full release	
107	333-336	Public Trustee and Guardian – Strategic and Accountability Indicators	November	Full release	
108	337-339	Public Trustee and Guardian for the ACT – Financial Report	November	Full release	
109	340-341	Age of criminal responsibility	November	Full release	
110	342-343	Disability Justice Strategy	November	Full release	
111	344-345	Canberra as a Restorative City	November	Full release	
112	346-347	SAB – Apprehended bias issue	November	Full release	
113	348-350	ACT proposed participation in the National Facial Biometrics Matching Capability (NFBMC) using driver licence data	November	Full release	
114	351-353	Judicial Council complaints	November	Full release	
<b>Question Time Briefs – Sitting week 27-29 November 2018</b>					
115	354	Question Time Brief Index 27-29 November 2018	November	Full release	
116	355-356	Gaming machine harm reduction measures	November	Full release	
117	357-358	Government response to Stevens Report	November	Full release	
118	359-363	Community Club Contributions	November	Full release	
119	364-369	Thoroughbred racing developments – Recent Racing NSW announcements	November	Partial release	Schedule 2,2.2(a)(xi)(xvi)
120	370-374	Community club grants	November	Full release	
121	375-380	DPP resourcing	November	Full release	
122	381-386	Resourcing of Magistrates and Coroner's Court	November	Full release	
123	387-388	Reforms to the operation of the Coroner's Court	November	Full release	
124	389-391	Drug and Alcohol Court	November	Full release	
125	392-395	ACT Law Courts PPP - Progress	November	Partial release	Schedule 2,2.2(a)(xi)
126	396-398	Bail laws	November	Full release	
127	399-401	Eastman trial update	November	Full release	
128	402-403	Courts Coat of Arms	November	Full release	
129	404-409	National security issues (Including biometrics)	November	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
<b>130</b>	410-413	Serious and organised crime response	November	Full release	
<b>131</b>	414-415	ACT Government Closed Circuit Television cyber risks	November	Partial release	Schedule 2, 2.2(a)(iii)
<b>132</b>	416-419	Child Abuse Royal Commission – Criminal justice reforms	November	Full release	
<b>133</b>	420-423	Commonwealth Redress Scheme for Survivors of Institutional Sexual Abuse	November	Full release	
<b>134</b>	424-428	Residential tenancies	November	Full release	
<b>135</b>	429-431	Crimes (Consent) Amendment Bill 2018	November	Full release	



# ATTORNEY-GENERAL

## QUESTION TIME BRIEFS

18 – 20 September 2018

<b>Racing and Gaming</b>	
1.	Belconnen Raiders Club (Access Canberra Brief)
2.	Govt Response to Stevens Report and Community Club Contributions
3.	Gaming Machine Harm Reduction Measures
4.	Greyhound Funding and Transition to end Industry
5.	Thoroughbred Racing Issues
6.	Community Club Grants
<b>QTBs – Judicial / Courts</b>	
7.	DPP Resourcing
8.	Resourcing of Magistrates and Coroners Court
9.	Coroner's Court Reform
10.	Drug and Alcohol Court
11.	PPP Law Courts Progress
12.	Bail Laws
13.	Eastman Update
<b>Security and Crime</b>	
14.	National Security Issues
15.	Outlaw Motor Cycle Gangs – Taskforce Nemesis (Copy of MPES brief)
16.	Serious and Organised Crime Response (AGs brief - Policy)
<b>General</b>	
17.	Child Abuse Royal Commission
18.	Redress
19.	Residential Tenancies
20.	Crimes (Consent) Amendment Bill 2018

## QUESTION TIME BRIEF

Portfolio/s: Regulatory Services

Attorney-General

**ISSUE: GAMBLING AND RACING MATTERS**

**Talking points:**

### **Reforms to regulation of the gambling industry**

- The Government is absolutely committed to strong regulation of the gambling industry in the ACT.
- The Justice and Community Safety Directorate and Access Canberra on behalf of the Gaming and Racing Commission are working together on a number of gambling and racing reforms.
- We will also draw on lessons learnt from recent disciplinary proceedings of the GRC involving the Canberra Raiders Sports Club (the Club).
- The Commission has also noticed an increase in the number of problem gambling incidents recorded in Gambling Incident Registers in clubs across Canberra since it found that the Club breached the Gaming Machine Act 2004.

### *If asked about: Canberra Raiders Sports Club-Professor Brown matter*

- On 14 June 2018 the ACT Civil and Administrative Tribunal (ACAT) issued consent orders that set aside the Commission's original decision and remitted the matter to the Commission for reconsideration.
- A consent order is the documented agreement between parties which settles a matter which has come before the Tribunal.
- On 21 June 2018, in accordance with ACAT's orders, the Commission carefully considered the remittal and reached the decision that it was appropriate to take disciplinary action against the licensee, namely, to issue a reprimand to Raiders.
- In the context of the decision it noted that Raiders informed the Commission that:
  - it would inform the Commission in relation to its procedures and training for recording gambling incidents under the Gambling and

Cleared as complete and accurate:	18/07/2018	
Cleared by:	David Snowden	Ext: 79828
Information Officer name:	Ben Green	Ext: 77387
Contact Officer name:	Michael Azize	Ext: 79179
Lead Directorate:	Chief Minister, Treasury and Economic Development	

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## QUESTION TIME BRIEF

Racing Control (Code of Practice) Regulation 2002, by providing to the Commission by 1 December 2019 an external compliance report on these matters; and

- it decided to demonstrate its continuing commitment to support harm minimisation measures by making a donation of \$60,000 to an appropriate charity.
- Until this position had been reached by the Board it was not appropriate for the Commission to comment.
- Through this process the Raiders admitted it contravened the Code of Practice by failing to record signs of problem gambling. The \$60,000 has since been provided to Lifeline, a charity that assists problem gamblers.

### Key Information

- On 7 February 2017, the ACT Gambling and Racing Commission (the Commission) received a complaint that Professor Laurie Brown lost a substantial sum of money playing poker machines at the Raiders Belconnen Club between July 2015 and January 2017.
- Access Canberra, on behalf of the Commission, investigated whether Canberra Raiders Sports Club Ltd, the licensee of the Belconnen Club, breached the *Gaming Machine Act 2004*.
- A condition of a club's gaming licence is that it complies with the Gambling and Racing Code of Practice. Under section 1.6A, a licensee must record problem gambling incidents. Problem gambling incidents includes anyone who shows signs of having a gambling problem when in the gambling facility.
- The Commission determined that a failure to record problem gambling incidents undermines the purpose and object of the Code, which includes the purpose of providing 'protection for those patrons who have difficulties in using gambling products in a controlled manner'.
- On 24 November 2017, the Commission issued a Notice indicating that disciplinary action would be taken against the Club under section 62 of the Act.
- The Club's Application to ACAT seeking a review of the Commission's decision was listed for hearing for seven days commencing on 12 June 2018.
- On 12 June 2018, the Licensee also commenced proceedings in the ACT Supreme Court seeking judicial review of the Commission's decision.
- The terms of the settlement were reached resulting in a consent decision from ACAT on 14 June 2018.

Cleared as complete and accurate:	18/07/2018	
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## QUESTION TIME BRIEF

- On 21 June 2018, the Commission formally reconsidered this matter and made a decision in accordance with the terms of settlement. It advised the Club of its decision that day.

### Background Information

- Nil

Cleared as complete and accurate:	18/07/2018	
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TRIM Ref: 2018/000083-027

**Portfolio:** Attorney-General

**ISSUE: GOVERNMENT RESPONSE TO STEVENS REPORT AND  
COMMUNITY CLUB CONTRIBUTIONS**

**Talking points:**

Key Points - Reduction of gaming machine authorisations to 4,000

- On 21 August 2018 I announced the suite of incentives to reduce gaming machines in the territory which included facilities to allow all clubs who voluntarily surrender authorisations to access offsets for land-related fees and charges, including lease variation charges, to make it easier for them to redevelop their land for activities other than running pokies.
- Clubs will also have access to a new Diversification Support Fund, which will be jointly funded by industry and Government to help clubs pursue a future away from gaming machines and support club staff to develop new skills.
- Small and medium clubs will be eligible for up to \$12,000 for every gaming machine authorisation they voluntarily surrender by 31 January 2019.
- Offsets for land-related fees and charges will be available to large clubs at a rate of \$15,000 per authorisation and small and medium clubs can also choose to take up the option at a higher rate of \$25,000 per authorisation.
- Clubs that opt to go pokie-free altogether will be rewarded with a 25 per cent bonus on top of any incentives they claim.
- If a reduction to 4000 authorisations is not achieved through voluntary surrender, there will be a two-stage compulsory surrender of authorisations – in April 2019 and April 2020.

Key Points – Review of the Community Contributions Scheme

- In line with the Parliamentary Agreement commitment above, an Options Paper – *Maximising the Benefits of the Community Contributions Scheme* was circulated and a review of the scheme is being conducted.

Cleared as complete and accurate: 06/09/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Alex Ingham Ext: 70305  
Lead Directorate: Justice and Community  
Safety

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Consultation closed on 13 August 2018 and a total of 220 responses were received.

- The review of the community contributions scheme is being conducted to consider the effectiveness of the current scheme, and how the scheme could be enhanced or improved to deliver the greatest value to the community.
- There will be no reduction in the amount of community contributions that are administered by clubs. The Government has considered the feedback provided in this process, and has ruled out any reduction in the 8 per cent community contribution amount.
- The Government will be looking to increase community contributions on top of the 8 per cent, with a portion of that increase going to the Chief Minister's Charitable Fund. The focus of this reform will be to maximise the community benefits of the scheme, and to this end, the Government will be pursuing options to increase the community contributions that come from gaming machine revenue, rather than reducing them.
- The Government is still considering the full extent of reforms it might make to the scheme, as it reviews all the feedback received from stakeholders.

#### **Background Information**

- Clubs make a significant contribution to the community through the community contributions scheme. The scheme provides that eight per cent of net gaming machine revenue generated from gaming machines is returned to the community for a range of stated purposes. In 2016-17 community contributions from clubs amounted to 12.6 per cent of net gaming machine revenue, or \$11.93 million. This compares to last year's level of contributions of \$11,652,179, being 12.4 per cent of net gaming machine revenue.
- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020 and to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.
- A number of consultation responses received during consultation indicated a high level of concern from the community about the potential loss in funding to small organisations should the direct contribution portion of the scheme be abolished. There were also concerns that capping in-kind contributions would reduce the number of organisations that received assistance from clubs.
- Various reports about the community contributions scheme called for consideration of removing claims for contributions to semi-professional and professional sport, capping of in-kind contributions, improved transparency of the scheme and more funding for gambling harm mitigation.

Cleared as complete and accurate: 06/09/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Alex Ingham Ext: 70305  
Lead Directorate: Justice and Community Safety

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TRIM Ref: 2018/000083-002

**Portfolio:** Attorney-General**ISSUE: GAMING MACHINE HARM REDUCTION MEASURES****Talking points:**

- The Government will deliver on our commitment to implement strong gambling harm reduction measures while supporting a sustainable, diverse and vibrant club industry that continues to make a valuable contribution to the ACT community
- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- Recent experiences – such as that of Professor Laurie Brown’s – demonstrate that significant reform is needed to ensure the Territory’s harm reduction framework is robust and fit for purpose.
- Now that the ACT Gambling and Racing Commission has finalised its decision, I will carefully consider the outcomes of this case and will be strengthening the Territory’s gaming regulations to ensure they offer meaningful and effective harm minimisation measures and that the Gambling and Racing Commission has the tools it needs for effective enforcement.
- Before the end of this year, I will bring forward amendments to the *Gambling and Racing Control (Code of Practice) Regulation 2002* that address self-exclusion, staff training, and the enforceability and magnitude of penalties for breaches of the code. These reforms will be completed by December.
- The Commission has written to me to outlining a number of areas where we can strengthen the consumer protection and harm minimisation framework in the ACT
- This will include improving the definition of problem gambling. The signs of gambling harm in the Code of Practice will provide less room for interpretation by club staff.
- Club staff will need to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling.

Cleared as complete and accurate:	24/07/2018	
Cleared by:	Deputy Executive Director	Ext: 76244
Information Officer name:	Tamsyn Harvey	Ext: 70674
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Lead Directorate:	Justice and Community Safety	

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- Club board members will be also trained to foster a culture where gambling harm reduction and consumer protection is the priority.
- We are looking at changes to enhance the operation of self-exclusion, and a Gambling Contact Officer will need to be on-site at every club whenever the gaming machines are turned on to provide an immediate point of contact for club patrons that are impacted by gambling harm.
- I will be discussing these proposed changes with representatives of workers, clubs and community representatives, including those with lived experience of gambling harm, at the next Gaming Machine Harm Reduction Roundtable, at the end of September.
- Later this year I will also be bringing forward changes to enforcement mechanisms and penalties under the *Gaming Machine Act 2004* to enhance the compliance framework and ensure the Gambling and Racing Commission has the tools it needs for effective enforcement.
- We are going to keep consulting, and keep delivering on this Government's commitment to a safer, stronger, and more connected city where our clubs industry is diverse and sustainable, and provides robust protections against gambling harm.

### **Background**

Parliamentary Agreement Commitment 9.2 is to reduce harm from gaming in the ACT by exploring further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines.

#### Gambling Harm key statistics (as at 2014)

The level of problem gambling in the ACT community, as measured by the widely used Problem Gambling Severity Index (PGSI), is 0.4 per cent (0.5 per cent in 2009) of the population (approximately 1,110 adults).

A further 1.1 per cent (3053 adults) in the ACT were found to be at moderate risk of gambling harm, 3.9 per cent (10,825 adults) low risk and 48.7 per cent (135,171 adults) displayed no signs of gambling harm, a further 124,901 adults were non-gamblers.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of gambling harm, with 2.9 per cent (2.9 per cent in 2009) being classified at moderate or high risk of gambling harm.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of problem gambling, with 2.9 per cent (2.9 per cent in 2009) being classified as moderate risk or problem gamblers.

In 2014, 19.9 per cent of the ACT adult population gambled on gaming machines, down from 30.2 per cent in 2009.

Cleared as complete and accurate:	24/07/2018	
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Lead Directorate:	Justice and Community Safety	

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Portfolio/s Chief Minister

Regulatory Services

**ISSUE: GREYHOUND RACING****Talking points:***Transition support*

- For over 12 months, the Government has been encouraging people affected by the end of greyhound racing in the Territory to consider the assistance offered through transition support packages
- We are rapidly approaching the end of the period for obtaining transitional support. Any transition support packages approved by the Greyhound Industry Transition Taskforce must be rolled out by 30 September 2018.
- Woden Community Service is continuing work with affected individuals who are considering the transition support options available to them.
- Free counselling services continue to be available to anyone affected by the end of greyhound racing in the ACT, whether or not they have sought or are eligible for a Transition Support Package.
- Counselling can be accessed by contacting Woden Community Service.
- This Government's priority is the welfare of greyhounds, which are put at unacceptable risk through racing, and also the people who have been affected by the end of greyhound racing in the ACT.
- That's why the Government established the Greyhound Industry Transition Taskforce, and why the Taskforce has engaged Woden Community Service which is so experienced in providing support to members of our community at a difficult times in their lives.
- Transition support has been central to facilitate the process of ending greyhound racing and trialling in the ACT. The ACT Government announced the availability of over \$1 million in transition support when we announced the decision to prohibit racing and trialling, over a year ago.

Cleared as complete and accurate: 10/09/2018  
Cleared by: Director Ext: 50468  
Contact Officer Name: Belinda Barnard Ext: 77525  
Lead Directorate: Chief Minister, Treasury and  
Economic Development

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- Applications for transition support, and support to re-home ex-racing greyhounds, closed on 30 June 2018.
- From August 2017 to June 2018, the Greyhound Industry Transition Taskforce received approximately 195 ‘expressions of interest’ in transition support.
- Immediately prior to the 30 June deadline for applications, the Taskforce received correspondence from a greyhound industry representative that included a large number of attachments that were identical versions of an unsigned letter, submitted in 186 different names.
- These letters did not in themselves constitute a valid application for a transition support package, due to the lack of necessary detail and authority. Regardless, the Taskforce accepted these letters as valid expressions of interest and offered the people involved an extended period until 16 July to make a final application.
- Woden Community Service, on behalf of the Taskforce, ultimately received formal applications for transition support for five people, one business and 72 re-homed greyhounds.
- The Taskforce has approved two applications with recommended packages of support submitted by Woden Community Service for people involved in the greyhound industry.

### *Re-homing support*

- The Taskforce has also approved 23 applications for greyhound re-homing support to a value of \$24,400. Arrangements are now in place to disburse re-homing support funds to the volunteer organisations that made these applications.
- The Government also decided to provide an additional one-off grant of \$10,000 each to both ACT Greyhound Support Network and Canberra Region Greyhound Connections in recognition of the significant ongoing voluntary work they do to re-home former racing greyhounds in the ACT region.

### *Racing ban*

- On 30 April 2018, the ACT became the first jurisdiction in Australia to prohibit the racing and trialling of greyhounds.

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Lead Directorate: Chief Minister, Treasury and Economic Development

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- As the Durkin Report showed, it's impossible to divorce the NSW industry from racing in the ACT.
- The NSW greyhound racing industry has demonstrated systemic failures in its animal welfare. The ACT cannot allow a sport to continue where people who repeatedly breach animal welfare laws are allowed to cross the border and race here in the ACT.
- Owning, breeding, and training greyhounds remains permissible in the ACT in accordance with the provisions of the Animal Welfare (Keeping and Breeding of Racing Greyhounds in the ACT) Mandatory Code of Practice 2018.

#### *Canberra Greyhound Racing Club conducting races at Goulburn*

- While the Canberra Greyhound Racing Club is no longer able to conduct races in the ACT, it still has capacity to reach agreement with clubs in NSW to continue its racing. Any issues that occur during any of these races are a matter for NSW.

#### *Legal proceedings*

- The Canberra Greyhound Racing Club has proceedings before the Supreme Court and the Federal Court to challenge various matters to do with the end of greyhound racing in the ACT.
- As these matters are still before the Court, it is inappropriate to make any further comment.

#### **Key Information**

- Those exiting the industry previously had until 30 June 2018 to apply for transition support, however the Government has extended the roll-out of the available funding for an extra three months to 30 September 2018.
- The Government engaged independent consultant Ms Mary Durkin to provide an analysis of options to support the transition to end the greyhound racing industry in the ACT. The Government agreed with Ms Durkin's recommendations.
- According to the Durkin Report, 94 per cent of the greyhounds that raced in the ACT in 2016 were based in NSW.
- Significant penalties now apply for the conduct of racing and trialling: a monetary penalty of up to \$15,000 and maximum 1 year imprisonment.

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- Further, the penalties for anyone involved with arranging, conducting or knowingly participating in illegal betting activities are significant and also involve significant financial penalties and/or a period of imprisonment.
- The new fees include a 12 month registration fee for a racing greyhound set at \$612; and an annual application fee for a greyhound racing controller licence at \$640.
- Racing greyhound owners no longer need to obtain a specific permit to keep their dogs sexually entire, as this is provided for as part of the annually renewable racing greyhound registration.
- Some additional fees may apply, consistent with the provisions of the Domestic Animals Act that apply to all dogs, for example a licence is required to breed a litter from any dog (\$397.80 for two years).
- Access Canberra and the Transport Canberra and City Services Directorate established a joint agency initiative to provide appropriate inspection activity and ensure that any response to unlawful conduct is timely and dealt with by the appropriate agency.

**Background Information – may not be suitable for public disclosure**

- Parliamentary Agreement Commitment 13.1 is to end Government funding for greyhound racing at the expiry of the current Memorandum of Understanding and take active steps to transition to end the operation of greyhound racing in the ACT.
- The Government ceased funding the greyhound industry on 30 June 2017 as part of the 2016-17 Budget Review. The funding was redirected to the industry transition program.
- The ban on racing has seen significant media interest and this is likely to continue. Inspection activity may also attract media attention. The intensive inspection activity involving daily visits for the first two weeks of the ban did not attract media attention.
- To date, 16 of the 18 recommendations in the Durkin Report have been completed. They largely relate to the introduction of legislation to end greyhound racing, the scope of transition support to be made available and finalising the regulatory framework. Two recommendations, relating to the provision of transition support, will be finalised by 30 September 2018.

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TRIM Ref: 2018/000083-033

**Portfolio:** Attorney-General**ISSUE: THOROUGHBRED RACING DEVELOPMENTS – RECENT RACING  
NSW ANNOUNCEMENTS****Talking points:**

- Clause 12 of the Racing Memorandum of Understanding (MOU) between the ACT Government and Canberra Racing Club (CRC) and Harness Racing Club, includes a commitment for the establishment of a Joint Industry and Government Committee with a focus on the development and sustainability of racing in the ACT.
- The Committee has met on three occasions since February 2018, and discussed a range of issues including ACT Racehorse Trainers Workers Compensation, the introduction of Point of Consumption Tax, Industry Funding Arrangements, and potential land development opportunities at Thoroughbred Park.
- At the most recent meeting of the Committee on 15 August 2018, the Justice and Community Safety Directorate (JACS) was briefed on the impact increased prize money in NSW country races is having on the Canberra industry. .
- I met with the CRC on Tuesday, 7 August 2018 to discuss a range of issues pertinent to the Club.
- JACS are involved in ongoing discussion with the CRC, and I have asked for regular updates on this matter.
- I am pleased to hear that the negotiations with Racing NSW have resulted in Canberra trained horses once again being able to take part in the Highway Handicap Races for country trained horses.
- The ACT Government is committed to the ongoing development and sustainability of the thoroughbred racing industry in the ACT.

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**Key Information**

- The MOU between the ACT Government and the Canberra Racing Club (CRC) and Canberra Harness Racing Club provides for funding to the CRC of approximately \$6.4 million (plus annual CPI – 0.5 per cent adjustment) until 2020-2021.

**Background Information**

- On 24 July 2018, the CRC wrote to the Attorney-General to provide an update on a number of issues relevant to the Canberra thoroughbred racing industry.
- In 2017 Racing NSW ruled Canberra trained horses were ineligible to compete in weekly highway handicap race meetings though a ruling that classified Canberra trained horses as provincial rather than country trained horses.
- Previously Canberra based trainers were allowed to compete as country NSW trainers.
- On 18 July 2018, Racing NSW announced increases in prize money for metropolitan, provincial and country NSW thoroughbred horse races, including increasing the prize money for the Country Highway Handicap from \$60,000 to \$75,000 and from \$20,000 to \$22,000 for country races. In addition, Racing NSW announced the introduction of the Kosciusko race, to be held in October with prize money of \$1.3 million.
- Due to this classification, Canberra trained horses are ineligible to compete in the Country Highway Handicap or Kosciusko races. This significantly reduces value of prize money they are able to compete for.
- The CRC introduced the Federal races in December 2017, with prize money of up to \$50,000 as a means to compete with the Country Highway Handicap. Eligibility to compete is restricted to Canberra trained horses and NSW Country trained horses with ballot preference given to horses with Canberra as the training location on the Stable return.
- The CRC has advised JACS that the decision to exclude Canberra trainers and the increase in prize money available for NSW trained horses has resulted in a number of prominent Canberra trainers considering whether to relocate their training facilities to NSW in order to access higher prize money.
- Peter Stubbs, CEO, CRC, provided an update to JACS on this issue on 31 July 2018 and 1 August 2018.
- On 27 July 2018 three prominent Canberra trainers met with Peter V'landys, CEO of Racing NSW to discuss this issue.
- The CRC consider it vital to their ongoing viability that Thoroughbred Park-based trainers not move interstate. They have advised there may be flow on effects for employment in the Territory.
- The CRC Board met on 31 July 2018 to discuss the terms of a commercial offer that could be put to Racing NSW to allow for Canberra trained horses to compete as country NSW trainers.

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Sch 2 s 2.2 (a)(xi)

- On 13 August 2018, *The Sydney Morning Herald* reported that Canberra trainers are again eligible to compete in the Highway Handicaps from 1 September 2018. While NSW horses benchmarked above 50 (a rating scale for the performance of race horses) will get first preference in the Highway Handicaps, the races have not filled recently so it is unlikely that Canberra horses will miss out.
- Canberra trainers will not be eligible for the Kosciuszko race this year (\$1.3M race for country trained horses) as betting has already commenced.
- At the 15 August 2018 Joint Racing Industry Government Committee meeting, the CRC confirmed the arrangements reported in the press, noting that Racing NSW did not seek a financial incentive, however they have asked that NSW trained horses be eligible for the Federal races. Further negotiations about the status of Canberra trained horses for the 2019 Country Championships and Provincial Championships are continuing.
- The CRC is likely to seek further funding to cover increases to prize money, especially in consideration of the recent introduction of a point of consumption tax. The CRC was advised by Treasury at the Joint Racing Industry and Government Committee on 19 July 2018 that the Government is not proposing to provide additional funding to the CRC from the tax at this time, though it would consider any alternate funding model which the CRC puts forward.
- The CRC has now provided JACS and Treasury with an interim report on an interjurisdictional study which sets out the funding which other racing clubs around Australia receive from POC

Sch 2 s 2.2 (a)(xi), (xvi)

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TRIM ref: 2018/000083-034

**Portfolio:** Attorney-General**ISSUE: COMMUNITY CLUB GRANTS****Talking points:**

- The Government is dedicated to supporting small and medium clubs to diversify their revenue streams away from gaming machines, through viable and long-term measures to help clubs move their operations out of gaming.
- The Government has implemented a range of measures to assist small and medium clubs, including to help them to diversify their income streams. These include, from 2017-18:
  - a. introducing a small and medium club gaming tax rebate to allow smaller clubs to keep 50 per cent of their gaming taxes on up to \$4 million of gross gaming machine revenue to re-invest into their organisation
  - b. the option to make quarterly (rather than monthly) gaming machine tax and Problem Gambling Assistance Fund (PGAF) payments
  - c. the availability of a \$10,000 community club grant for the purpose of diversification towards alternative income streams.
- In August 2017, the Legislative Assembly passed amendments to the *Gaming Machine Act 2004* which implemented the tax rebate and more flexible gaming tax payment arrangements. These changes apply in relation to gaming tax payable from 1 July 2017.
- The 2017-18 Budget includes \$200,000 for Community Club Grants (the Grant). As part of its *Supporting Local Community Clubs Policy*, the ACT Government invited small and medium clubs and club groups (defined as having Gross Gaming Machine Revenue [GGMR] less than \$4m in 2016-17) to apply for a \$10,000 grant to help them to diversify their income streams away from gaming revenue.

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- Letters were sent to 17 clubs that were deemed eligible from 2016-17 GGMR data provided by Access Canberra, inviting them to apply for grants before the grant closing date of 31 October 2017.
- Fourteen grant applications were received. The Justice and Community Safety Directorate (JACS) entered into Deeds of Grants and provided funds to the fourteen clubs on 22 December 2017.
- A panel from the ACT Government assessed the applications for the grant and determined that thirteen clubs met the eligibility criteria for the Grant. Uses proposed for the grant have included: new, and refurbishments to kitchens, function areas, and entertainment spaces such as dance floors; and consultancy fees for alternative land use applications.
- Deeds require each club to provide evidence of expenditure with a final report confirming the use of the funds for the agreed purpose, including receipts and invoices, and information on any related matters. These reporting provisions will help the Government evaluate the use of the grants and acquit any funds not spent on eligible purposes.
- There will be \$60,000 funding remaining after the fourteen grants are paid from the \$200,000 allocated in the 2017-18 Budget.
- A list of Community Club Grant recipients and stated purpose is available within the table at [Appendix A](#).

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## Key Information

- Appendix A: Community Club Grant recipients and identified purpose for use of the grant

	<b>Applicant</b>	<b>Purpose</b>	<b>Amount (\$)</b>
1.	Austrian-Australian Club	Restoration of dance floor in club auditorium.	10,000
2.	Belconnen Magpies Sports Club	Consultancy fees for planning and development advice to explore alternate land use at Kippax site.	10,000
3.	Belconnen Soccer Club	Consultancy costs towards development of a childcare centre at Mackellar site.	10,000
4.	Canberra Bowling Club	Replace carpet and install a dance floor in function space.	10,000
5.	Canberra Club	Replace old kitchen equipment with updated appliances.	10,000
6.	Canberra Highland Society and Burns Club	Consultancy fees for planning and development advice to explore alternate land use.	10,000
7.	Canberra North Bowling Club and Rugby Union Club	Installation of a grease trap in the club's kitchen.	10,000
8.	Croatia Deakin Soccer Club	Update the furniture in the club's function room.	10,000
9.	Harmonie German Club	Contribute towards refurbishment of club's auditorium (bathrooms and fixtures and fittings).	10,000
10.	Italo Australian Club	A new large marquee for outdoor functions; new kitchen equipment; additional beverage delivery system; and lit signage.	10,000

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11.	Murrumbidgee Country Club	Consultancy fees to progress development of residential land on surplus club land; our kitchen refurbishment; or new outdoor furniture.	10,000
12.	National Press Club	Development of additional private function and dining facilities.	10,000
13.	Spanish Club	A new custom made marquee for outdoor events and construction of a new six lane petanque court.	10,000
14.	Canberra Irish Club	Consultation fees to investigate redevelopment of site improve food area; Upgrade equipment for live music performances; upgrade bar fridges; or purchase of new Point of Sale equipment.	10,000

### Background Information

- A club group is defined as two or more related licensees, where each licensee is related to at least one other licensee in the group. To help clubs determine whether they are part of a club group, the *Gaming Machine Amendment Act 2017* sets out the circumstances where a relationship between clubs results in them being considered as part of a club group. Club groups were be eligible to apply for one Grant of \$10,000.
- The four clubs that were eligible for a grant but did not apply may be frustrated that they have missed out on this potential support. These clubs are: The Belconnen Bowling Club; the Canberra Racing Club; Canberra Irish Club; and the Yowani Country Club.
- Activities that contribute towards diversifying a club's revenue streams away from electronic gaming towards alternative income streams will be eligible for the Grant. Examples of activities that would be supported include:
  - consultancy fees for planning and development advice, including advice on possible alternative land uses;
  - financial advice on diversification options;
  - investment in new or improved:
    - food and beverage offerings (e.g. establishing a new cafe, purchasing a new oven);
    - fixtures and fittings in non-gaming areas (e.g. improving function room facilities);
    - non-gaming services or facilities (e.g. entertainment options); or
  - other advice, activities, facilities or equipment where the club can demonstrate a clear connection to diversification away from gaming machine revenue towards a viable alternative income stream.

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- Grant funds cannot be used for:
  - any gambling-related activity, such as improvements to gaming areas, gaming equipment or gaming facilities;
  - the purchase of stock, consumables or payment of ongoing club operating costs (including payroll, utilities etc); or
  - payment of government fees, charges, taxes or fines.
- Recipient clubs were required to provide expenditure reports or to remit to the ACT. Government any grant funds not spent by 30 June 2018.
- Expenditure reports were due on 31 July 2018. JACS has received 2 expenditure reports and is following up on the other 12. The reports will contribute to the evaluation of the program.

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TRIM Ref: 2018/000083-001

**Portfolio:** Attorney-General**ISSUE: DPP RESOURCING****Talking points:**

*Immediate resourcing following the NOUS Strategic Review in 2018-18 Budget review*

- The Government is committed to supporting the vital work of the DPP.
- This commitment can be seen in the increases in funding immediately following the NOUS Group Strategic Review of the DPP and in recent announcements of baseline funding increases coming into effect over the mid to long term.
- The Government has announced in the 2018-19 Budget that an additional \$6.922 million funding will be provided over the next four years for additional prosecutorial and paralegal staff.
- This funding will be provided progressively with an additional six FTE from 2018-19.
- In 2021-22 there will be a total of 12 additional FTE for the DPP.
- This staffing increase will be supplemented by a one off capital injection of \$350,000 for expanded accommodation.
- The 2017-18 Budget also allocated three full time prosecutors for the Eastman matter in the 2017-18 year and one ongoing prosecutor to increase the capacity of the DPP. Furthermore, the 2017-18 Budget Review provided resource allocations for four full time additional staff in 2017-18 and 2018-19 to support the work of the Confiscation of Criminal Assets scheme.
- This built on funding of \$1.363 million over four years from 2016-17 Budget through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence.
- This follows an announcement that the DPP will be provided with \$987,000 over four years for additional staff to support the increased capacity of the Magistrates Court.

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- I am confident that the appointment of an eighth magistrate, the additional funding for Legal Aid and the DPP, the re-appointment of special magistrates, and recent amendments to justice legislation across the statute book aimed at building efficiency will improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about separate administration and direct appropriation for the DPP*

- Another important outcome of the NOUS review was a set of recommendations for more efficient management of the DPP's budget resources. NOUS consulting put forward that both for reasons of independence and for efficiency, a different model of budgeting should be in place, including direct appropriation for the DPP.
- The Government's approach to date has been to use the administrative resources of the Justice and Community Safety Directorate (JACS) to offer economies of scale to smaller, independent agencies. Services like human resources and finance are provided by a centralised team in JACS to other agencies, including the Human Rights Commission and the Emergency Services Agency.
- The analysis by NOUS consulting provides a basis for considering a different approach. The Government is considering this recommendation and will work with the DPP to ensure that our model of appropriation and funding is as efficient as possible, and appropriate to the DPP's working environment.

*If asked about the upcoming selection process for appointment of the DPP -*

- As of 4 July 2018, I have extended the appointment of the current ACT Director of Public Prosecutions, Mr Jon White SC, until 31 December 2018.
- This extension will allow time for my directorate to lead an open and transparent merit selection process.
- Advertisements seeking expressions of interest for the position were published in the press on Friday, 27 July 2018. Applications closed at midnight on 19 August 2018.

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- I have also asked my directorate to engage the services of an executive recruitment firm to ensure the ACT receives a wide array of applications from competitive and suitable applicants, both from within the ACT and across Australia.

*If asked about the impact of new Supreme Court Practice Direction 2 of 2018: Criminal Case Conferencing on DPP resourcing*

- The ACT Supreme Court has introduced a formal case conferencing mechanism for criminal matters committed for trial through a practice direction.
- The case conference will involve defence and prosecution counsel attending a two hour conference convened by a judge to work through issues in dispute in the trial, the charges, the evidence, and the way evidence will be presented in the trial.
- The case conferences have the potential to assist both parties to resolve matters early and supports a more efficient trial procedure, which will have positive benefits to victims, accused persons, and the court.
- It will apply to all matters committed for trial from 20 August 2018. The first round of conferences are scheduled to occur from 29 October 2018 to 5 November 2018.
- I understand that the scheme will be reviewed after a six month trial.
- The Director of Public Prosecutions has expressed concerns about the impact the scheme will have on the resourcing of his office. Specifically, that the case conferencing will mean that senior prosecutors will be required to spend additional hours at court participating in the case conference as well as additional time preparing for the conference.
- While I acknowledge these concerns, I support the objectives of the Practice Direction and any efforts to facilitate the efficient, transparent, and fair resolution of criminal matters.
- I have asked the JACS Directorate to closely monitor the conferencing scheme during its six month pilot period and evaluate the impact the practice direction has had on the resourcing of the Office of the Director of Public Prosecutions.

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**Key Information**

- In the 2017-18 Budget, the Government provided additional funding (One FTE ongoing) to increase the capacity of the DPP to better support prosecutions in the Territory. It also provided funding for costs associated with the retrial of Mr David Eastman and other related proceedings. Funding was provided for an additional three positions in the DPP, external counsel costs, witness expenses and other administrative costs.
- Mr Eastman's re-trial has commenced. It is expected to run for four – six months. The trial has now been running for three months and is expected to run for a further two months.
- The DPP has undertaken significant preparation for the pre-trial and trial.
- The Government also provided four full time additional staff (in 2017-18 and 2018-19 only) to support the work of the Confiscation of Criminal Assets scheme as part of the 2017-18 Budget Review.
- That funding will assist the DPP to keep pace with demand and respond to the needs of the court, police, other investigative agencies and the criminal justice sector more broadly.

**If asked for specifics about the 2018-19 baseline business case**

- Base level funding: \$6.922 million over four years plus \$350,000 one off capital injection for accommodation
- Full Time equivalent (FTE) additions
  - One Prosecutor Grade 4; two Prosecutors Grade 3; one Paralegal Grade 4; two Paralegals Grade 3 ongoing from 2018-19
  - One Prosecutor Grade 5; one Administrative Officer Grade 5 ongoing from 2019-20
  - Two Executive (Crown Prosecutors) ongoing from 2020-21
  - One Prosecutor Grade 4; one Paralegal Grade 3 ongoing from 2021-22
- The NOUS review recommended a 30 per cent increase in grade 3, 4 and 5 prosecutors within 12 months. Nous' basis for concluding that FTE positions for prosecutors will need to increase by 30 per cent at a minimum, is unclear.
- The additional baseline FTE in 2021-22 will represent an increase of new prosecutors plus new executives of 17.4 per cent on 2016 -2017 FTE levels (according to Agency Profile Table, DPP Annual Report 2016-17, p 49).

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- Additional FTE from 2018-19 through the out-years is shown below:

<b>Position Level</b>	<b>2018-19 FTE</b>	<b>2019-20 FTE</b>	<b>2020-21 FTE</b>	<b>2021-22 Total extra FTE</b>
Executive / Crown Prosecutor			2	2
Prosecutor Gr 5		1	1	1
Prosecutor Gr 4	1	1	1	2
Prosecutor Gr 3	2	2	2	2
Para Legal Gr 4	1	1	1	1
Para Legal Gr 3	2	2	2	3
Admin Officer Gr 5		1	1	1
<b>Total</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>12</b>

2017-18 Budget:

- Recurrent: (\$3.028 million over four years):
  - three additional resources and other operational costs relating to retrial of Mr David Eastman and related proceedings (\$2.257 million) in 2017-18 only
  - one Prosecutor Grade 4 over four years (\$0.771 million).
- Full-time equivalent (FTE):
  - one Prosecutor Grade 1 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 3 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 over four years.

DPP Review:

- The Nous Group delivered its report on the DPP Strategic Review on 9 August 2017.
- The Report notes the DPP efficiently performs a wider range of functions relative to its equivalents in other jurisdictions. Nous believes growing pressures, both in culture and practice, will likely threaten the DPP's capacity to meet its workload in the near future.
- Noting demand projections, the Report makes five broad recommendations:
  - provide increased funding to the DPP immediately and in the mid to long-term
  - apply a unified resourcing justice strategy to the ACT justice system as a whole
  - directly appropriate funding to the DPP, rather than via the JACS appropriation

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- allow paralegals to appear in simple applications in the Magistrates Court
- develop a more efficient platform to share information between courts, law enforcement, corrective services and the DPP.

## **Background Information**

### DPP Strategic Review

- Nous Group noted in its report that cultural pressures include growing numbers of complex and time-consuming cases (i.e. sexual assaults, appeals, confiscation of asset referrals), introduction of new pre-trial evidence and procedures and changing community expectations (i.e. employing special approaches for vulnerable witnesses).
- Structural pressures include the recent introduction of a fifth ACT Supreme Court Judge, additional financial staff for organised crime investigations by the Australian Federal Police and expansion of the Supreme Court, which will reduce trial listing periods to five weeks (down from an average of nine weeks) and provide two additional courtrooms for jury trials.
- On 16 October 2017, the DPP published its 2016-17 annual report. The Director's overview broadly outlined the Review's findings, including the cultural and structural pressures facing the ODPP. The DPP called for additional senior prosecutors to meet the trends of increasing workload on complex criminal matters. The DPP also emphasised his concern that the new Supreme Court facility will significantly increase the number of jury trials, and that the DPP will be unable to meet this growth without a corresponding increase in funding.
- *The Canberra Times* reported on the DPP's comments in the Annual Report on 17 October 2017.

### Previous budget increases:

- In the 2016-17 ACT Budget, the DPP received funding of \$1.363 million over four years through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence (three FTE in 2016-17 and 2017-18, 2.5 ongoing).
- The 2016-17 Budget provided \$2.325 million for a specific team in the DPP (3 FTE) to represent the office to progress the retrial of Mr David Eastman for the murder of Mr Colin Winchester and other related proceedings.

This funding follows previous years' supplementation to the DPP totalling \$1.7 million from 2012-13 to 2015-16 for the Eastman matter.

- In the 2014-15 Budget, the Government provided \$1.158 million over four years to establish a Work Safety Prosecutions Unit supported by 2 FTE, as well as \$0.027 million in one-off capital funding for fit-out and fixtures to accommodate the new unit.

### WorkSafe Prosecutions

- The Industrial Court Magistrate, Chief Magistrate Lorraine Walker, criticised the prosecutions of several work safety matters. On 6 December 2016 and 14 July 2017, *The Canberra Times* reported comments made by the Chief Magistrate that were strongly critical of the DPP handling of workplace health and safety matters. She also expressed concern that resources in the DPP are generally not being provided for industrial court matters.

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## QUESTION TIME BRIEF

- On 8 November 2017, during annual report hearings the DPP answered a question about what could be done to increase the chances of success in industrial prosecutions. The DPP noted the question was difficult to answer concisely. He explained that industrial deaths are difficult to investigate and require a criminal standard of investigation from a very early stage. He also noted the need for ‘unimpeachably high quality’ expert reports.
- The DPP suggested that deaths on Canberra construction work sites be treated as criminal investigations. *The Canberra Times* reported on the DPP’s comments on the same day.

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TRIM: 2018/000083-015

**Portfolio:** Attorney-General**ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS****Talking points:***Eighth Magistrate*

- On 9 April 2018, I announced that the 2018-19 Budget would provide an additional \$3.1 million over four years in funding to support the appointment of an eighth full time resident Magistrate.
- I was pleased to announce the appointment of Ms Louise Taylor as the eighth magistrate on 10 August 2018. Ms Taylor commenced work on 10 September 2018 and her ceremonial sitting was held on 17 September 2018.
- Ms Taylor has over 15 years of experience as a lawyer in the ACT, including specialist experience as a prosecutor in criminal law. This has included experience in the offices of both the Commonwealth and ACT Directors of Public Prosecutions, and has involved oversight of the ACT's Family Violence Intervention Program.
- As the Deputy CEO of Legal Aid ACT since 2014, Ms Taylor has had direct management of the Legal Aid Commission's litigation practice, specifically in the areas of family and criminal law.
- Ms Taylor's appointment reflects the ACT Government's commitment to provide the ACT Magistrates Court with the resources it needs to meet increasing demand.
- In addition to resourcing the new Magistrate position, Legal Aid ACT will receive an additional \$1.3 million and the Director of Public Prosecutions (DPP) will be provided with \$987,000 for additional staff to support the increased capacity of the Magistrates Court.
- An eighth Magistrate means our courts can build on their excellent work from recent years, and also provide the resources it needs to meet increasing demand.

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- The appointment of an additional Magistrate, additional funding for Legal Aid ACT and the DPP along with recent amendments to justice legislation across the statute book will help improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about the recruitment of the 8<sup>th</sup> Magistrate*

- This process was conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.
- Nominations were sought from the local legal profession, including the Law Society of the ACT and the ACT Bar Association, community legal centres, and also from my counterparts interstate.
- With her wide-ranging experience in criminal prosecution and defence, particularly in the ACT context, as well as her contribution to the ACT community in volunteer roles, I am confident that Ms Taylor will make a significant contribution to enhancing access to justice outcomes at the ACT Magistrates Court

*If asked about the Chief Magistrate's views*

- I acknowledge the Chief Magistrate's view that further resources are needed for the Magistrates Court.
- As Attorney-General, I will continue to consider resourcing of the justice system as a whole, and to make sure that each component is working effectively to support an effective justice system in the ACT.

*Special Magistrates*

- The Government has also re-appointed two Special Magistrates to continue sitting within the Court as required until the end of 2018, working at a little over half an FTE each.
- Special Magistrates provide the Court with flexibility and adaptability in its listing practices and allow it to cope with unexpected absences.
- The eighth Magistrate combined with the re-appointment of the special Magistrates expands the Magistrates Court capacity from its current levels.

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### Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- This is partly offset by rollover from the current fee for service budget for a part time pathologist, and by revenue for non-complex autopsy work done on a contract, fee for service basis by the ACT Forensic Medical Centre for the Queanbeyan and Goulburn Coroners.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.

### Magistrate terms and conditions

- The Government has introduced a bill to support Magistrates by making the terms and conditions of their office more inclusive. The Bill will increase the retirement age of Magistrates from 65 to 70, and will also introduce a mechanism for Magistrates to be appointed or to work part-time.
- These changes will provide greater flexibility for the Court to manage its business, while supporting Magistrates who wish to transition to retirement or temporarily reduce their working hours to accommodate family or carer responsibilities for example.

### Magistrates Court Initiatives

- I particularly want to thank the Magistrates, Court staff and Supporting Prosecution and Legal Aid Practitioners for their patience and professionalism in providing the Canberra community with outstanding service.
- I acknowledge it has been a challenging period with the Court redevelopment, registry process overhaul and implementation of the Integrated Case Management System.
- I acknowledge that these important initiatives have placed additional pressure on the work of Court staff and Practitioners.

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- I am confident that these initiatives will deliver support for the Bench and staff to undertake their vital work while increasing the efficiency of the Court as a whole.
- The sustained investment by the ACT Government in this transformational work demonstrates our commitment to deliver an accessible, fair and efficient justice system.
- The Government is committed to working with the Chief Magistrate, Chief Justice and Courts and Tribunal administration staff to leverage efficient block and over-listing practices.

### Dedicated Coroner

- It is important to recognise that decisions about organisation of the Magistrates and Coroner's Court, and how resources are allocated for coronial hearings are ultimately a matter for the Chief Magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time ('Chief Magistrate says eighth magistrate 'not enough', Canberra Times, 10 April 2018).
- The Government is conscious of the benefits that could come from building specialist coronial expertise among the Magistrates who all hold an active coronial case load.
- Benefits would include increased public awareness of the role and public significance of the coronial jurisdiction and improved co-ordination and collaboration across government in resolving inquiries and inquests and implementing recommendations.
- I am pleased that a number of procedural and policy changes across the Magistrates and Coroner's jurisdiction have seen efficiency improvements.
- For example, in the Coroner's jurisdiction more post-mortems are being conducted by CT-scan external examination, more matters are being finalised in-chambers without hearing, delegation of fire inquiry work to the Deputy Coroner continues to be efficient, and the Legal Manager is routinely providing in-house Counsel Assisting services where appropriate, rather than briefing external Counsel.

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- The availability of a resident full time forensic pathologist will also support more timely post-mortem and autopsy investigations which will mean that the deceased will be able to be released to their loved ones sooner, and the Coroner will be better supported in investigating the manner and cause of death.
- The *Courts and Other Justice Legislation Amendment Act 2018* (the Act), commenced on 26 April 2018 and made amendments which support non-invasive finalisation of cases by making processes for conduct of ancillary examinations, establishing coronial investigation scenes and provision of medical records more flexible.
- That Act also made changes to streamline jury processes and enforcement of ACT Civil and Administrative Tribunal orders in the Magistrates Court.

### Key Information

- The criminal jurisdiction of the Magistrates Court has struggled to meet demand with a 15 per cent increase in lodgements leading to a 23 percent increase in pending matters and 15 per cent increase in cases pending for more than 12 months (excluding failure to vote charges resulting from the 2016 ACT election).
- There was a very slight increase in coronial cases lodged to 299 from 292 in 2015/16, but the Government's suite of legislative reforms in 2014 continues to mean this is much lower than the more than 1100 cases lodged in 2013/14 and 2012/13.
- The workload of the Coroner's Court can fluctuate depending on the circumstances of particular cases. For example the Court received two uncommon notices relating to deaths in the Jervis Bay and Australian Antarctic Territories that it will deal with by agreement with the Commonwealth Government.
- Just as workload can fluctuate, some complex or sensitive cases take longer to hear and resolve. In 2016-17 the median number of days to finalise a case was 94, up from 75, which exceeded the target of 85 days. This was in part due to a number of long and complex coronial matters being finalised.

### Background Information

- The Chief Coroner considers that the appointment of an additional full-time Magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- Having an additional Coroner would improve efficiency and timeliness, coordination and oversight of those matters, and would contribute to the development of specific coronial expertise.

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## QUESTION TIME BRIEF

- You have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- The Justice and Community Safety Directorate recently met with family representatives in relation to a number of complex cases where the timeliness of the Coronial process, transparency of case progress and communication with families could have been better.
- There are a range of supports and networks across government for those affected by the sudden and unexpected death of a loved one, including the ACT Coronial Counselling Service which is available to bereaved families, friends and community members. The service is provided by ACT Health and Relationships Australia and is designed to provide free support and counselling to anyone affected by a death being investigated by the ACT Coroners Court.

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TRIM Ref: 2018/000083-012

**Portfolio:** Attorney-General**ISSUE: REFORMS TO THE OPERATION OF THE CORONERS COURT****Talking points:**Budget Announcement

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised effectively.
- The 2018-19 Budget provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.
- The 2018-19 Budget also provides \$3.1 million in funding over the next four years to appoint an eighth full time resident magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time.

Improvements to support families

- The Government is examining options for supporting the operation of the Coroner's court through administrative and legislative reforms.
- The Government is also continuing to consider reforms to better deliver the justice needs of families, affected people and the community through the coronial process.
- As part of this consideration, the Government is working with families to make sure that any reforms to coronial processes support the needs of people affected by a death.

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- In October 2017, I met with families of three young men whose deaths have been subject of extensively delayed coronial inquests.
- This group of family representatives has been advocating for reforms to the coronial process including changes to address lengthy delays throughout all stages of the coronial inquest, and to improve communications with family members about the progress of inquests, Government responses and actions taken to address recommendations.
- After hearing the experiences of these family members I have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- Officers from the Justice and Community Safety Directorate met with the families to discuss potential legislative reforms on 21 March 2018.
- I anticipate that the process of consulting with stakeholders to consider and develop reforms, including legislative amendments, will begin in the coming months.

### Background Information

- The Chief Coroner considers that the appointment of an additional full-time magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.

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TRIM Ref: 2018/000083-004

**Portfolio:** Attorney-General**ISSUE: DRUG AND ALCOHOL COURT****Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- The Government is undertaking the scoping and design work of a Drug and Alcohol Court (DAC) in collaboration with the justice, drug and alcohol service sectors.
- A DAC requires a range of services both in the court context and to provide treatment, supervision and support in the community. As such this is a complex program of work and requires the planning phase to be very carefully considered.
- Alcohol and other drug treatment services in particular need to be planned to ensure appropriate therapeutic treatment pathways are clearly identified for DAC participants. The Government has held consultation workshops with the alcohol and other drug service sector to support this planning process.
- The effectiveness of DACs in achieving long-term behavioural change in offenders is supported by a substantial body of research. Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes.
- The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services and a high level of judicial intervention.
- The Supreme Court has developed proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns. These proposals are under consideration by Government.

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## Background Information

- Funding to support the development work for the DAC was provided through the 2017-18 Budget process, the 2017-18 Mid-year Budget process and the 2018-19 Budget process.
- There are a number of key considerations to resolve, such as clearly identifying the appropriate cohort of offenders who should receive this form of intensive intervention, and establishing clear pathways into treatment. These considerations require a whole of government approach to ensure the chosen model operates effectively.
- An operational DAC requires a significant investment in terms of resourcing across government and non-government services. The Government will be considering the resource needs of the DAC through future budget processes.

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TRIM Ref: 2018/000094-001

**Portfolio:** Attorney-General**ISSUE: ACT Law Courts PPP - Progress****Talking points:**

- Stage 1 is approaching completion with final works and commissioning well advanced. Progress is being monitored weekly.
- The latest completion program issued by Juris and Laing O'Rourke indicates that Stage 1 completion will occur in September 2018. Based on this date, Stage 2 completion would be expected in mid-2019.
- The Project Team is working closely with Juris and Laing O'Rourke to successfully complete Stage 1 of the Project. Every effort will be made to ensure that this occurs in September 2018, but there remains a risk that this may slip into October or November.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the PPP contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time.
- These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 1 will deliver six courtrooms (including five jury courtrooms).
- On completion of Stage 1, the operations in the existing Supreme Court building will decant into the new building.

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## Key Information

### The ACT Law Courts Project

- The Territory entered into contract with Juris Partnership (Juris) in December 2015 to design, build, finance and maintain the ACT Law Courts under a Public Private Partnership (PPP) arrangement (the Project). The Project represents a capital investment in the ACT Law Courts of over \$160 million.
- The Juris Partnership consortium includes Laing O'Rourke Australia Construction Pty Ltd, Macquarie Capital Group Limited and Programmed Facility Management Pty Ltd.
- The Project is being delivered in two main stages. Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 2 completes the project with the refurbishment of the existing Supreme Court building. Stage 1 will deliver six courtrooms (including five jury courtrooms) and Stage 2 will deliver the remaining two non-jury courtrooms.
- On completion of Stage 1, the operations in the existing Supreme Court building will decant into the new building. As such, Stage 2 cannot commence until Stage 1 is complete.
- Under the PPP contract Stage 1 was due to be completed by 24 November 2017 and Stage 2 by 28 August 2018.

### Progress of the Project (delays)

- Stage 1 of the construction phase is subject to significant delays. As at the end of August 2018 the duration of the delay will be approximately nine months.
- The latest completion program issued by Juris and Laing O'Rourke indicates that Stage 1 completion will occur in September 2018. Based on this date, Stage 2 completion would be expected in mid-2019.
- The Project Team is working closely with Juris and Laing O'Rourke to successfully complete Stage 1 of the Project. Every effort will be made to ensure that this occurs in September 2018, but there remains a risk that this may slip into October or November.

Sch 2 s 2.2 (a)(xi)

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### Operational consequences of the delay

- During the construction phase for the new facilities the Court has retained use of the same number of courtrooms (both jury and non-jury) as were available prior to commencement of the Project. The main operational impact of the Stage 1 delay is that completion of this stage will provide five jury courtrooms in place of the three that are currently available.
- The Court has been kept fully apprised of the delay and has taken this into account when listing matters in 2018.
- Consistent with past practice, the Court has continued to utilise the Queanbeyan courthouse to provide additional jury trial capacity when required.
- The Court has also used the Military Court at Fyshwick as a result of the pressure on courtrooms arising from the delay.
- The delays have not had a direct detrimental effect on the capacity and functioning of the Court.

### Financial consequence of the delay

- Under the PPP contract arrangements, except for certain exceptional circumstances, Juris assumes full risk for the time it takes to complete the works. Accordingly, the contractor is not entitled to any additional payments due to completion being later than the dates set out in the contract.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the PPP contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time. These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- The cost (and value-for-money) of the project to the Territory is measured as a Net Present Cost (NPC) of the future payments to be made to Juris over the term of the contract. At the date of entering into the contract, the NPC was calculated at \$250.4 million as set out in the published Contract Summary.

Due to the delays in construction the NPC of the future payments due to be made by the Territory will reduce compared to the amount initially expected. The extent of this reduction will not be calculated until after both Stages have been completed.

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**Background Information**

- The contractor's target date for Stage 1 completion (September 2018) is based on providing the new facility in a condition that is fit for purpose for the Court functions, but still has some works remaining to be completed. Examples of works that may be incomplete are:
  - completion of the cladding to the 'hood' structures to the Vernon Circle façade;
  - completion of landscaping (planting) to the Vernon Circle frontage; and
  - installation of commissioned artwork.
- JACS and the Court have not yet accepted the premise of completion with incomplete works. However, there is a contractual mechanism to allow this and if beneficial occupation and use can be achieved earlier then this may be an option that is pursued.
- Based on the currently projected dates for Stage 1 and Stage 2 completion, the avoided Monthly Service Payments (MSPs) through 2017-18 and 2018-19 (compared to what would have been payable if the contract dates were achieved) amounts to circa \$16.9 million. After accounting for delay-related increases to capital and recurrent costs it is expected that approximately \$10m of this saving would be returned to the Budget.
- The Territory has served two Major Default Notices (MDN) on Juris relating to the failure to complete Stage 1 in November 2017. The remedy period to rectify the MDN (i.e. to achieve completion) has been extended once and is due to expire on 7 December 2018. If completion is not achieved by this date the Territory will be entitled to terminate the contract, however it is unlikely that termination would be the best option for the Territory.

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TRIM Ref: 2018/000083-010

**Portfolio:** Attorney-General**ISSUE: BAIL LAWS****Talking points:**Purpose of bail laws

- Bail allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law. The ACT *Bail Act 1992* (Bail Act) is designed to: balance competing rights, interests and expectations; ensure accused people attend court; and manage the risks that might arise while a person is on bail.

Decisions to grant bail

- Deciding to grant bail requires an assessment of risk which is taken into consideration under our bail laws including through: presumptions against bail for certain offences; conditions of bail which can be imposed; and the role of ACT Policing in ensuring that offenders comply with their bail conditions.
- There is no data available about the number of instances where a person offends on bail, but the ACT Government is satisfied on the basis of available information that the mechanisms currently in place to determine the issue of bail and management of people on bail are satisfactory.
- The ACT Government commenced a two year trial Bail Support Program in December 2017 to contribute to the Government's commitment to reduce recidivism. The Program is designed to support Aboriginal and Torres Strait Islander people released on bail and is operated from within the Aboriginal Legal Service. Of the 43 participants (as at September 2018) none have reoffended. Only eight have breached bail with four being released again on bail and four being returned to custody.

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## Review of bail laws

### *Section 44 of the Bail Act*

- The *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* introduced an own-motion bail review power for the Director of Public Prosecutions (DPP).
- This provides the DPP with a right to apply to the Supreme Court for a review of a bail decision made by the Magistrates Court, where the accused has been charged with a domestic violence offence or serious offence, if the prosecutor considers that exceptional circumstances exist and that it is in the public interest to make the application. The reform provides for an accused to be detained for up to 48 hours pending the Supreme Court review.
- Since section 44 commenced operation on 1 May 2017, the DPP has given oral notice of a proposed application twice and on both occasions did not ultimately proceed to make an application to the Supreme Court. The accused persons were held in custody for periods of less than two hours by ACT Corrective Services (ACTCS) prior to being released on bail.
- The operation of section 44 is to be reviewed after two years of operation (May 2019).

### *Section 9F of the Bail Act*

- At the conclusion of a recent inquest, Coroner Cook recommended the ACT Government review section 9F of the Bail Act which creates a presumption against police bail for a person charged with a family violence offence. Coroner Cook expressed concerns that the presumption against bail might never be able to be displaced in practice.
- Consideration will be given to whether any amendments are required to section 9F. The ACT Government is committed to ensuring that the criminal justice system works to protect complainants and victims from harm to the fullest extent possible. This imperative is held together with the need for custody to be a measure of last resort in achieving this protection.

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## Background Information

### Presumptions under the Bail Act

- Under the Bail Act there is a general presumption in favour of the grant of bail and entitlement to be at liberty. However, there are limitations on this entitlement. For example, for murder and certain serious drug offences, there is a presumption against bail and a court must not grant bail to the person unless satisfied that special or exceptional circumstances exist favouring the grant of bail.

### Statement of incompatibility: section 9C of the Bail Act

- The declaration of incompatibility with human rights made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) relating to section 9C of the Bail Act (presumption against bail for certain offences) has not resulted in legislative amendment.
- In the final Government response (tabled 1 May 2012) community views were requested on options for amendments to the Bail Act. Due to the diverse views received during consultation the ACT Government elected not to pursue any of the three options originally proposed

### Section 56A of the Bail Act – Arrest without warrant for failure to comply with bail conditions.

- ACT Policing have recently been criticised in the ACT Magistrates Court (June 2018) for failing to exercise their discretion not to arrest a person for breaching a bail condition (reporting late to the police station) under section 56A of the Bail Act.
- The ACT Supreme Court ruled in the case of *Andrews and Thomson* [2018 ACTSC 199 on 30 July 2018 that section 56A did not permit police officers to enter premises to effect an arrest for breach of bail conditions. This decision and whether legislative amendments should be pursued are currently under consideration.

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TRIM Ref: 2018/000083-035

**Portfolio:** Attorney-General**ISSUE: EASTMAN TRIAL UPDATE****Talking points:**

- The retrial of Mr Eastman demonstrates that the ACT judicial system is functioning independently and appropriately. The system has upheld the defendant's right to a fair trial.
- The Government has shown absolute commitment to due process in support of the inquiry and subsequent legal processes.
- The re-trial of David Harold Eastman commenced on 18 June 2018 following the empanelment of the jury on 4 June 2018.
- The media is reminded that the individuals who attend for jury service have a right to privacy. In order to respect this right, the media is asked, in particular, to avoid photographing or otherwise recording any member of the jury panel.
- At this time, the prosecution continues its case.
- The trial is, so far, running to the schedule the prosecution advised upon commencement.
- I am advised that the prosecution estimated in the final week of August that it will complete its evidence on 18 September 2018.
- After that, if the defence intends to present evidence on behalf of the accused, it will commence to do so.
- The defence is not obliged to advise whether it will present evidence until after the prosecution case is finished.

**Key Information**

- It is estimated that the matter will be completed by the end of November/early December 2018.
- This estimate:
  - Takes into account the possibility that the defence will lead some evidence; and
  - allows for the addresses to the jury by the parties at the end of evidence; and

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Safety

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- includes the expected time necessary for the charge to the jury by Kellam AJ at the end of the parties' addresses.
- Of course this estimate assumes that there are no unexpected eventualities.
- The trial commenced with 16 jurors and is now continuing with 14 jurors, 2 jurors having been discharged for health and other reasons.

**Background Information**If asked - What funding has been provided in the 2018-19 budget?

- In 2018-19, the total funding for the Eastman matter is \$6.079 million.
  - \$2.2m to the Director of Public Prosecutions
  - \$2.159m to the ACT Courts and Tribunal
  - \$1.025m to Legal Aid Commission
  - \$695,000 to the ACT Policing.

If asked - What funding was provided in the 2017-18 budget?

- In 2017-18, the total funding for the Eastman matter was \$7.360 million, including funding for the courts and Legal Aid.
- In addition, funding of \$2.257 million was also provided to the Office of the Director of Public Prosecutions (DPP).

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## QUESTION TIME BRIEF

TRIM Ref: 2018/000089-001

**Portfolios:** Chief Minister

Police & Emergency Services

Attorney-General

### **ISSUE: NATIONAL SECURITY ISSUES (INCLUDING BIOMETRICS)**

#### **Talking points:**

##### Counter Terrorism (Chief Minister)

- Australia is one of the most successful and most harmonious multicultural societies in the world.
- This is our best defence against terrorism and violent extremism.
- Our identity is defined by an overriding commitment to our nation and its democratic values - not by race, religion or ethnic background.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- Terrorism is a national issue, and we work closely with our interstate partners on the national security challenges that Australia faces.
- These national security challenges continue to evolve, so we need to keep our legislation and capabilities under constant review to meet these emerging issues.
- The ACT Government is committed to ensuring the safety and security of our community, and continues to work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism.
- The ACT continues to support community leaders and activities that help promote the vibrant, inclusive and culturally diverse nature of the ACT community while maintaining the rule of law and protecting human rights.
- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400. Alternatively, [www.nationalsecurity.gov.au](http://www.nationalsecurity.gov.au) provides more information.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening; call Triple-Zero (000).

Cleared as complete and accurate: 03/09/2018  
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### Facial Biometric Matching Capability (Chief Minister)

- At the October 2017 Counter Terrorism COAG meeting, I agreed to the terms of a national agreement that will revolutionise the way identity verification is undertaken across the country.
- As a human rights jurisdiction, the ACT has established a bilateral schedule to the national agreement to ensure ACT participation in a way that is consistent with the ACT's human rights and privacy laws, while supporting national security needs.
- Limitations placed on how ACT data can be used will not limit the ability of other jurisdictions to participate with one another in the capability.
- The ACT will continue to explore additional participation for ACT in the range of services offered by the capability, pending further privacy and human rights scrutiny.

### If asked about recent reports that the Australian Criminal Intelligence Commission has decided to discontinue its Biometric Identification Services project.

- This project is unrelated to the National Driver Licence Facial Recognition Solution, and the decision does not impact on the Intergovernmental Agreement signed in October 2017.

### Defence support to National Counter-Terrorism arrangements (Chief Minister)

- In 2016, the Commonwealth Government initiated a review of Defence support to national counter-terrorism arrangements in response to the changing nature of the terrorist threat.
- State and Territory police remain, and will continue to remain, the primary responders to any terrorist attack.
- While Defence's primary role in counter-terrorism is offshore, Defence possesses specialist capabilities that could support state and territory governments in responding to an attack.

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- The Commonwealth Government in close consultation with all States and Territories has worked to develop options for practical counter-terrorism engagement and cooperation between the Australian Defence Force (ADF) and State and Territory police.
- Additionally, in 2017 the Commonwealth Government announced proposed amendments to Part IIIAAA of the *Defence Act 1903* (the Defence Act)
- Part IIIAAA provides the framework for authorising the ADF to use force to resolve a domestic violence incident, including terrorism, in support of States and Territories.
- The Commonwealth Government has introduced the Bill to amend Part IIIAAA of the Defence Act into Parliament. The Bill will seek to simplify the authorisation process for callout, and enhance the ability of states and territories to request Commonwealth assistance, through the ADF, in responding to domestic violence incidents including terrorism.
- The Bill is under consideration by the Senate Standing Committee for Legal and Constitutional Affairs.

If asked about reports that the amendments to the Defence Act will allow the call out of Defence to deal with strike action or protests.

- The current call out provisions within the Defence Act contain a prohibition against the Defence Force stopping or restricting any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons or serious damage to property.
- This prohibition against stopping or restricting protest, dissent, assembly or industrial action is retained in the proposed amendments to the Defence Act, just in a different format to assist in the readability of the call out provisions.

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**Key Information**

- Australia's National Terrorism Threat level remains at **PROBABLE**.
- Credible intelligence, assessed by national security agencies indicates that individuals or groups have developed both the intent and capability to conduct a terrorist attack in Australia.
- Since the national terrorism threat level was raised on 12 September 2014, there have been six attacks and 14 major CT disruption operations in response to potential attack planning in Australia.
- There are currently no known specific or credible threat to the ACT.

**Background Information**

- The Australian Government has taken twelve tranches of legislation through Parliament since August 2014.
- COAG has agreed to a range of legislative measures including:
  - enhancing the existing Commonwealth pre-charge detention regime under Part 1C of the *Crimes Act 1914*
  - legislation implementing the presumption against bail and parole for people who have demonstrated support for, or have links to terrorist activity, will be underpinned by nationally consistent principles
  - a new Commonwealth offence that will allow law enforcement agencies to intervene when an individual is in possession of instructional terrorist material, with appropriate safeguards
  - a new Commonwealth terrorism hoax offence. This will ensure that the potentially broad nature of terrorism hoaxes is criminalised in all jurisdictions.

Cleared as complete and accurate: 03/09/2018  
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TRIM Ref: 2018/000086-001

**Portfolio:** Minister for Police & Emergency Services  
Attorney-General

**ISSUE: OMCG INCIDENTS****THIS IS AN ACT POLICING OPERATIONAL BRIEF**

This QTB focuses on the ACT Policing operational aspects. Information about anti-consorting laws, fortification removal laws, crime scene powers and drive-by shootings can be found in the QTB titled “Serious and Organised Crime Response”.

**TALKING POINTS:**

- Countering serious and organised crime by criminal gangs and maintaining public safety is of primary focus for the ACT Government and ACT Policing.
- Through Taskforce Nemesis, ACT Policing continues to proactively disrupt criminal gang members to deter and detect criminal activity. This includes confiscation of criminal assets.
- The Government’s 2018-19 Budget commitment of \$1.594 million over four years to Taskforce Nemesis provides funding for one Forensic Accountant, one Surveillance Team Member, and associated equipment and training.
  - Planning is underway for the recruitment of two additional members allocated through the 2018-19 Budget initiative. Exact commencement dates are dependent upon recruitment and security clearance processes.
- Funding allocated to combating Criminal Gangs in August 2016 has been applied, and eight members were appointed to Taskforce Nemesis.
- In 2017, the Federal Government boosted resources for dealing with organised crime through the National Anti-Gangs Squad (NAGS). Through NAGS, ACT Policing works closely with other agencies, liaising on matters of operational and strategic importance. NAGS brings together the resources and expertise of Federal and state/territory agencies to cooperate and share information to identify, target, disrupt and deter gang-related crime.

Cleared as complete and accurate: 11/09/2018  
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Information Officer name: ACT Policing (CI)  
Contact Officer name: ACT Policing (MPP)  
Lead Directorate: Justice and Community Safety

- As at 10 September 2018, there are four known Outlaw Motorcycle Gang's (the Comancheros, Nomads, Rebels and Finks) operating in the ACT. The total number of members associated with ACT chapters of these Criminal Gangs is estimated at approximately 60 people.

#### Recent ACT Policing operations gang activity

- Since January 2018, ACT Policing has responded to criminal gang related incidents including:
  - Eight incidents of discharging a firearm at a residential address or a person
  - Seven arson incidents.
- Since January 2018, Taskforce Nemesis has:
  - Investigated 35 criminal gang related incidents
  - Executed 78 search warrants against criminal gang targets
  - Seized 22 firearms
  - Seized \$61,750 in currency
  - Laid 73 charges against criminal gang members.
- On 6 September 2018, a senior member of the Nomads Criminal Gang pleaded guilty to charges arising from a violent incident at a Monash Tattoo Parlour on 1 February 2018.
- On 5 September 2018, a previously convicted Comanchero Criminal Gang member completed a sentence of imprisonment arising from a firearms incident in March 2015.
  - Upon completion of his sentence, the Comanchero Criminal Gang member was apprehended by Australian Border Force and will be subject to deportation due to visa revocation.
- On 25 August 2018, approximately 30 members of the Nomad Criminal Gang participated in a 'Run' (an organised, overt, motorcycle ride) through the ACT. The run was closely monitored by ACT Policing who were also supported by NSW Police and Task Force Raptor.

Cleared as complete and accurate: 11/09/2018  
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- On 6 August 2018, Taskforce Nemesis executed targeted searches of a vehicle and residential premise in Calwell.
  - Police located and seized a .357 calibre revolver, a loaded 22/250 rifle, a shortened 9mm semi-automatic rifle, ammunition and illicit substances.
  - Two men were arrested and charged with 14 cumulative charges. One of the men (a 21 year old male) was charged with firearm offences relating to the search warrant executed on 6 August 2018, and the other (a 36 year old male) was charged with firearm and weapons offences related to the incident on 28 June 2018.
  - As these matters remain subject to ongoing investigations, it would be inappropriate to comment further.
  
- On 03 August 2018, members of CI Taskforce Disruption Team assisted members of NSW Police Taskforce Raptor in the delivery of pre-emptive NSW consorting and NSW State Government debt recovery notices.
  - Various members of the Finks and Comancheros Criminal Gangs were visited at private residential addresses of their workplace and served with the notices.
  
- On 6 July 2018, a physical altercation broke out between six men in Greenway. The men are believed to be criminal gang members. The altercation is understood to be a result of ongoing tensions between criminal gangs. As this matter remains subject to ongoing investigations, it would be inappropriate to comment further.
  
- On 28 June 2018, four people attended two residential properties in Calwell. A number of firearms were discharged at both properties, and three vehicles were set alight at one of the residences. Taskforce Nemesis has extradited a man from Victoria to the ACT in relation to this matter. The man was charged with attempted murder and refused bail.

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## Background

- Appropriate legislative frameworks are an essential component to enable police to effectively disrupt and dismantle criminal organisations. A number of legislative amendments have been made to increase the tools available to police and enhance the response capacity of police officers. Most recently, these have included legislation passed on fortifications, drive-by shootings and crime scene powers.
- ACT Policing works closely with Police in other jurisdictions by sharing intelligence, best practices, and collaboratively monitoring and combating criminal gangs.

Cleared as complete and accurate: 11/09/2018  
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TRIM Ref: 2018/000083-024

**Portfolio:** Attorney-General**ISSUE: SERIOUS AND ORGANISED CRIME RESPONSE**

Outlaw Motorcycle Gangs (OMCGs) are involved in criminal activities across Australia such as drug production and trafficking, vehicle rebirthing, firearms offences, money laundering, extortion and serious assaults.

**TALKING POINTS**

- The ACT Government is strongly committed to responding to the criminal activities of OMCGs.
- ACT Policing has established an OMCG Taskforce – Taskforce Nemesis – to focus on operational and investigative responses to OMCG activity.
- The Taskforce is supported by a suite of criminal laws developed by the ACT Government over a number of years, and continued investment to ensure that ACT Policing has the resources it needs to combat criminal gangs in the ACT.

*Anti-consorting laws*

- The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.
- The Government does not support the introduction of consorting laws at this time.
- Any future consideration of consorting laws would need to be informed by strong evidence establishing the requirement for, and effectiveness of, such laws.
- Laws of this nature would also need to allay unresolved Government and community concerns about conflict with human rights and criminal law principles.
- Law reform decisions are made by the Government taking into account need and evidence about their effectiveness as well as the views of our stakeholders and the broader community.

Cleared as complete and accurate: 20/06/2018  
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### Fortification removal laws

- Fortifications are structures designed to stop or hinder uninvited entry to premises.
- The *Crimes (Fortification Removal) Amendment Bill 2017* was passed in February 2018.
- The Bill provides the Chief Police Officer with the power to apply to the Magistrates Court for an order that the occupier of the premises remove fortifications on the premises. The Bill also prohibits the establishment of fortifications on certain premises.
- These laws will help make the ACT a hostile environment for criminal gangs to prevent the establishment of fortified premises such as OMCG club houses.
- The *Crimes (Fortification Removal) Amendment Act 2017* will commenced on 1 September 2018.

### Crime scene powers and drive-by shootings

- The *Crimes (Police Powers and Firearms Offence) Amendment Act 2017* commenced on 8 December 2017.
- The Act introduced statutory crime scene powers to allow police officers to preserve evidence in a timely manner at crime scenes in both public and private places while taking the least restrictive approach to limiting a person's right to privacy.
- The Act also created a new offence of 'drive by shooting' which deals with people shooting at a building, including a home, whether from a car or otherwise. The offence is punishable by a maximum of 10 years imprisonment.
- These new laws have already been used by ACT Policing to support its work to combat criminal groups in the ACT.

### **Background**

At the most recent meeting of the Council of Attorneys-General held on 8 June 2018, participants agreed that organised crime is a serious and pervasive threat to the community. In recognition of this, participants agreed to have regard to the statement of guiding principles when developing legislative responses to combat organised crime.

ACT Policing has identified three OMCGs that operate in the ACT (the Rebels, the Nomads and the Comancheros). Media reports on 27 and 28 June 2018 indicate that ACT Policing has evidence of a fourth OMCG, named the Finks, being established in the ACT.

Cleared as complete and accurate: 20/06/2018  
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The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.

### Anti-Consorting Laws

Consorting laws make it an offence to associate with a person after being issued with a warning to refrain from associating with that person.

All jurisdictions except the ACT have consorting law schemes. Consorting law schemes differ in each jurisdiction. Some legislative schemes have been found to be invalid by the High Court. The Victorian model is the only model that requires law enforcement to demonstrate a link between the association of two people and the commission of a criminal offence. Obtaining evidence to support this belief may be challenging in an operational context.

The Human Rights Commission advised that without a suspected link to identifiable criminal activity, it is unlikely that consorting laws will be cured of their inherent incompatibility with the Human Rights Act 2004.

The ACT has not supported the introduction of consorting laws to date due to the lack of evidence for their effectiveness and the significant human rights implications.

### *Private Members Bill – Crimes (Criminal Organisation Control) Bill 2017*

- On 1 November 2017 the Shadow Attorney-General, Mr Jeremy Hanson MLA CSC, introduced the Bill in the Legislative Assembly. The Bill proposed the introduction of criminal organisation laws in the ACT. The Bill was debated in the same month but was not supported by the ACT Government.
- The Bill was based on NSW criminal organisation laws, however was less restrictive of human rights.
- To make a control order, the Bill required the court to be satisfied that it would be reasonably necessary to restrict, or impose conditions on the activities of a person in order to end, prevent or reduce a serious threat to public safety and order.

### *Recent media*

- On 28 August 2018 [media](#) reported on an image of the Nomads OMCG on Mount Ainslie, which lead to renewed calls for anti-consorting laws from Mr Hanson.

Cleared as complete and accurate: 20/06/2018  
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TRIM Ref: 2018/000083-016

**Portfolio:** Attorney-General**ISSUE: CHILD ABUSE ROYAL COMMISSION – CRIMINAL JUSTICE REFORMS****Talking points:**

- Child abuse is unacceptable and ensuring the safety of children in our community is a top priority for the ACT Government.
- On 15 June, I presented the ACT Government’s formal response to the approximately 300 recommendations of the Royal Commission that relate to State and Territory governments.
- Our response shows our clear, unambiguous commitment to protecting children, and righting wrongs.
- It demonstrates our intention to change the status quo, to effect cultural change within organisations, and to ensure the failures of the past are not permitted to continue.
- The response to the Royal Commission’s 85 criminal justice recommendations shows our strong commitment to improving the ACT criminal justice system’s response to child sexual abuse, through both legislative and non-legislative reforms.
- This response was informed by significant consultation and work we have already done on the criminal justice recommendations.
- For example, in February this year we made amendments to the existing ACT offences of grooming and maintaining a sexual relationship with a child, as well as sentencing reforms for child sex offenders, in response to the Royal Commission’s recommendations.
- We have also long been a leader in adopting survivor-focused criminal laws, and already have in place a number of measures recommended by the Royal Commission.
- This includes, for example, measures to support vulnerable witnesses to give evidence in a way which protects against re-traumatising them.
- Between 22 March and 4 May 2018, I conducted a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission’s recommendations. These views are being taken into account in the Government’s reform process.

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- The major reforms the Government sought feedback on concern new legislation for failing to report offences, failing to protect at-risk children, the way victims and witnesses provide their evidence, and changes to trial and sentencing procedures for child sexual abuse offences.
- The Royal Commission's recommendations around abuse disclosed in the context of religious confessions form an important part of the Report.
- The question of how to treat religious confession is currently part of a national conversation.
- The consideration of confession is an important one and a discussion which must be had with community and religious leaders.
- The Government will continue to work with stakeholders and the ACT community as we progress the implementation of the ACT Government's response.

### **Key Information**

#### Criminal justice reforms

- The Government's full response to the Royal Commission's recommendations was released on 15 June 2018.
- A consultation process about the criminal justice reforms was supported by a series of factsheets and information available on the ACT Government's YourSay website and the Justice and Community Safety Directorate website.
- The Justice and Community Safety Directorate has been consulting directly with a range of key stakeholders in the justice system and more broadly to inform the Government's approach to legislative reform in this space. This includes consultation with the Sexual Assault Reform Program (SARP) Reference Group.
- Legislative reforms are scheduled to be introduced in October 2018, and further reforms are proposed to be progressed in late 2018 and 2019 to implement further recommendations made by the Royal Commission.
- Implementing the recommendations relating to creating a failure to report an offence and the extension of this to religious confessions has been a contentious topic in the ACT since legislation was introduced to expand the ACT's Reportable Conduct Scheme to religious confessions. It is also a contentious issue at a national level, and discussions with community and religious leaders, particularly the Catholic Church, are ongoing.

Cleared as complete and accurate: 18/07/2018  
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TRIM Ref: 2018/000083-017

**Portfolio:** Attorney-General**ISSUE: COMMONWEALTH REDRESS SCHEME FOR SURVIVORS OF INSTITUTIONAL SEXUAL ABUSE****Talking points:**

- The ACT Government acknowledges the nature and impact of the abuse suffered by victims of child sex sexual abuse. Many survivors of child sexual abuse suffer long lasting and severe injuries that can affect them for the rest of their lives.
- The ACT Government is working closely with the Commonwealth and other jurisdictions to implement the Redress scheme in a manner that ensures that meets the needs of survivors.
- The Scheme started on 1 July 2018 and will run for 10 years.
- The Scheme will offer access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to \$150,000.
- All jurisdictions have now announced they will join the Redress scheme.
- In addition, a number of non-government institutions have announced their participation in the Scheme. The Commonwealth has indicated this achieves coverage of over 90 percent of anticipated claimants.
- Survivors will be able to access legal and community support services to assist through the redress application process.
- The Commonwealth has established a dedicated telephone helpline (1800 737 377) and website ([www.nationalredress.gov.au](http://www.nationalredress.gov.au)) to provide information for survivors and their families about the Scheme.
- It is estimated that there will be 225 applications with ACT Government liability out of an estimated total of 830 across the ACT over the 10 years of the scheme. The Commonwealth will be responsible for claims pre self-government (11 May 1989) and non-government institutions will be liable for the balance.

Cleared as complete and accurate: 06/09/2018  
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- The Commonwealth has started to receive applications, none yet have been confirmed for the ACT Government.

**Key Information**

- The Redress Scheme commenced 1 July 2018.
- The Redress Scheme includes psychological counselling, a direct personal response and payments for up to \$150,000.
- The Catholic Church, Scouts Australia, the YMCA, the Salvation Army, the Uniting Church and the Anglican Church have announced they will participate in the Scheme.

**Background Information**

The Redress Scheme began operating on 1 July 2018. Through the scheme survivors can access counselling and psychological services, a direct personal response from the institution where the abuse occurred and monetary payments of up to \$150,000.

The Commonwealth legislation was passed by the Parliament on 19 June 2018.

In the 2018-19 Budget, the Government allocated \$13.9 million for the first four years of the National Redress Scheme, it is estimated that it will cost approximately \$30 million over the life of the Scheme.

Meetings continue to take place between the jurisdictions that have opted in and the Commonwealth, to progress the operational aspects of the scheme.

ACT Government has a Whole of Government Implementation group that has been meeting regularly in order to progress policy issues specific to ACT implementation. The average payment of Redress is estimated at \$76,350.

As recommended by the Royal Commission, the National Redress Scheme will assess applications based on a reasonable likelihood that the abuse happened.

A national apology for survivors of institutional child abuse will be presented by the Prime Minister at Parliament House on 22 October 2018.

There has been a letter sent to the Minister for Corrections asking that there be live streaming to the Alexander Maconochie Centre. There has also been a request that it is live streamed to the Legislative Assembly.

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TRIM Ref: 2018/000083-019

**Portfolio:** Attorney-General**ISSUE: RESIDENTIAL TENANCIES****Talking points:**Progress on residential tenancy reforms

- Ensuring that our residential tenancies legislation supports vulnerable people to be secure in their homes is a key Government priority.
- The Deputy Chief Minister is currently leading the development of a new Housing Strategy for the ACT. Its focus will be on assisting those who need help most.
- Improving the operation of the Residential Tenancies Act forms part of this work.
- The legislation introduced on 10 May 2018 and passed on 5 June 2018 is just one piece in the Government's ongoing commitment to reform Residential Tenancy laws in the ACT.
- That amending legislation addresses the self-executing component of conditional termination and possession orders. It also suspends the use of commercial guarantees as an alternative to a rental bond, to provide further opportunity to consider the legal policy implications and conduct further stakeholder consultation.
- I expect to introduce further amendments to the Residential Tenancies Act later this year.
- The government has been working with stakeholders to develop amendments to the occupancy agreement provisions in the Residential Tenancies Act.
- Three groups – established in 2017 – have been examining issues around caravan parks and manufactured homes, issues facing students in on and off campus accommodation, and a boarding house and crisis accommodation group is examining issues relating to this sector.
- The working groups are made up of key stakeholders including advocacy groups, people living in occupancy agreement accommodation and providers of occupancy agreement accommodation.

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- The government is actively considering all recommendations in the 2016 report on the review of the Residential Tenancies Act along with the residential tenancy reforms passed by the Legislative Assembly of Victoria in August 2018. These reforms are currently before the Legislative Council of Victoria and include changes to make it easier for tenants to keep pets in rental properties, make modifications and abolishing ‘no specified reason’ notices to vacate.

### **Background Information**

- EPSD have policy carriage of examining energy efficiency in rental properties. They have advised that the work is scheduled for a second tranche of reforms.
- The report on the review of the Residential Tenancies Act was tabled in the June 2016 Legislative Assembly sittings.
- The report included first and second tranche recommendations.
- The Residential Tenancies Legislation Amendment Act 2016 gave effect to the first tranche recommendations, including:
  - requirements for smoke alarms
  - changes to bond release provisions
  - mechanisms allowing a person experiencing personal or domestic violence to apply to ACAT for changes to their tenancy arrangements.
- Second tranche recommendations include giving further consideration to the following issues:
  - conditional termination and possession orders (CTPOs)
  - occupancy agreements
  - share house tenancies and subletting
  - early termination of a fixed term lease by a tenant who has accepted accommodation in social housing premises or aged care
  - reducing the maximum rent payable in advance to two weeks
  - ACAT issuing notices about additional inconsistent terms
  - tenant termination of a lease containing unlawful inconsistent terms
  - removing or modifying the requirement for a ‘detriment to the lessor’s interest in the premises’ when terminating a lease on the grounds that a tenant has used the premises for illegal purposes
  - minimum standards for reasonable security.

Cleared as complete and accurate: 11/09/2018  
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TRIM Ref: 2018/000086-036

**Portfolio:** Attorney-General**ISSUE: CRIMES (CONSENT) AMENDMENT BILL 2018****Talking points:**

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not just for victims and survivors but also for the entire community.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws through introduction of the *Crimes (Consent) Amendment Bill 2018* (the Bill), which was introduced in the Legislative Assembly by Ms Caroline Le Couteur MLA in early April 2018.
- Broadly speaking, the Bill seeks to introduce a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Bill was referred by the Assembly to the Justice and Community Safety Standing Committee for inquiry. The Government looks forward to responding to the Committee's report when it is provided to the Assembly before the end of October 2018.

**Key Information**

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, the Crimes Act includes a list of circumstances which 'negate' consent.
- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of 'free and voluntary agreement'.
- It is relevant that any proposed changes to sexual consent provisions are considered in connection with the large body of work being undertaken by Government to implement the *Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*.

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### Law reform commission recommendations

- The 2010 Australian Law Reform Commission's *Final Report Family Violence – A National Legal Response* recommends that ACT sexual offence provisions should 'include a statutory definition of consent based on the concept of free and voluntary agreement' (recommendation 25-4).
- The NSW Law Reform Commission is currently reviewing sexual consent provisions in NSW legislation.

### **Background Information**

- On 11 April 2018, Ms Le Couteur introduced the *Crimes (Consent) Amendment Bill 2018* in the Legislative Assembly. The Bill seeks to amend the *Crimes Act 1900* (Crimes Act) to insert a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Assembly referred the Bill to the Standing Committee on Justice and Community Safety for inquiry and report by the last sitting day in October 2018. The Standing Committee is seeking written submissions to its inquiry by 14 September 2018.
- The Justice and Community Safety Directorate is undertaking work to implement the 2017 Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, which will be relevant to considering how the Government will respond to the Standing Committee's inquiry and report on the Bill.

### Summary of the Bill

- The Bill proposes to insert a new statutory definition of consent into the Crimes Act. In summary, the definition would provide that consent means: a person gives free and voluntary agreement and the other person knows or is satisfied on reasonable grounds that the agreement was freely and voluntarily given. The Revised Explanatory Statement states policy goal of the new definition is to 'clarify the law of consent and provide better outcomes for victims and the community'.
- The Bill also creates an exception to offences of using a child for the production of child exploitation material, possessing child exploitation material, and grooming and depraving young people. The exception would dis-apply those sections to a defendant where, at the time of the alleged offence, the complainant was at least 10 years old, the defendant was not more than 2 years older or younger, and the complainant 'consented to the act constituting the offence'.
- The Revised Explanatory Statement for the Bill states that insertion of the exception aims to ensure that young people consensually sharing sexual material between each other are not at risk of prosecution. It suggests the amendments would promote consistency with the age of consent in other provisions in the Act, including section 55 (sexual intercourse with a young person), section 61 (acts of indecency with a young person) and section 72D (distribution of intimate image of a young person).

Cleared as complete and accurate: 06/09/2018  
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# ATTORNEY-GENERAL

## QUESTION TIME BRIEFS

23-25 October 2018 and 30- 1 November 2018

<b>Racing and Gaming</b>	
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2.	Govt Response to Stevens Report and Community Club Contributions
3.	Gaming Machine Harm Reduction Measures
4.	Greyhound Funding and Transition to end Industry
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## QUESTION TIME BRIEF

**Portfolio/s:** Regulatory Services

Attorney-General

**ISSUE: GAMBLING AND RACING MATTERS**

**Talking points:**

### **Reforms to regulation of the gambling industry**

- The Government is absolutely committed to strong regulation of the gambling industry in the ACT.
- The Justice and Community Safety Directorate and Access Canberra on behalf of the Gaming and Racing Commission are working together on a number of gambling and racing reforms.
- We will also draw on lessons learnt from recent disciplinary proceedings of the GRC involving the Canberra Raiders Sports Club (the Club).
- The Commission has also noticed an increase in the number of problem gambling incidents recorded in Gambling Incident Registers in clubs across Canberra since it found that the Club breached the Gaming Machine Act 2004.

### *If asked about: Canberra Raiders Sports Club-Professor Brown matter*

- On 14 June 2018 the ACT Civil and Administrative Tribunal (ACAT) issued consent orders that set aside the Commission's original decision and remitted the matter to the Commission for reconsideration.
- A consent order is the documented agreement between parties which settles a matter which has come before the Tribunal.
- On 21 June 2018, in accordance with ACAT's orders, the Commission carefully considered the remittal and reached the decision that it was appropriate to take disciplinary action against the licensee, namely, to issue a reprimand to Raiders.
- In the context of the decision it noted that Raiders informed the Commission that:
  - it would inform the Commission in relation to its procedures and training for recording gambling incidents under the Gambling and

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## QUESTION TIME BRIEF

Racing Control (Code of Practice) Regulation 2002, by providing to the Commission by 1 December 2019 an external compliance report on these matters; and

- it decided to demonstrate its continuing commitment to support harm minimisation measures by making a donation of \$60,000 to an appropriate charity.
- Until this position had been reached by the Board it was not appropriate for the Commission to comment.
- Through this process the Raiders admitted it contravened the Code of Practice by failing to record signs of problem gambling. The \$60,000 has since been provided to Lifeline, a charity that assists problem gamblers.

### Key Information

- On 7 February 2017, the ACT Gambling and Racing Commission (the Commission) received a complaint that Professor Laurie Brown lost a substantial sum of money playing poker machines at the Raiders Belconnen Club between July 2015 and January 2017.
- Access Canberra, on behalf of the Commission, investigated whether Canberra Raiders Sports Club Ltd, the licensee of the Belconnen Club, breached the *Gaming Machine Act 2004*.
- A condition of a club's gaming licence is that it complies with the Gambling and Racing Code of Practice. Under section 1.6A, a licensee must record problem gambling incidents. Problem gambling incidents includes anyone who shows signs of having a gambling problem when in the gambling facility.
- The Commission determined that a failure to record problem gambling incidents undermines the purpose and object of the Code, which includes the purpose of providing 'protection for those patrons who have difficulties in using gambling products in a controlled manner'.
- On 24 November 2017, the Commission issued a Notice indicating that disciplinary action would be taken against the Club under section 62 of the Act.
- The Club's Application to ACAT seeking a review of the Commission's decision was listed for hearing for seven days commencing on 12 June 2018.
- On 12 June 2018, the Licensee also commenced proceedings in the ACT Supreme Court seeking judicial review of the Commission's decision.
- The terms of the settlement were reached resulting in a consent decision from ACAT on 14 June 2018.

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## QUESTION TIME BRIEF

- On 21 June 2018, the Commission formally reconsidered this matter and made a decision in accordance with the terms of settlement. It advised the Club of its decision that day.

### Background Information

- Nil

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TRIM Ref: 2018/000083-027

**Portfolio:** Attorney-General

**ISSUE: GOVERNMENT RESPONSE TO STEVENS REPORT AND  
COMMUNITY CLUB CONTRIBUTIONS**

**Talking points:**

Key Points - Reduction of gaming machine authorisations to 4,000

- On 21 August 2018 I announced the suite of incentives to reduce gaming machines in the territory which included facilities to allow all clubs which voluntarily surrender authorisations to access offsets for land-related fees and charges, including lease variation charges, to make it easier for them to redevelop their land for activities other than running pokies.
- Clubs will also have access to a new Diversification Support Fund, which will be jointly funded by industry and Government to help clubs pursue a future away from gaming machines and support club staff to develop new skills.
- Small and medium clubs will be eligible for \$12,000 cash, instead of a land related fees offset, for every gaming machine authorisation they voluntarily surrender by 31 January 2019.
- Offsets for land-related fees and charges will be available to large clubs at a rate of \$15,000 per authorisation and small and medium clubs can also choose to take up the option at a higher rate of \$25,000 per authorisation.
- Clubs that opt to go pokie-free altogether will be rewarded with a 25 per cent bonus on top of any incentives they claim.
- To support clubs' consideration of their options for incentives for voluntary surrender of gaming machine authorisations the Government has engaged Mr Stevens who has commenced meetings with clubs in the lead up to the deadline of 31 January 2019.
- Mr Stevens has met with 3 clubs and 1 club representative group (Canberra Community Clubs) [correct as of 8 October 2018].

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- If a reduction to 4000 authorisations is not achieved through voluntary surrender, there will be a two-stage compulsory surrender of authorisations – in April 2019 and April 2020.

#### Key Points – Review of the Community Contributions Scheme

- In line with the Parliamentary Agreement commitment above, an Options Paper – *Maximising the Benefits of the Community Contributions Scheme* was circulated and a review of the scheme is being conducted. Consultation closed on 13 August 2018 and a total of 220 responses were received.
- The review of the community contributions scheme is being conducted to consider the effectiveness of the current scheme, and how the scheme could be enhanced or improved to deliver the greatest value to the community.
- There will be no reduction in the amount of community contributions that are administered by clubs. The Government has considered the feedback provided in this process, and has ruled out any reduction in the eight per cent community contribution amount.
- The Government will be looking to increase community contributions on top of the eight per cent, with a portion of that increase going to the Chief Minister's Charitable Fund. The focus of this reform will be to maximise the community benefits of the scheme, and to this end, the Government will be pursuing options to increase the community contributions that come from gaming machine revenue, rather than reducing them.
- The Government is still considering the full extent of reforms it might make to the scheme, as it reviews all the feedback received from stakeholders.

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**Background Information**

- Clubs make a significant contribution to the community through the community contributions scheme. The scheme provides that eight per cent of net gaming machine revenue generated from gaming machines is returned to the community for a range of stated purposes. In 2016-17 community contributions from clubs amounted to 12.6 per cent of net gaming machine revenue, or \$11.93 million. This compares to last year's level of contributions of \$11,652,179, being 12.4 per cent of net gaming machine revenue.
- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020 and to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.
- A number of consultation responses received during consultation indicated a high level of concern from the community about the potential loss in funding to small organisations should the direct contribution portion of the scheme be abolished. There were also concerns that capping in-kind contributions would reduce the number of organisations that received assistance from clubs.
- Various reports about the community contributions scheme called for consideration of removing claims for contributions to semi-professional and professional sport, capping of in-kind contributions, improved transparency of the scheme and more funding for gambling harm mitigation.

Cleared as complete and accurate:	26/09/2018	
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TRIM Ref: 2018/000083-002

**Portfolio:** Attorney-General**ISSUE: GAMING MACHINE HARM REDUCTION MEASURES****Talking points:**

- The Government will deliver on our commitment to implement strong gambling harm reduction measures while supporting a sustainable, diverse and vibrant club industry that continues to make a valuable contribution to the ACT community
- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- Recent experiences – such as that of Professor Laurie Brown’s – demonstrate that significant reform is needed to ensure the Territory’s harm reduction framework is robust and fit for purpose.
- Now that the ACT Gambling and Racing Commission has finalised its decision, I will carefully consider the outcomes of this case and will be strengthening the Territory’s gaming regulations to ensure they offer meaningful and effective harm minimisation measures and that the Gambling and Racing Commission has the tools it needs for effective enforcement.
- Before the end of this year, the Government will amend the *Gambling and Racing Control (Code of Practice) Regulation 2002* to address self-exclusion, staff training, and the enforceability and magnitude of penalties for breaches of the code.
- The Commission has written to me outlining a number of areas where we can strengthen the consumer protection and harm minimisation framework in the ACT
- This will include improving the definition of problem gambling. The signs of gambling harm in the Code of Practice will provide less room for interpretation by club staff.
- Club staff will need to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling.

Cleared as complete and accurate:	09/10/2018	
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Lead Directorate:	Justice and Community Safety	

- Club board members will be also trained to foster a culture where gambling harm reduction and consumer protection is the priority.
- We are looking at changes to enhance the operation of self-exclusion, and a Gambling Contact Officer will need to be on-site at every club whenever the gaming machines are turned on to provide an immediate point of contact for club patrons that are impacted by gambling harm.
- I have discussed these proposed changes with representatives of workers, clubs and community representatives, including those with lived experience of gambling harm, at the Gaming Machine Harm Reduction Roundtable, on 28 September 2018.
- Later this year I will also be bringing forward changes to enforcement mechanisms and penalties under the *Gaming Machine Act 2004* to enhance the compliance framework and ensure the Gambling and Racing Commission has the tools it needs for effective enforcement.
- We are going to keep consulting, and keep delivering on this Government's commitment to a safer, stronger, and more connected city where our clubs industry is diverse and sustainable, and provides robust protections against gambling harm.

### **Background**

Parliamentary Agreement Commitment 9.2 is to reduce harm from gaming in the ACT by exploring further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines.

#### Gambling Harm key statistics (as at 2014)

The level of problem gambling in the ACT community, as measured by the widely used Problem Gambling Severity Index (PGSI), is 0.4 per cent (0.5 per cent in 2009) of the population (approximately 1,110 adults).

A further 1.1 per cent (3053 adults) in the ACT were found to be at moderate risk of gambling harm, 3.9 per cent (10,825 adults) low risk and 48.7 per cent (135,171 adults) displayed no signs of gambling harm, a further 124,901 adults were non-gamblers.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of gambling harm, with 2.9 per cent (2.9 per cent in 2009) being classified at moderate or high risk of gambling harm.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of problem gambling, with 2.9 per cent (2.9 per cent in 2009) being classified as moderate risk or problem gamblers.

In 2014, 19.9 per cent of the ACT adult population gambled on gaming machines, down from 30.2 per cent in 2009.

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Portfolio/s Regulatory Services &amp; Attorney-General

Transport &amp; City Services

**ISSUE: GREYHOUND INDUSTRY TRANSITION****Talking points:***Transition support*

- For over 12 months, the Government encouraged people affected by the end of greyhound racing in the Territory to consider the assistance offered through transition support packages.
- As announced by the Government in November 2017, the period for transition support ended on 30 September 2018.
- Five individuals negotiated transition support options with Woden Community Service, however only two individuals decided to sign agreements to receive transition support. These packages totalled approximately \$21,000, that will help them transition to new fields of endeavour beyond the greyhound racing industry.
- Approved transition support packages were designed to address individual needs and circumstances, and included payment for training courses, financial assistance to meet the cost of specialist advice, guidance and planning about future career options, health and wellbeing support and short term financial assistance to meet immediate need.
- In order to protect the confidentiality of applicants for transition support, it is not appropriate for me to give any further details about these packages or the recipients.
- The Taskforce also approved 23 applications for greyhound re-homing support to a value of \$24,400.
- In addition, the Government decided to provide an additional one-off grant of \$10,000 each to both ACT Greyhound Support Network and Canberra Region Greyhound Connections in recognition of the significant ongoing voluntary work they do to re-home former racing greyhounds in the ACT region.
- Woden Community Service is disbursing payments to all approved recipients.

Cleared as complete and accurate: 08/10/2018

Cleared by: Director X 50468

Contact Officer Name: Belinda Barnard X 77525

Lead Directorate: Chief Minister, Treasury and  
Economic Development

*History of transition support*

- This Government's priority has been the welfare of greyhounds, which are put at unacceptable risk through racing, and also the people who were affected by the end of greyhound racing in the ACT.
- That's why the Government established the Greyhound Industry Transition Taskforce, and why the Taskforce engaged Woden Community Service, whose staff are experienced in providing support to members of our community at a difficult times in their lives.
- Transition support was central to facilitate the process of ending greyhound racing and trialling in the ACT. The ACT Government announced the availability of over \$1 million in transition support when we announced the decision to prohibit racing and trialling, well over a year ago.
- Applications for transition support, and support to re-home ex-racing greyhounds, closed on 30 June 2018.
- From August 2017 to June 2018, the Greyhound Industry Transition Taskforce received approximately 195 'expressions of interest' in transition support.
- Immediately prior to the 30 June deadline for applications, the Taskforce received correspondence from a greyhound industry representative that included a large number of attachments that were identical versions of an unsigned letter, submitted in 186 different names.
- These letters did not in themselves constitute a valid application for a transition support package, due to the lack of necessary detail and authority. Regardless, the Taskforce accepted these letters as valid expressions of interest and offered the people involved an extended period until 16 July to make a final application.
- Woden Community Service, on behalf of the Taskforce, ultimately received formal applications for transition support for five people, one business and 72 re-homed greyhounds.

Cleared as complete and accurate: 08/10/2018  
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Lead Directorate: Chief Minister, Treasury and  
Economic Development

### *Racing ban*

- On 30 April 2018, the ACT became the first jurisdiction in Australia to prohibit the racing and trialling of greyhounds.
- As the Durkin Report showed, it's impossible to divorce the NSW industry from racing in the ACT.
- The NSW greyhound racing industry has demonstrated systemic failures in its animal welfare. The ACT cannot allow a sport to continue where people who repeatedly breach animal welfare laws are allowed to cross the border and race here in the ACT.
- Owning, breeding, and training greyhounds remains permissible in the ACT in accordance with the provisions of the Animal Welfare (Keeping and Breeding of Racing Greyhounds in the ACT) Mandatory Code of Practice 2018.

### *Canberra Greyhound Racing Club conducting races at Goulburn*

- While the Canberra Greyhound Racing Club is no longer able to conduct races in the ACT, it still has capacity to reach agreement with clubs in NSW to continue its racing. Any issues that occur during any of these races are a matter for NSW.

### *Legal proceedings*

- The Canberra Greyhound Racing Club has proceedings before the Supreme Court and the Federal Court to challenge various matters to do with the end of greyhound racing in the ACT.
- As these matters are still before the Court, it is inappropriate to make any further comment.

### **Key Information**

- Those exiting the industry previously had until 30 June 2018 to apply for transition support, and until 30 September 2018 to finalise packages.
- The Taskforce approved four applications with recommended packages of support submitted by Woden Community Service for people involved in the greyhound industry. Two people decided not to continue with their applications after they were approved by the Taskforce.
- The Government engaged independent consultant Ms Mary Durkin to provide an analysis of options to support the transition to end the greyhound racing industry in the ACT. The Government agreed with Ms Durkin's recommendations.

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Lead Directorate: Chief Minister, Treasury and  
Economic Development

- According to the Durkin Report, 94 per cent of the greyhounds that raced in the ACT in 2016 were based in NSW.
- Significant penalties now apply for the conduct of racing and trialling: a monetary penalty of up to \$15,000 and maximum 1 year imprisonment.
- Further, the penalties for anyone involved with arranging, conducting or knowingly participating in illegal betting activities are significant and also involve significant financial penalties and/or a period of imprisonment.
- The new fees include a 12 month registration fee for a racing greyhound set at \$612; and an annual application fee for a greyhound racing controller licence at \$640.
- Racing greyhound owners no longer need to obtain a specific permit to keep their dogs sexually entire, as this is provided for as part of the annually renewable racing greyhound registration.
- Some additional fees may apply, consistent with the provisions of the Domestic Animals Act that apply to all dogs, for example a licence is required to breed a litter from any dog (\$397.80 for two years).
- Access Canberra and the Transport Canberra and City Services Directorate established a joint agency initiative to provide appropriate inspection activity and ensure that any response to unlawful conduct is timely and dealt with by the appropriate agency.

**Background Information**

- Parliamentary Agreement Commitment 13.1 is to end Government funding for greyhound racing at the expiry of the current Memorandum of Understanding and take active steps to transition to end the operation of greyhound racing in the ACT.
- The Government ceased funding the greyhound industry on 30 June 2017 as part of the 2016-17 Budget Review. The funding was redirected to the industry transition program.
- The ending of the period of for transition support sees the completion of all 18 recommendations in the Durkin Report. Ms Durkin's recommendations largely related to the introduction of legislation to end greyhound racing, the scope of transition support to be made available and finalising the regulatory framework.

Cleared as complete and accurate: 08/10/2018  
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Lead Directorate: Chief Minister, Treasury and  
Economic Development

TRIM Ref: 2018/000083-033

**Portfolio:** Attorney-General

**ISSUE: THOROUGHBRED RACING DEVELOPMENTS – RECENT RACING  
NSW ANNOUNCEMENTS**

**Talking points:**

- Clause 12 of the Racing Memorandum of Understanding (MoU) between the ACT Government and Canberra Racing Club (CRC) and Harness Racing Club, includes a commitment for the establishment of a Joint Industry and Government Committee with a focus on the development and sustainability of racing in the ACT.
- The Committee has met on four occasions since February 2018, and discussed a range of issues including ACT Racehorse Trainers Workers Compensation, the introduction of Point of Consumption Tax, Industry Funding Arrangements, and potential land development opportunities at Thoroughbred Park.
- At the Committee meeting of 15 August 2018, the Justice and Community Safety Directorate (JACS) was briefed on the impact increased prize money in NSW country races is having on the Canberra industry.
- I met with the CRC on Tuesday, 7 August 2018 to discuss a range of issues pertinent to the Club.
- JACS is involved in ongoing discussions with the CRC, and I have asked for regular updates on this matter.
- I am pleased to hear that the negotiations with Racing NSW have resulted in Canberra trained horses once again being able to take part in the Highway Handicap Races for country trained horses.
- The ACT Government is committed to the ongoing development and sustainability of the thoroughbred racing industry in the ACT. These discussions have been occurring via the Joint Industry and Government Committee and I understand this important conversation is continuing.

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Lead Directorate:	Justice and Community Safety	

- I note that the CRC has commissioned a masterplan to consider future development options for its site and will be considering this in the near future before it looks to engage with Government.

**Key Information**

- The MoU between the ACT Government and the CRC and Canberra Harness Racing Club provides for funding to the CRC of approximately \$6.4 million (plus annual CPI – 0.5 per cent adjustment) until 2020-2021.
- The *Betting Operations Tax Act 2018* will take effect from 1 January 2019
  - All wagering operators with relevant revenues above a tax free threshold of \$150,000 per annum will be liable to pay the tax, at a rate of 15 per cent of net wagering revenue (player loss) for bets placed in the ACT.

**Background Information**Funding

- The CRC has sought further funding to cover increases to prize money, The CRC was advised by Treasury at the Joint Racing Industry and Government Committee on 19 July 2018 that the Government is not proposing to provide additional funding to the CRC from the tax at this time, though it would consider any alternate funding model which the CRC puts forward.
- The CRC has now provided JACS and Treasury with an interim report on an interjurisdictional study which sets out the funding which other racing clubs around Australia receive from POC taxes.

Sch 2 s 2.2 (a)(xi), (xvi)

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Sch 2 s 2.2 (a)(xi), (xvi)

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Sch 2 s 2.2 (a)(xi), (xvi)

#### Eligibility for NSW races

- On 24 July 2018, the CRC wrote to the Attorney-General to provide an update on a number of issues relevant to the Canberra thoroughbred racing industry.
- In 2017 Racing NSW ruled Canberra trained horses were ineligible to compete in weekly highway handicap race meetings though a ruling that classified Canberra trained horses as provincial rather than country trained horses.
- Previously Canberra based trainers were allowed to compete as country NSW trainers.
- On 18 July 2018, Racing NSW announced increases in prize money for metropolitan, provincial and country NSW thoroughbred horse races, including increasing the prize money for the Country Highway Handicap from \$60,000 to \$75,000 and from \$20,000 to \$22,000 for country races. In addition, Racing NSW announced the introduction of the Kosciusko race, to be held in October with prize money of \$1.3 million.
- Due to this classification, Canberra trained horses are ineligible to compete in the Country Highway Handicap or Kosciusko races. This significantly reduces value of prize money they are able to compete for.
- The CRC introduced the Federal races in December 2017, with prize money of up to \$50,000 as a means to compete with the Country Highway Handicap. Eligibility to compete is restricted to Canberra trained horses and NSW Country trained horses with ballot preference given to horses with Canberra as the training location on the Stable return.
- The CRC has advised JACS that the decision to exclude Canberra trainers and the increase in prize money available for NSW trained horses has resulted in a number of prominent Canberra trainers considering whether to relocate their training facilities to NSW in order to access higher prize money.
- On 27 July 2018 three prominent Canberra trainers met with Mr Peter V'landys, CEO of Racing NSW to discuss this issue.
- Mr Peter Stubbs, CEO, CRC, provided an update to JACS on this issue on 31 July 2018 and 1 August 2018.
- The CRC consider it vital to its ongoing viability that Thoroughbred Park-based trainers not move interstate. They have advised there may be flow on effects for employment in the Territory.
- The CRC Board met on 31 July 2018 to discuss the terms of a commercial offer that could be put to Racing NSW to allow for Canberra trained horses to compete as country NSW trainers.

Sch 2 s 2.2 (a)(xi)

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Lead Directorate:	Justice and Community Safety	

Sch 2 s 2.2 (a)(xi)

- On 13 August 2018, *The Sydney Morning Herald* reported that Canberra trainers are again eligible to compete in the Highway Handicaps from 1 September 2018. While NSW horses benchmarked above 50 (a rating scale for the performance of race horses) will get first preference in the Highway Handicaps, the races have not filled recently so Canberra horses are unlikely to miss out.
- Canberra trainers will not be eligible for the Kosciuszko race this year (\$1.3million race for country trained horses) as betting has already commenced.
- At the 15 August 2018 Joint Racing Industry Government Committee meeting, the CRC confirmed the arrangements reported in the press, noting that Racing NSW did not seek a financial incentive, however they have asked that NSW trained horses be eligible for the Federal races. Further negotiations about the status of Canberra trained horses for the 2019 Country Championships and Provincial Championships are continuing.

#### Thoroughbred Park masterplan

- On 23 September 2018, *The Canberra Times* reported that the CRC would be considering a Masterplan developed by the developer Lockbridge at a meeting on 25 September 2018 relating to potential alternate land uses at Thoroughbred Park.
- The CRC has reportedly agreed 'in principle' to a development masterplan that looks at opportunities to redevelop the site in Lyneham. The CRC Board has sought further detail in the masterplan from the consultant, Lockbridge, for its consideration at its next meeting on 30 October 2018.

#### Point of consumption tax

- The Betting Operations Tax Bill 2018 passed the Assembly on 18 September 2018, and the tax will commence operation on 1 January 2019.
- The Territory's model for the tax is broadly consistent with the South Australian model.
  - The tax will be set at a rate of 15 per cent of the net wagering revenue received by betting operators for bets placed in the ACT, or bets made online by ACT residents.
  - The scheme will also incorporate a \$150,000 tax free threshold for operators.
- A Point of Consumption wagering tax is being introduced to help level the playing field for all betting operators, regardless of the jurisdiction in which they are licensed. The introduction of this tax will bring the ACT into line with other Australian jurisdictions as follows:
  - South Australia's Betting Operations Tax commenced on 1 July 2017.
  - Western Australia and Queensland's Point of Consumption wagering tax schemes will commence 1 January 2019, and will be harmonised with the South Australian model.

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Safety

## QUESTION TIME BRIEF

- Victoria's Point of Consumption wagering tax will commence on 1 January 2019, but will incorporate a lower tax rate (8 per cent of net wagering revenue) and a higher tax free threshold (\$1 million).
- Tabcorp ACT is the current holder of the ACT totalisator licence. Consistent with all other betting operators providing their services to ACT residents, Tabcorp ACT will be liable to pay the Point Of Consumption wagering tax.
- At the time of the granting of the totalisator licence in 2014, the Territory and Tabcorp agreed an Industry and Community Support Deed (the deed). The deed requires Tabcorp to make significant financial contributions to the ACT racing industry, community organisations and the Problem Gambling Assistance Fund.
  - The deed also includes a number of clauses outlining circumstances in which compensation may be payable by either party, should certain events occur.
- The introduction of the ACT Point of Consumption wagering tax may trigger a requirement for the Territory to pay compensation, given the financial impact on Tabcorp ACT from being liable to pay the tax.
  - The Territory is in discussions with Tabcorp ACT to determine an agreed way forward on this matter.
- Mr Mark Parton MLA attempted to move an amendment which provided a mechanism for an unspecified proportion of the total point of consumption tax paid each financial year to be paid to the racing clubs. Mr Parton's amendment was ruled out-of-order as it has an appropriation effect.

Cleared as complete and accurate: 23/10/2018  
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Lead Directorate: Justice and Community  
Safety

TRIM ref: 2018/000083-034

**Portfolio:** Attorney-General**ISSUE: COMMUNITY CLUB GRANTS****Talking points:**

- The Government is dedicated to supporting small and medium clubs to diversify their revenue streams away from gaming machines, through viable and long-term measures to help clubs move their operations out of gaming.
- The Government has implemented a range of measures to assist small and medium clubs, including to help them to diversify their income streams. These include, from 2017-18:
  - a. introducing a small and medium club gaming tax rebate to allow smaller clubs to keep 50 per cent of their gaming taxes on up to \$4 million of gross gaming machine revenue to re-invest into their organisation
  - b. the option to make quarterly (rather than monthly) gaming machine tax and Problem Gambling Assistance Fund (PGAF) payments
  - c. the availability of a \$10,000 community club grant for the purpose of diversification towards alternative income streams.
- In August 2017, the Legislative Assembly passed amendments to the *Gaming Machine Act 2004* which implemented the tax rebate and more flexible gaming tax payment arrangements. These changes apply in relation to gaming tax payable from 1 July 2017.
- The 2017-18 Budget includes \$200,000 for Community Club Grants (the Grant). As part of its *Supporting Local Community Clubs Policy*, the ACT Government invited small and medium clubs and club groups (defined as having Gross Gaming Machine Revenue [GGMR] less than \$4m in 2016-17) to apply for a \$10,000 grant to help them to diversify their income streams away from gaming revenue.

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- Letters were sent to 17 clubs that were deemed eligible from 2016-17 GGMR data provided by Access Canberra, inviting them to apply for grants before the grant closing date of 31 October 2017.
- Fourteen grant applications were received. The Justice and Community Safety Directorate (JACS) entered into Deeds of Grants and provided funds to the fourteen clubs on 22 December 2017.
- A panel from the ACT Government assessed the applications for the grant and determined that thirteen clubs met the eligibility criteria for the Grant. Uses proposed for the grant have included: new, and refurbishments to kitchens, function areas, and entertainment spaces such as dance floors; and consultancy fees for alternative land use applications.
- Deeds require each club to provide evidence of expenditure with a final report confirming the use of the funds for the agreed purpose, including receipts and invoices, and information on any related matters. These reporting provisions will help the Government evaluate the use of the grants and acquit any funds not spent on eligible purposes.
- There was \$60,000 funding remaining after the fourteen grants were paid from the \$200,000 allocated in the 2017-18 Budget.
- A list of Community Club Grant recipients and stated purpose is available within the table at [Appendix A](#).

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**Key Information**

- Appendix A: Community Club Grant recipients and identified purpose for use of the grant

	<b>Applicant</b>	<b>Purpose</b>	<b>Amount (\$)</b>
1.	Austrian-Australian Club	Restoration of dance floor in club auditorium.	10,000
2.	Belconnen Magpies Sports Club	Consultancy fees for planning and development advice to explore alternate land use at Kippax site.	10,000
3.	Belconnen Soccer Club	Consultancy costs towards development of a childcare centre at Mackellar site.	10,000
4.	Canberra Bowling Club	Replace carpet and install a dance floor in function space.	10,000
5.	Canberra Club	Replace old kitchen equipment with updated appliances.	10,000
6.	Canberra Highland Society and Burns Club	Consultancy fees for planning and development advice to explore alternate land use.	10,000
7.	Canberra North Bowling Club and Rugby Union Club	Installation of a grease trap in the club's kitchen.	10,000
8.	Croatia Deakin Soccer Club	Update the furniture in the club's function room.	10,000
9.	Harmonie German Club	Contribute towards refurbishment of club's auditorium (bathrooms and fixtures and fittings).	10,000
10.	Italo Australian Club	A new large marquee for outdoor functions; new kitchen equipment; additional beverage delivery system; and lit signage.	10,000

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11.	Murrumbidgee Country Club	Consultancy fees to progress development of residential land on surplus club land; our kitchen refurbishment; or new outdoor furniture.	10,000
12.	National Press Club	Development of additional private function and dining facilities.	10,000
13.	Spanish Club	A new custom made marquee for outdoor events and construction of a new six lane petanque court.	10,000
14.	Canberra Irish Club	Consultation fees to investigate redevelopment of site improve food area; Upgrade equipment for live music performances; upgrade bar fridges; or purchase of new Point of Sale equipment.	10,000

### Background Information

- A club group is defined as two or more related licensees, where each licensee is related to at least one other licensee in the group. To help clubs determine whether they are part of a club group, the *Gaming Machine Amendment Act 2017* sets out the circumstances where a relationship between clubs results in them being considered as part of a club group. Club groups were be eligible to apply for one Grant of \$10,000.
- The three clubs that were eligible for a grant but did not apply may be frustrated that they have missed out on this potential support. These clubs are: The Belconnen Bowling Club; the Canberra Racing Club;; and the Yowani Country Club.
- Activities that contribute towards diversifying a club's revenue streams away from electronic gaming towards alternative income streams will be eligible for the Grant. Examples of activities that would be supported include:
  - consultancy fees for planning and development advice, including advice on possible alternative land uses;
  - financial advice on diversification options;
  - investment in new or improved:
    - food and beverage offerings (e.g. establishing a new cafe, purchasing a new oven);
    - fixtures and fittings in non-gaming areas (e.g. improving function room facilities);
    - non-gaming services or facilities (e.g. entertainment options); or
  - other advice, activities, facilities or equipment where the club can demonstrate a clear connection to diversification away from gaming machine revenue towards a viable alternative income stream.

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- Grant funds cannot be used for:
  - any gambling-related activity, such as improvements to gaming areas, gaming equipment or gaming facilities;
  - the purchase of stock, consumables or payment of ongoing club operating costs (including payroll, utilities etc); or
  - payment of government fees, charges, taxes or fines.
- Recipient clubs were required to provide expenditure reports or to remit to the ACT. Government any grant funds not spent by 30 June 2018.
- Expenditure reports were due on 31 July 2018. JACS has received seven expenditure reports and is following up on the other seven. The reports will contribute to the evaluation of the program.

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TRIM Ref: 2018/000083-001

**Portfolio:** Attorney-General**ISSUE: DPP RESOURCING****Talking points:**

*Immediate resourcing following the NOUS Strategic Review in 2018-18 Budget review*

- The Government is committed to supporting the vital work of the Director of Public Prosecutions (DPP).
- This commitment can be seen in the increases in funding immediately following the NOUS Group Strategic Review of the DPP and in recent announcements of baseline funding increases coming into effect over the mid to long term.
- The Government announced in the 2018-19 Budget that an additional \$6.922 million funding will be provided over four years for additional prosecutorial and paralegal staff.
- This funding will be provided progressively with an additional six FTE from 2018-19.
- In 2021-22 there will be a total of 12 additional FTE for the DPP.
- This staffing increase will be supplemented by a one off capital injection of \$350,000 for expanded accommodation.
- The 2017-18 Budget also allocated three full time prosecutors for the Eastman matter in the 2017-18 year and one ongoing prosecutor to increase the capacity of the DPP.
- The 2017-18 Budget Review provided resource allocations for four full time additional staff in 2017-18 and 2018-19 to support the work of the Confiscation of Criminal Assets scheme.
- This built on funding of \$1.363 million over four years from 2016-17 Budget through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence.
- This follows an announcement that the DPP will be provided with \$987,000 over four years for additional staff to support the increased capacity of the Magistrates Court.

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- I am confident that the appointment of an eighth magistrate, the additional funding for Legal Aid and the DPP, the re-appointment of special magistrates, and recent amendments to justice legislation across the statute book aimed at building efficiency will improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about separate administration and direct appropriation for the DPP*

- NOUS consulting recommended the DPP should be directly appropriated rather than as part of the Justice and Community Safety Directorate (JACS).
- The Government's approach to date has been to use the administrative resources of JACS to offer economies of scale to smaller, independent agencies. Services like human resources and finance are provided by a centralised team in JACS to other agencies, including the Human Rights Commission and the ACT Emergency Services Agency.
- The Government is considering the NOUS recommendation and will work with the DPP to ensure that our model of appropriation and funding is as efficient as possible, and appropriate to the DPP's working environment.

*If asked about the upcoming selection process for appointment of the DPP -*

- On 4 July 2018, I extended the appointment of the current ACT Director of Public Prosecutions, Mr Jon White SC, until 31 December 2018.
- This extension will allow time for my directorate to lead an open and transparent merit selection process.
- I also asked JACS to engage the services of an executive recruitment firm to ensure the ACT receives a wide array of applications from competitive and suitable applicants, both from within the ACT and across Australia.
- Advertisements seeking expressions of interest for the position were published in the press on Friday, 27 July 2018. Applications closed on 19 August 2018 and the selection process is ongoing.

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*If asked about the impact of new Supreme Court Practice Direction 2 of 2018:  
Criminal Case Conferencing on DPP resourcing*

- The ACT Supreme Court has introduced a formal case conferencing mechanism for criminal matters committed for trial.
- The case conference will involve defence and prosecution counsel attending a two hour conference convened by a judge to work through issues in dispute in the trial, the charges, the evidence, and the way evidence will be presented in the trial.
- The case conferences have the potential to assist both parties to resolve matters early and supports a more efficient trial procedure, which will have positive benefits to victims, accused persons, and the court.
- It will apply to all matters committed for trial from 20 August 2018. The first round of conferences are scheduled to occur from 29 October 2018 to 5 November 2018.
- I understand that the scheme will be reviewed after a six month trial.
- The Director of Public Prosecutions has expressed concerns about the impact the scheme will have on the resourcing of his office. Specifically, that the case conferencing will mean that senior prosecutors will be required to spend additional hours at court participating in the case conference as well as additional time preparing for the conference.
- While I acknowledge these concerns, I support the objectives of the scheme and any efforts to facilitate the efficient, transparent, and fair resolution of criminal matters.

**Key Information**

- In the 2017-18 Budget, the Government provided additional funding (1 FTE ongoing) to increase the capacity of the DPP to better support prosecutions in the Territory. It also provided funding for costs associated with the retrial of Mr David Eastman and other related proceedings. Funding was provided for an additional three positions in the DPP, external counsel costs, witness expenses and other administrative costs.
- Mr Eastman's re-trial has commenced. It is expected to run for four – six months. The trial has now been running for three months and is expected to run for a further two months.

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- The DPP has undertaken significant preparation for the pre-trial and trial.
- The Government also provided four full time additional staff (in 2017-18 and 2018-19 only) to support the work of the Confiscation of Criminal Assets scheme as part of the 2017-18 Budget Review.
- That funding will assist the DPP to keep pace with demand and respond to the needs of the court, police, other investigative agencies and the criminal justice sector more broadly.

*If asked for specifics about the 2018-19 baseline business case*

- Base level funding: \$6.922 million over four years plus \$350,000 one off capital injection for accommodation
- Full Time equivalent (FTE) additions
  - One Prosecutor Grade 4; two Prosecutors Grade 3; one Paralegal Grade 4; two Paralegals Grade 3 ongoing from 2018-19
  - One Prosecutor Grade 5; one Administrative Officer Grade 5 ongoing from 2019-20
  - Two Executive (Crown Prosecutors) ongoing from 2020-21
  - One Prosecutor Grade 4; one Paralegal Grade 3 ongoing from 2021-22
- The NOUS review recommended a 30 per cent increase in grade 3, 4 and 5 prosecutors within 12 months. Nous' basis for concluding that FTE positions for prosecutors will need to increase by 30 per cent at a minimum, is unclear.
- The additional baseline FTE in 2021-22 will represent an increase of new prosecutors plus new executives of 17.4 per cent on 2016 -2017 FTE levels (according to Agency Profile Table, DPP Annual Report 2016-17, p 49).
- Additional FTE from 2018-19 through the out-years is shown below:

<b>Position Level</b>	<b>2018-19 FTE</b>	<b>2019-20 FTE</b>	<b>2020-21 FTE</b>	<b>2021-22 Total extra FTE</b>
Executive / Crown Prosecutor			2	2
Prosecutor Gr 5		1	1	1
Prosecutor Gr 4	1	1	1	2
Prosecutor Gr 3	2	2	2	2
Para Legal Gr 4	1	1	1	1
Para Legal Gr 3	2	2	2	3
Admin Officer Gr 5		1	1	1
<b>Total</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>12</b>

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2017-18 Budget:

- Recurrent: (\$3.028 million over four years):
  - three additional resources and other operational costs relating to retrial of Mr David Eastman and related proceedings (\$2.257 million) in 2017-18 only
  - one Prosecutor Grade 4 over four years (\$0.771 million).
- Full-time equivalent (FTE):
  - one Prosecutor Grade 1 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 3 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 over four years.

DPP Review:

- The Nous Group delivered its report on the DPP Strategic Review on 9 August 2017.
- The Report notes the DPP efficiently performs a wider range of functions relative to its equivalents in other jurisdictions. Nous believes growing pressures, both in culture and practice, will likely threaten the DPP's capacity to meet its workload in the near future.
- Noting demand projections, the Report makes five broad recommendations:
  - provide increased funding to the DPP immediately and in the mid to long-term
  - apply a unified resourcing justice strategy to the ACT justice system as a whole
  - directly appropriate funding to the DPP, rather than via the JACS appropriation
  - allow paralegals to appear in simple applications in the Magistrates Court
  - develop a more efficient platform to share information between courts, law enforcement, corrective services and the DPP.

**Background Information**DPP Strategic Review

- Nous Group noted in its report that cultural pressures include growing numbers of complex and time-consuming cases (i.e. sexual assaults, appeals, confiscation of asset referrals), introduction of new pre-trial evidence and procedures and changing community expectations (i.e. employing special approaches for vulnerable witnesses).
- Structural pressures include the recent introduction of a fifth ACT Supreme Court Judge, additional financial staff for organised crime investigations by the Australian Federal Police and expansion of the Supreme Court, which will reduce trial listing periods to five weeks (down from an average of nine weeks) and provide two additional courtrooms for jury trials.

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- On 16 October 2017, the DPP published its 2016-17 annual report. The Director's overview broadly outlined the Review's findings, including the cultural and structural pressures facing the ODPP. The DPP called for additional senior prosecutors to meet the trends of increasing workload on complex criminal matters. The DPP also emphasised his concern that the new Supreme Court facility will significantly increase the number of jury trials, and that the DPP will be unable to meet this growth without a corresponding increase in funding.
- *The Canberra Times* reported on the DPP's comments in the Annual Report on 17 October 2017.

Previous budget increases:

- In the 2016-17 ACT Budget, the DPP received funding of \$1.363 million over four years through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence (three FTE in 2016-17 and 2017-18, 2.5 ongoing).
- The 2016-17 Budget provided \$2.325 million for a specific team in the DPP (3 FTE) to represent the office to progress the retrial of Mr David Eastman for the murder of Mr Colin Winchester and other related proceedings.

This funding follows previous years' supplementation to the DPP totalling \$1.7 million from 2012-13 to 2015-16 for the Eastman matter.

- In the 2014-15 Budget, the Government provided \$1.158 million over four years to establish a Work Safety Prosecutions Unit supported by 2 FTE, as well as \$0.027 million in one-off capital funding for fit-out and fixtures to accommodate the new unit.

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WorkSafe Prosecutions

- The Industrial Court Magistrate, Chief Magistrate Lorraine Walker, criticised the prosecutions of several work safety matters. On 6 December 2016 and 14 July 2017, *The Canberra Times* reported comments made by the Chief Magistrate that were strongly critical of the DPP handling of workplace health and safety matters. She also expressed concern that resources in the DPP are generally not being provided for industrial court matters.
- On 8 November 2017, during annual report hearings the DPP answered a question about what could be done to increase the chances of success in industrial prosecutions. The DPP noted the question was difficult to answer concisely. He explained that industrial deaths are difficult to investigate and require a criminal standard of investigation from a very early stage. He also noted the need for ‘unimpeachably high quality’ expert reports.
- The DPP suggested that deaths on Canberra construction work sites be treated as criminal investigations. *The Canberra Times* reported on the DPP’s comments on the same day.

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TRIM: 2018/000083-015

**Portfolio:** Attorney-General**ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS****Talking points:***Eighth Magistrate*

- On 9 April 2018, I announced that the 2018-19 Budget would provide an additional \$3.1 million over four years in funding to support the appointment of an eighth full time resident Magistrate.
- I was pleased to announce the appointment of Ms Louise Taylor as the eighth magistrate on 10 August 2018. Ms Taylor commenced work on 10 September 2018 and her ceremonial sitting was held on 17 September 2018.
- Ms Taylor has over 15 years of experience as a lawyer in the ACT, including specialist experience as a prosecutor in criminal law. This has included experience in the offices of both the Commonwealth and ACT Directors of Public Prosecutions, and has involved oversight of the ACT's Family Violence Intervention Program.
- As the Deputy CEO of Legal Aid ACT since 2014, Ms Taylor has had direct management of the Legal Aid Commission's litigation practice, specifically in the areas of family and criminal law.
- Ms Taylor's appointment reflects the ACT Government's commitment to provide the ACT Magistrates Court with the resources it needs to meet increasing demand.
- In addition to resourcing the new Magistrate position, Legal Aid ACT will receive an additional \$1.3 million and the Director of Public Prosecutions (DPP) will be provided with \$987,000 for additional staff to support the increased capacity of the Magistrates Court.
- An eighth Magistrate means our courts can build on their excellent work from recent years, and also provide the resources it needs to meet increasing demand.

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- The appointment of an additional Magistrate, additional funding for Legal Aid ACT and the DPP along with recent amendments to justice legislation across the statute book will help improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about the recruitment of the 8<sup>th</sup> Magistrate*

- This process was conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.
- Nominations were sought from the local legal profession, including the Law Society of the ACT and the ACT Bar Association, community legal centres, and also from my counterparts interstate.
- With her wide-ranging experience in criminal prosecution and defence, particularly in the ACT context, as well as her contribution to the ACT community in volunteer roles, I am confident that Ms Taylor will make a significant contribution to enhancing access to justice outcomes at the ACT Magistrates Court

*If asked about the Chief Magistrate's views*

- I acknowledge the Chief Magistrate's view that further resources are needed for the Magistrates Court.
- As Attorney-General, I will continue to consider resourcing of the justice system as a whole, and to make sure that each component is working effectively to support an effective justice system in the ACT.

*Special Magistrates*

- The Government has also re-appointed two Special Magistrates to continue sitting within the Court as required until the end of 2018, working at a little over half an FTE each.
- Special Magistrates provide the Court with flexibility and adaptability in its listing practices and allow it to cope with unexpected absences.
- The eighth Magistrate combined with the re-appointment of the special Magistrates expands the Magistrates Court capacity from its current levels.

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### Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- This is partly offset by rollover from the current fee for service budget for a part time pathologist, and by revenue for non-complex autopsy work done on a contract, fee for service basis by the ACT Forensic Medical Centre for the Queanbeyan and Goulburn Coroners.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.

### Magistrate terms and conditions

- The Government introduced a bill to support Magistrates by making the terms and conditions of their office more inclusive. The Bill passed on 20 September 2018. The amendments will increase the retirement age of Magistrates from 65 to 70, and will also introduce a mechanism for Magistrates to be appointed or to work part-time.
- These changes will provide greater flexibility for the Court to manage its business, while supporting Magistrates who wish to transition to retirement or temporarily reduce their working hours to accommodate family or carer responsibilities for example.
- These reforms will commence within the next 6 months, when arrangements to support the changes in the Bill have been put in place.

### Magistrates Court Initiatives

- I particularly want to thank the Magistrates, Court staff and Supporting Prosecution and Legal Aid Practitioners for their patience and professionalism in providing the Canberra community with outstanding service.
- I acknowledge it has been a challenging period with the Court redevelopment, registry process overhaul and implementation of the Integrated Case Management System.

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- I acknowledge that these important initiatives have placed additional pressure on the work of Court staff and Practitioners.
- I am confident that these initiatives will deliver support for the Bench and staff to undertake their vital work while increasing the efficiency of the Court as a whole.
- The sustained investment by the ACT Government in this transformational work demonstrates our commitment to deliver an accessible, fair and efficient justice system.
- The Government is committed to working with the Chief Magistrate, Chief Justice and Courts and Tribunal administration staff to leverage efficient block and over-listing practices.

### Dedicated Coroner

- It is important to recognise that decisions about organisation of the Magistrates and Coroner's Court, and how resources are allocated for coronial hearings are ultimately a matter for the Chief Magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time ('Chief Magistrate says eighth magistrate 'not enough', Canberra Times, 10 April 2018).
- The Government is conscious of the benefits that could come from building specialist coronial expertise among the Magistrates who all hold an active coronial case load.
- Benefits would include increased public awareness of the role and public significance of the coronial jurisdiction and improved co-ordination and collaboration across government in resolving inquiries and inquests and implementing recommendations.
- I am pleased that a number of procedural and policy changes across the Magistrates and Coroner's jurisdiction have seen efficiency improvements.
- For example, in the Coroner's jurisdiction more post-mortems are being conducted by CT-scan external examination, more matters are being finalised in-chambers without hearing, delegation of fire inquiry work to the Deputy Coroner continues to be efficient, and the Legal Manager is

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routinely providing in-house Counsel Assisting services where appropriate, rather than briefing external Counsel.

- The availability of a resident full time forensic pathologist will also support more timely post-mortem and autopsy investigations which will mean that the deceased will be able to be released to their loved ones sooner, and the Coroner will be better supported in investigating the manner and cause of death.
- The *Courts and Other Justice Legislation Amendment Act 2018* (the Act), commenced on 26 April 2018 and made amendments which support non-invasive finalisation of cases by making processes for conduct of ancillary examinations, establishing coronial investigation scenes and provision of medical records more flexible.
- That Act also made changes to streamline jury processes and enforcement of ACT Civil and Administrative Tribunal orders in the Magistrates Court.

#### **Key Information**

- The criminal jurisdiction of the Magistrates Court has struggled to meet demand with a 15 per cent increase in lodgements leading to a 23 percent increase in pending matters and 15 per cent increase in cases pending for more than 12 months (excluding failure to vote charges resulting from the 2016 ACT election).
- There was a very slight increase in coronial cases lodged to 299 from 292 in 2015/16, but the Government's suite of legislative reforms in 2014 continues to mean this is much lower than the more than 1100 cases lodged in 2013/14 and 2012/13.
- The workload of the Coroner's Court can fluctuate depending on the circumstances of particular cases. For example the Court received two uncommon notices relating to deaths in the Jervis Bay and Australian Antarctic Territories that it will deal with by agreement with the Commonwealth Government.
- Just as workload can fluctuate, some complex or sensitive cases take longer to hear and resolve. In 2016-17 the median number of days to finalise a case was 94, up from 75, which exceeded the target of 85 days. This was in part due to a number of long and complex coronial matters being finalised.

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**Background Information**

- You have asked the Justice and Community Safety Directorate to prepare terms of reference for a review of Supreme Court and Magistrates court efficiency. A business case is being developed for one off funding for the 12 month review for consideration in the 2019-20 budget.
- The Chief Coroner considers that the appointment of an additional full-time Magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- Having an additional Coroner would improve efficiency and timeliness, coordination and oversight of those matters, and would contribute to the development of specific coronial expertise.
- You have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- The Justice and Community Safety Directorate recently met with family representatives in relation to a number of complex cases where the timeliness of the Coronial process, transparency of case progress and communication with families could have been better.
- There are a range of supports and networks across government for those affected by the sudden and unexpected death of a loved one, including the ACT Coronial Counselling Service which is available to bereaved families, friends and community members. The service is provided by ACT Health and Relationships Australia and is designed to provide free support and counselling to anyone affected by a death being investigated by the ACT Coroners Court.

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TRIM Ref: 2018/000083-012

**Portfolio:** Attorney-General**ISSUE: REFORMS TO THE OPERATION OF THE CORONERS COURT****Talking points:**Budget Announcement

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised effectively.
- The 2018-19 Budget provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.
- The 2018-19 Budget also provides \$3.1 million in funding over the next four years to appoint an eighth full time resident magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time.

Improvements to support families

- The Government is examining options for supporting the operation of the Coroner's court through administrative and legislative reforms.
- The Government is also continuing to consider reforms to better deliver the justice needs of families, affected people and the community through the coronial process.
- As part of this consideration, the Government is working with families to make sure that any reforms to coronial processes support the needs of people affected by a death.

Cleared as complete and accurate:	05/10/2018	
Cleared by:	Executive Director	Ext: 70674
Information Officer name:	Daniel Ng	
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Lead Directorate:	Justice and Community Safety	

- In October 2017, I met with families of three young men whose deaths have been subject of extensively delayed coronial inquests.
- This group of family representatives has been advocating for reforms to the coronial process including changes to address lengthy delays throughout all stages of the coronial inquest, and to improve communications with family members about the progress of inquests, Government responses and actions taken to address recommendations.
- After hearing the experiences of these family members I have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- Officers from the Justice and Community Safety Directorate met with the families to discuss potential legislative reforms on 21 March 2018.
- I anticipate that the process of consulting with stakeholders to consider and develop reforms, including legislative amendments, will begin in the coming months.

### **Background Information**

- The Chief Coroner considers that the appointment of an additional full-time magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- You have directed the Justice and Community Safety Directorate prepare a business case for a Coroner's Court Family Liaison Officer who will provide a dedicated and consistent point of contact for families involved in the coronial system.

Cleared as complete and accurate:	05/10/2018	
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TRIM Ref: 2018/000083-004

**Portfolio:** Attorney-General**ISSUE: DRUG AND ALCOHOL COURT****Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- The Government is undertaking the scoping and design work for a DAC in collaboration with the justice, drug and alcohol service sectors.
- A DAC requires a range of services both in the court context and to provide treatment, supervision and support in the community. As such this is a complex program of work and requires the planning phase to be very carefully considered.
- Alcohol and other drug treatment services in particular need to be planned to ensure appropriate therapeutic treatment pathways are clearly identified for DAC participants. The Government has held consultation workshops with the alcohol and other drug service sector to support this planning process.
- The effectiveness of DACs in achieving long-term behavioural change in offenders is supported by a substantial body of research. Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes.
- The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services and a high level of judicial intervention.
- The Supreme Court has developed proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns. These proposals are under consideration by Government.

Cleared as complete and accurate:	05/10/2018	
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Information Officer name:	Karen Greenland	
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**Background Information**

- Funding to support the development work for the DAC was provided through the 2017-18 Budget process, the 2017-18 Mid-year Budget process and the 2018-19 Budget process.
- There are a number of key considerations to resolve, such as clearly identifying the appropriate cohort of offenders who should receive this form of intensive intervention, and establishing clear pathways into treatment. These considerations require a whole of government approach to ensure the chosen model operates effectively.
- An operational DAC requires a significant investment in terms of resourcing across government and non-government services. The Government will be considering the resource needs of the DAC through future budget processes.
- Recent media inquiries have asked about the timing of release of the University of New South Wales (UNSW) report for an evaluation framework for a DAC. This work was the subject of consultation with a wide range of stakeholders in the alcohol and drug sector so its existence is widely known in that sector. The report was handed down to Government at the end of November 2017, but has not been publicly released.

Cleared as complete and accurate:	05/10/2018	
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TRIM Ref: 2018/000094-001

**Portfolio:** Attorney-General**ISSUE: ACT Law Courts Public Private Partnership (PPP) - Progress****Talking points:**

- Stage 1 has been completed, with the Courts moving into the new building on the weekend of 13/14 October. A smoking ceremony was held prior to courts commencing operations on 15 October 2018.
- Works on Stage 2 (the refurbishment of the existing Supreme Court) commenced on 15 October 2018. The latest completion programme issued by Juris and Laing O'Rourke indicates Stage 2 completion in the third quarter of 2019.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the Public Private Partnership (PPP) contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time.
- These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 1 will deliver six courtrooms (including five jury courtrooms).

Cleared as complete and accurate: 17/10/2018  
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## Key Information

### The ACT Law Courts Project

- The Territory entered into contract with Juris Partnership (Juris) in December 2015 to design, build, finance and maintain the ACT Law Courts under a PPP arrangement (the Project). The Project represents a capital investment in the ACT Law Courts of over \$160 million.
- The Juris Partnership consortium includes Laing O'Rourke Australia Construction Pty Ltd, Macquarie Capital Group Limited and Programmed Facility Management Pty Ltd.
- The Project is being delivered in two main stages. Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 2 completes the project with the refurbishment of the existing Supreme Court building. Stage 1 will deliver six courtrooms (including five jury courtrooms) and Stage 2 will deliver the remaining two non-jury courtrooms.
- On completion of Stage 1, the operations in the existing Supreme Court building will decant into the new building. As such, Stage 2 cannot commence until Stage 1 is complete.
- Under the PPP contract Stage 1 was due to be completed by 24 November 2017 and Stage 2 by 28 August 2018.

### Progress of the Project (delays)

- Stage 1 of the construction phase is subject to significant delays. As at Commercial Acceptance the duration of the delay will be ten and a half months.
- The latest completion program issued by Juris and Laing O'Rourke indicates that Stage 2 completion would be expected in Q3 2019.

Sch 2 s 2.2 (a)(xi)



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### Operational consequences of the delay

- During the construction phase for the new facilities the Court has retained use of the same number of courtrooms (both jury and non-jury) as were available prior to commencement of the Project. The main operational impact of the Stage 1 delay is that completion of this stage will provide five jury courtrooms in place of the three that are currently available.
- The Court has been kept fully apprised of the delay and has taken this into account when listing matters in 2018.
- Consistent with past practice, the Court has continued to utilise the Queanbeyan courthouse to provide additional jury trial capacity when required.
- The Court has also used the Military Court at Fyshwick as a result of the pressure on courtrooms arising from the delay.
- The delays have not had a direct detrimental effect on the capacity and functioning of the Court.

### Financial consequence of the delay

- Under the PPP contract arrangements, except for certain exceptional circumstances, Juris assumes full risk for the time it takes to complete the works. Accordingly, the contractor is not entitled to any additional payments due to completion being later than the dates set out in the contract.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the PPP contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time. These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- The cost (and value-for-money) of the project to the Territory is measured as a Net Present Cost (NPC) of the future payments to be made to Juris over the term of the contract. At the date of entering into the contract, the NPC was calculated at \$250.4 million as set out in the published Contract Summary.

Due to the delays in construction the NPC of the future payments due to be made by the Territory will reduce compared to the amount initially expected. The extent of this reduction will not be calculated until after both Stages have been completed.

**Background Information**

- The contractor's target date for Stage 1 completion (September 2018) is based on providing the new facility in a condition that is fit for purpose for the Court functions, but still has some works remaining to be completed. Examples of works that may be incomplete are:
  - completion of the cladding to the 'hood' structures to the Vernon Circle façade;
  - completion of landscaping (planting) to the Vernon Circle frontage; and
  - installation of commissioned artwork.
- JACS and the Court have not yet accepted the premise of completion with incomplete works. However, there is a contractual mechanism to allow this and if beneficial occupation and use can be achieved earlier then this may be an option that is pursued.
- Based on the currently projected dates for Stage 1 and Stage 2 completion, the avoided Monthly Service Payments (MSPs) through 2017-18 and 2018-19 (compared to what would have been payable if the contract dates were achieved) amounts to circa \$16.9 million. After accounting for delay-related increases to capital and recurrent costs it is expected that approximately \$10m of this saving would be returned to the Budget.
- The Territory has served two Major Default Notices (MDN) on Juris relating to the failure to complete Stage 1 in November 2017. The remedy period to rectify the MDN (i.e. to achieve completion) has been extended once and is due to expire on 7 December 2018. If completion is not achieved by this date the Territory will be entitled to terminate the contract, however it is unlikely that termination would be the best option for the Territory.

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TRIM Ref: 2018/000083-010

**Portfolio:** Attorney-General**ISSUE: BAIL LAWS****Talking points:**Purpose of bail laws

- Bail allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law. The ACT *Bail Act 1992* (Bail Act) is designed to: balance competing rights, interests and expectations; ensure accused people attend court; and manage the risks that might arise while a person is on bail.

Decisions to grant bail

- Deciding to grant bail requires an assessment of risk which is taken into consideration under our bail laws including through: presumptions against bail for certain offences; conditions of bail which can be imposed; and the role of ACT Policing (ACTP) in ensuring that offenders comply with their bail conditions.
- There is no data available about the number of instances where a person offends on bail, but the ACT Government is satisfied on the basis of available information that the mechanisms currently in place to determine the issue of bail and management of people on bail are satisfactory.
- The ACT Government commenced a two year trial Bail Support Program in December 2017 to contribute to the Government's commitment to reduce recidivism. The Program is designed to support Aboriginal and Torres Strait Islander people released on bail and is operated from within the Aboriginal Legal Service. Of the 43 participants (as at September 2018) none have reoffended. Only eight have breached bail with four being released again on bail and four being returned to custody.

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## Review of bail laws

### *Section 44 of the Bail Act*

- The *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* introduced an own-motion bail review power for the Director of Public Prosecutions (DPP).
- This provides the DPP with a right to apply to the Supreme Court for a review of a bail decision made by the Magistrates Court, where the accused has been charged with a domestic violence offence or serious offence, if the prosecutor considers that exceptional circumstances exist and that it is in the public interest to make the application. The reform provides for an accused to be detained for up to 48 hours pending the Supreme Court review.
- Since section 44 commenced operation on 1 May 2017, the DPP has given oral notice of a proposed application twice and on both occasions did not ultimately proceed to make an application to the Supreme Court. The accused persons were held in custody for periods of less than two hours by ACT Corrective Services (ACTCS) prior to being released on bail.
- The operation of section 44 is to be reviewed after two years of operation (May 2019).

### *Section 9F of the Bail Act*

- At the conclusion of a recent inquest, Coroner Cook recommended the ACT Government review section 9F of the Bail Act which creates a presumption against police bail for a person charged with a family violence offence. Coroner Cook expressed concerns that the presumption against bail might never be able to be displaced in practice.
- Consideration will be given to whether any amendments are required to section 9F. The ACT Government is committed to ensuring that the criminal justice system works to protect complainants and victims from harm to the fullest extent possible. This imperative is held together with the need for custody to be a measure of last resort in achieving this protection.

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## Background Information

### Presumptions under the Bail Act

- Under the Bail Act there is a general presumption in favour of the grant of bail and entitlement to be at liberty. However, there are limitations on this entitlement. For example, for murder and certain serious drug offences, there is a presumption against bail and a court must not grant bail to the person unless satisfied that special or exceptional circumstances exist favouring the grant of bail.

### Statement of incompatibility: section 9C of the Bail Act

- The declaration of incompatibility with human rights made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) relating to section 9C of the Bail Act (presumption against bail for certain offences) has not resulted in legislative amendment.
- In the final Government response (tabled 1 May 2012) community views were requested on options for amendments to the Bail Act. Due to the diverse views received during consultation the ACT Government elected not to pursue any of the three options originally proposed

### Section 56A of the Bail Act – Arrest without warrant for failure to comply with bail conditions.

- ACTP have recently been criticised in the ACT Magistrates Court (June 2018) for failing to exercise their discretion not to arrest a person for breaching a bail condition (reporting late to the police station) under section 56A of the Bail Act.
- The ACT Supreme Court ruled in the case of *Andrews and Thomson* [2018 ACTSC 199 on 30 July 2018 that section 56A did not permit police officers to enter premises to effect an arrest for breach of bail conditions. This decision and whether legislative amendments should be pursued are currently under consideration.

### Requirement in section 17 of the Bail Act for a person in custody to be brought before a court for consideration of bail within 48 hours

Recently the Chief Magistrate convened a meeting of stakeholders, including ACTP, DPP, Legal Aid, Bar Association and Law Society and ACTCS to discuss practical approaches to ensure that section 17 is complied with. The Chief Magistrate discussed options with other magistrates and advised that the Saturday bail court will continue to commence at 9am (usually finishing around two hours later) but that there will be provision made for reconvening of the court later on Saturdays if this is necessary to ensure compliance with the requirements of the Bail Act.

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TRIM Ref: 2018/000083-035

**Portfolio:** Attorney-General**ISSUE: EASTMAN TRIAL UPDATE****Talking points:**

- The retrial of Mr David Harold Eastman demonstrates that the ACT judicial system is functioning independently and appropriately. The system has upheld the defendant's right to a fair trial.
- The Government has shown absolute commitment to due process in support of the inquiry and subsequent legal processes.
- The re-trial of Mr Eastman commenced on 18 June 2018 following the empanelment of the jury on 4 June 2018.
- The media is reminded that the individuals who attend for jury service have a right to privacy. In order to respect this right, the media is asked, in particular, to avoid photographing or otherwise recording any member of the jury panel.
- The defence closed its case on Wednesday, 26 September 2018. At the parties' request there was then a 'break' to allow the parties to prepare closing addresses that are to commence on Monday 8 October 2018.
- In total, taking into account a further application heard 2 October 2018, there have so far been 58 sitting days since the trial commenced on 4 June 2018.
- The parties' closing submissions and His Honour's charge to the jury is expected to take 2 to 3 weeks. As it is expected that the trial will move to the new building on 15 October 2018, it is to be hoped that the jury will be in the new building at the time it retires to consider the verdict, probably at the end of October.

**Key Information**

- It is estimated that the matter will be completed by the end of November/early December 2018.
- This estimate:
  - Takes into account the possibility that the defence will lead some evidence; and

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Safety

- allows for the addresses to the jury by the parties at the end of evidence; and
- includes the expected time necessary for the charge to the jury by Kellam AJ at the end of the parties' addresses.
- Of course this estimate assumes that there are no unexpected eventualities.
- The trial commenced with 16 jurors and is now continuing with 14 jurors, 2 jurors having been discharged for health and other reasons. Two jurors will need to be removed by ballot before the jury retires.
- Since March 2015, during the period of the pre-trial and trial, there have been (so far) a total of 48 written decisions handed down. There are no reserved decisions.

### **Background Information**

#### If asked - What funding has been provided in the 2018-19 budget?

- In 2018-19, the total funding for the Eastman matter is \$6.079 million.
  - \$2.2m to the Director of Public Prosecutions
  - \$2.159m to the ACT Courts and Tribunal
  - \$1.025m to Legal Aid Commission
  - \$695,000 to the ACT Policing.

#### If asked - What funding was provided in the 2017-18 budget?

- In 2017-18, the total funding for the Eastman matter was \$7.360 million, including funding for the courts and Legal Aid.
- In addition, funding of \$2.257 million was also provided to the Office of the Director of Public Prosecutions (DPP).

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TRIM Reference MIN:2018/000085-001

**Portfolio/s:** Attorney-General**ISSUE: COURTS COAT OF ARMS****Talking points:**

- The Government worked with the judiciary on the design of the new Courts building and will continue to do so.
- There are currently no plans to install an ACT coat of arms at the new combined entry to the ACT Law Courts or behind the bench in the courtrooms or hearing rooms in the new building.
- The wording “Law Courts of the Australian Capital Territory” is placed over the entry.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This was agreed to as an appropriate heritage consideration.

**Key Information**

- The design for the new facility was originally intended to include a large Territory Coat of Arms prominently displayed at the public entrance to the building. In addition, as is the convention, a Coat of Arms was also to be installed behind the bench in each new courtroom.
- The Chief Justice preference is the building not be badged (either externally or internally) with the Territory Coat of Arms at all. There are a number of reasons for this, one of which is the view that the Coat of Arms used by the Territory is actually a Coat of Arms granted to the City of Canberra only, and is therefore inappropriate for use by the courts.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This existing Coat of Arms will remain only as a key piece of the heritage fabric of the building.
- It may be a matter of concern that the ACT Law Courts building has a Commonwealth Coat of Arms but not a Territory one.

Cleared as complete and accurate:	10/10/2018	
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Contact Officer name:	Melissa Tierney	Ext: 53196
Lead Directorate:	Justice and Community Safety	

## Background Information

- The Territory Project Team has been approached on a number of occasions by a group seeking to have the Territory Coat of Arms changed as, in their opinion, it is not representative of the ACT, only the City of Canberra. On these occasions, the advice has been that changing of the Coat of Arms is a matter for Government, but that we would keep them updated on progress on the project.

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Cleared as complete and accurate:	10/10/2018	
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## QUESTION TIME BRIEF

TRIM Ref: 2018/000089-001

**Portfolios:** Chief Minister

Police & Emergency Services

Attorney-General

### **ISSUE: NATIONAL SECURITY ISSUES (INCLUDING BIOMETRICS)**

#### **Talking points:**

#### Counter Terrorism (Chief Minister)

- Australia is one of the most successful and most harmonious multicultural societies in the world, which is one of our greatest strengths against terrorism and violent extremism.
- Our identity is defined by an overriding commitment to our nation, its democratic values and the rule of law, not by race, religion or ethnic background.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- We cannot eliminate entirely the risk of terrorism any more than we can eliminate the risk of any serious crime. But we will do all we can to keep our community safe from those who seek to do us harm.
- Terrorism is a national issue, and we work closely with our interstate partners on the national security challenges that Australia faces.
- These national security challenges continue to evolve, so we need to keep our legislation and capabilities under constant review to meet these emerging issues.
- The ACT Government is committed to ensuring the safety and security of our community, and continues to work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism and violent extremism.
- The ACT continues to support community leaders and activities that help promote the vibrant, inclusive and culturally diverse nature of the ACT community while maintaining the rule of law and protecting human rights.

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- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening; call Triple-Zero (000).

#### Facial Biometric Matching Capability (Chief Minister)

- At the October 2017 Counter Terrorism Council of Australian Governments (COAG) meeting, I agreed to the terms of a national agreement that will revolutionise the way identity verification is undertaken across the country.
- As a human rights jurisdiction, the ACT has established a bilateral schedule to the national agreement to ensure ACT participation in a way that is consistent with the ACT's human rights and privacy laws, while supporting national security needs.
- Limitations placed on how ACT data can be used will not limit the ability of other jurisdictions to participate with one another in the capability.
- The ACT will continue to explore additional participation for ACT in the range of services offered by the capability, pending further privacy and human rights scrutiny.

#### If asked about recent reports that the Australian Criminal Intelligence Commission has decided to discontinue its Biometric Identification Services project.

- This project is unrelated to the National Driver Licence Facial Recognition Solution, and the decision does not impact on the Intergovernmental Agreement signed in October 2017.

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Defence support to National Counter-Terrorism arrangements (Chief Minister)

- In 2016, the Commonwealth Government initiated a review of Defence support to national counter-terrorism arrangements in response to the changing nature of the terrorist threat.
- State and Territory police remain, and will continue to remain, the primary responders to any terrorist attack.
- While Defence's primary role in counter-terrorism is offshore, Defence possesses specialist capabilities that could support state and territory governments in responding to an attack.
- The Commonwealth Government in close consultation with all States and Territories has worked to develop options for practical counter-terrorism engagement and cooperation between the Australian Defence Force (ADF) and State and Territory police.
- Additionally, in 2017 the Commonwealth Government announced proposed amendments to Part IIIAAA of the *Defence Act 1903* (the Defence Act).
- Part IIIAAA provides the framework for authorising the ADF to use force to resolve a domestic violence incident, including terrorism, in support of States and Territories.
- On 28 June 2018, the Commonwealth Government introduced the Defence Amendment (Call Out of the Australian Defence Force) Bill 2018 (the Bill) to amend Part IIIAAA of the Defence Act. The Bill will seek to simplify the authorisation process for callout, and enhance the ability of states and territories to request Commonwealth assistance, through the ADF, in responding to domestic violence incidents including terrorism.
- In particular the Bill will:
  - make it easier for states and territories to request ADF support where necessary to assist in the event of a violent or terrorist incident
  - allow the Government to pre-authorise the ADF to respond to threats on land, at sea and in the air
  - simplify, expand and clarify the ADF's powers to search, seize, and control movement during a violent or terrorist incident
  - enhance the ability of the ADF to respond to incidents occurring in more than one jurisdiction.

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If asked about reports that the amendments to the Defence Act will allow the call out of Defence to deal with strike action or protests.

- The current call out provisions within the Defence Act contain a prohibition against the Defence Force stopping or restricting any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons or serious damage to property.
- This prohibition against stopping or restricting protest, dissent, assembly or industrial action is retained in the proposed amendments to the Defence Act, just in a different format to assist in the readability of the call out provisions.

### Key Information

- Australia's National Terrorism Threat level remains at **PROBABLE**.
- Credible intelligence, assessed by national security agencies indicates that individuals or groups have developed both the intent and capability to conduct a terrorist attack in Australia.
- Since the national terrorism threat level was raised on 12 September 2014, there have been six attacks and 14 major CT disruption operations in response to potential attack planning in Australia.
- There are currently no known specific or credible threats to the ACT.

### Background Information

- The Australian Government has taken twelve tranches of legislation through Parliament since August 2014 to strengthen Australia's counter-terrorism arrangements.
- COAG has agreed to a range of legislative measures including:
  - enhancing the existing Commonwealth pre-charge detention regime under Part 1C of the *Crimes Act 1914*
  - legislation implementing the presumption against bail and parole for people who have demonstrated support for, or have links to terrorist activity, will be underpinned by nationally consistent principles
  - a new Commonwealth offence that will allow law enforcement agencies to intervene when an individual is in possession of instructional terrorist material, with appropriate safeguards
  - a new Commonwealth terrorism hoax offence. This will ensure that the potentially broad nature of terrorism hoaxes is criminalised in all jurisdictions.

Cleared as complete and accurate:	16/10/2018	
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TRIM Ref: 2018/000086-013

**Portfolio:** Minister for Police & Emergency Services

Attorney-General

**ISSUE: OMCG INCIDENTS**

This QTB focuses on the ACT Policing (ACTP) operational aspects. Information about anti-consorting laws, fortification removal laws, crime scene powers and drive-by shootings can be found in the QTB titled “Serious and Organised Crime Response”.

**TALKING POINTS:**

- Countering serious and organised crime by criminal gangs and maintaining public safety is of primary focus for the ACT Government and ACTP.
- 2017-18 has seen an increase in number of criminal gangs and criminal gang members operating in the ACT.
  - 2017-18 saw the establishment of a fourth criminal gang chapter in the ACT.
  - As at 2 October 2018, there are four known Criminal Motorcycle Gangs operating in the ACT.
  - As at 2 October 2018, the total number of members associated with ACT chapters of these Criminal Gangs is estimated at approximately 60 people.
- Through Taskforce Nemesis, ACTP continues to proactively disrupt criminal gang members to deter and detect criminal activity. This includes confiscation of criminal assets.
- The Government’s 2018-19 Budget commitment of \$1.594 million over four years to Taskforce Nemesis provides funding for one Forensic Accountant, one Surveillance Team Member, and associated equipment and training.
  - Planning is underway for the recruitment of two additional members allocated through the 2018-19 Budget initiative. Exact commencement dates are dependent upon recruitment and security clearance processes.
- Funding allocated to combating Criminal Gangs in August 2016 has been applied, and eight members were appointed to Taskforce Nemesis.
- In 2017, the Federal Government boosted resources for dealing with organised crime through the National Anti-Gangs Squad (NAGS). Through NAGS, ACTP works closely with other agencies, liaising on matters of operational and strategic importance. NAGS bring together the resources and expertise of Federal and state/territory agencies to cooperate and share information to identify, target, disrupt and deter gang-related crime.

Cleared as complete and accurate:	11/09/2018
Cleared by:	DCPO-C
Information Officer name:	ACT Policing (CI)
Contact Officer name:	ACT Policing (MPP)
Lead Directorate:	Justice and Community Safety

### Recent strategic activity

- ACTP recognises the threat of organised criminal gangs requires a collaborative, whole-of-government approach.
- ACTP recently established a working group with representatives from a number of government agencies to consider all aspects of criminal gang behaviour.
- The group is based on the Commonwealth National Anti-Gang Squad model that brings a whole-of-government approach to addressing this issue.
- Members of the working group include ACTP, ACT Housing, NSW Police (Monaro LAC), Australian Border Force, Australian Criminal Intelligence Commission, AUSTRAC, Department of Human Services, and the Australian Taxation Office.

### Recent ACTP operational activity

<b>Key Taskforce Nemesis figures</b> (criminal gang related figures)	<b>2018 YTD</b>
Criminal gang members charged*	20
Offences charged	73
Search warrants executed	78
Firearms seized	22
Criminal gang related incident investigations	35

\* Person may be charged on numerous occasions

- On 6 September 2018, a senior member of the Nomads Criminal Gang pleaded guilty to charges arising from a violent incident at a Monash Tattoo Parlour on 1 February 2018.
- On 5 September 2018, a previously convicted Comanchero Criminal Gang member completed a sentence of imprisonment arising from a firearms incident in March 2015.
  - Upon completion of his sentence, the Comanchero Criminal Gang member was apprehended by Australian Border Force and will be subject to deportation due to visa revocation.
- On 3 September, Taskforce Nemesis extradited a man from Victoria to the ACT in relation to the Calwell firearm incident of 28 June 2018.
  - The man was charged with attempted murder and refused bail. This matter is next before court in November 2018.
- On 25 August 2018, the ACT saw its first overt motorcycle 'Run' by the Nomads Outlaw Motorcycle gang.
  - Approximately 30 fully patched members participated in the overt display of force by the Nomads.
  - ACTP who were also supported by NSW Police and Task Force Raptor.
- On 6 August 2018, Taskforce Nemesis executed targeted searches of a vehicle and residential premise in Calwell.

Cleared as complete and accurate: 11/09/2018  
 Cleared by: DCPO-C  
 Information Officer name: ACT Policing (CI)  
 Contact Officer name: ACT Policing (MPP)  
 Lead Directorate: Justice and Community Safety

## QUESTION TIME BRIEF

- Police located and seized a .357 calibre revolver, a loaded 22/250 rifle, a shortened 9mm semi-automatic rifle, ammunition and illicit substances.
- Two men were arrested and charged with 14 cumulative charges. One of the men was charged with firearm offences relating to the search warrant executed on 6 August 2018, and the other was charged with firearm and weapons offences related to the incident on 28 June 2018.
- As these matters remain subject to ongoing investigations, it would be inappropriate to comment further.
- On 3 August 2018, members of CI Taskforce Disruption Team assisted members of NSW Police Taskforce Raptor in the delivery of pre-emptive NSW consorting and NSW State Government debt recovery notices.
  - Various members of the Finks and Comancheros Criminal Gangs were visited at private residential addresses of their workplace and served with the notices.
- On 6 July 2018, a physical altercation broke out between six men in Greenway. The men are believed to be criminal gang members. The altercation is understood to be a result of ongoing tensions between criminal gangs. As this matter remains subject to ongoing investigations, it would be inappropriate to comment further.
- On 28 June 2018, four people attended two residential properties in Calwell. A number of firearms were discharged at both properties, and three vehicles were set alight at one of the residences.

### Background

- A number of legislative amendments have been made to increase the tools available to police and enhance the response capacity of police officers. Most recently, these have included legislation passed on fortifications, drive-by shootings and crime scene powers.
- ACTP works closely with Police in other jurisdictions by sharing intelligence, best practices, and collaboratively monitoring and combating criminal gangs.

Cleared as complete and accurate: 11/09/2018  
Cleared by: DCPO-C  
Information Officer name: ACT Policing (CI)  
Contact Officer name: ACT Policing (MPP)  
Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-024

**Portfolio:** Attorney-General & Police and Emergency Services**ISSUE: SERIOUS AND ORGANISED CRIME RESPONSE**

Outlaw Motorcycle Gangs (OMCGs) are involved in criminal activities across Australia such as drug production and trafficking, vehicle rebirthing, firearms offences, money laundering, extortion and serious assaults.

**TALKING POINTS**

- The ACT Government is strongly committed to responding to the criminal activities of OMCGs.
- ACT Policing (ACTP) has established an OMCG Taskforce – Taskforce Nemesis – to focus on operational and investigative responses to OMCG activity.
- The Taskforce is supported by a suite of criminal laws developed by the ACT Government over a number of years, and continued investment to ensure that ACTP has the resources it needs to combat criminal gangs in the ACT.

*Anti-consorting laws*

- The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.
- The Government does not support the introduction of consorting laws at this time.
- Any future consideration of consorting laws would need to be informed by strong evidence establishing the requirement for, and effectiveness of, such laws.
- Laws of this nature would also need to allay unresolved Government and community concerns about conflict with human rights and criminal law principles.
- Law reform decisions are made by the Government taking into account need and evidence about their effectiveness as well as the views of our stakeholders and the broader community.

Cleared as complete and accurate:	02/10/2018
Cleared by:	Deputy Executive Director
Information Officer name:	Karen Greenland
Contact Officer name:	Megan Sparke
Lead Directorate:	Justice and Community Safety

### Fortification removal laws

- Fortifications are structures designed to stop or hinder uninvited entry to premises.
- The *Crimes (Fortification Removal) Amendment Bill 2017* was passed in February 2018.
- The Bill provides the Chief Police Officer with the power to apply to the Magistrates Court for an order that the occupier of the premises remove fortifications on the premises. The Bill also prohibits the establishment of fortifications on certain premises.
- These laws will help make the ACT a hostile environment for criminal gangs to prevent the establishment of fortified premises such as OMCG club houses.
- The *Crimes (Fortification Removal) Amendment Act 2017* commenced on 1 September 2018.

### Crime scene powers and drive-by shootings

- The *Crimes (Police Powers and Firearms Offence) Amendment Act 2017* commenced on 8 December 2017.
- The Act introduced statutory crime scene powers to allow police officers to preserve evidence in a timely manner at crime scenes in both public and private places while taking the least restrictive approach to limiting a person's right to privacy.
- The Act also created a new offence of 'drive by shooting' which deals with people shooting at a building, including a home, whether from a car or otherwise. The offence is punishable by a maximum of 10 years imprisonment.
- These new laws have already been used by ACTP to support its work to combat criminal groups in the ACT.

### Unexplained wealth

- The Commonwealth Unexplained Wealth Legislation Amendment Bill 2018 passed Parliament on 19 September 2018.
- The Bill effectively introduces an unexplained wealth scheme in the ACT by extending Commonwealth unexplained wealth orders to ACT offences.

Cleared as complete and accurate: 02/10/2018  
Cleared by: Deputy Executive Director  
Information Officer name: Karen Greenland  
Contact Officer name: Megan Sparke  
Lead Directorate: Justice and Community Safety

- The ACT Government is currently working with the Commonwealth to finalise an Intergovernmental Agreement that will allow the ACT to benefit from key aspects of the scheme including preferable treatment under new equitable sharing arrangements.

## **Background**

At the most recent meeting of the Council of Attorneys-General held on 8 June 2018, participants agreed that organised crime is a serious and pervasive threat to the community. In recognition of this, participants agreed to have regard to the statement of guiding principles when developing legislative responses to combat organised crime.

ACTP has identified three OMCGs that operate in the ACT (the Rebels, the Nomads and the Comancheros). Media reports on 27 and 28 June 2018 indicate that ACTP has evidence of a fourth OMCG, named the Finks, being established in the ACT.

The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.

### Anti-Consorting Laws

Consorting laws make it an offence to associate with a person after being issued with a warning to refrain from associating with that person.

All jurisdictions except the ACT have consorting law schemes. Consorting law schemes differ in each jurisdiction. Some legislative schemes have been found to be invalid by the High Court. The Victorian model is the only model that requires law enforcement to demonstrate a link between the association of two people and the commission of a criminal offence. Obtaining evidence to support this belief may be challenging in an operational context.

The Human Rights Commission advised that without a suspected link to identifiable criminal activity, it is unlikely that consorting laws will be cured of their inherent incompatibility with the Human Rights Act 2004.

The ACT has not supported the introduction of consorting laws to date due to the lack of evidence for their effectiveness and the significant human rights implications.

### *Recent media*

- On 28 August 2018 [media](#) reported on an image of the Nomads OMCG on Mount Ainslie, which lead to renewed calls for anti-consorting laws from Mr Hanson.

Cleared as complete and accurate:	02/10/2018
Cleared by:	Deputy Executive Director
Information Officer name:	Karen Greenland
Contact Officer name:	Megan Sparke
Lead Directorate:	Justice and Community Safety

TRIM Ref: 2018/000089-004

**Portfolio:** Attorney-General**ISSUE: ACT GOVERNMENT CLOSED CIRCUIT TELEVISION CYBER RISKS****Talking points:**

- The ACT Government has identified several ACT Government buildings that operate CCTV equipment manufactured by the two companies.
- Cyber security remains a top priority for the ACT Government. A dedicated team of ICT security specialists work to protect ACT Government information and the security and integrity of its ICT systems and networks.
- The ACT Government is closely engaged with the Australian Cyber Security Centre to maintain awareness of emerging threats, risks and how these can be mitigated.
- The ACT Government has conducted an initial risk assessment of where and how the CCTV equipment is being used, and is determining the need for further action based on information provided by equipment vendors and advice from the Australian Government.

**If asked about the Public Safety CCTV Network or any aspect of its operation.**

- Refer to the question to the Minister for Police and Emergency Services.

**Background Information**

- On 12 September 2018, ABC News ran a [story](#) that CCTV equipment manufactured by Chinese companies Hikvision and Dahua had been banned in the US due to concerns they were creating a 'surveillance network' among federal agencies. ABC highlighted that these equipment was also in use by the Australian Government.
- On 14 September, The Canberra Times lodged the following query with the office of the Minister for Police and Emergency Services:

*Is the ACT government auditing its security cameras in the wake of this story? Are we going to replace the cameras if we have them? Or is it not that big of a deal.*

The response from the office of the Minister for Police and Emergency Services was:

*The ACT Government does not use equipment manufactured by the two companies as part of the ACT's Public Safety CCTV Network.*

Cleared as complete and accurate:	30/09/2018	
Cleared by:	Executive Director	Ext: 78628
Information Officer name:	David Pryce	
Contact Officer name:	Jonathon Owen	Ext: 75969
Lead Directorate:	Chief Minister, Treasury and Economic Development	



*The ACT Government has, however, identified a small number of instances where closed circuit television (CCTV) equipment manufactured by the two identified companies is in use. The ACT Government is assessing the need for further action based on information provided by equipment vendors and advice from the Australian Government.*

Sch 2 s 2.2 (a)(iii)

Cleared as complete and accurate:	30/09/2018	
Cleared by:	Executive Director	Ext: 78628
Information Officer name:	David Pryce	
Contact Officer name:	Jonathon Owen	Ext: 75969
Lead Directorate:	Chief Minister, Treasury and Economic Development	

TRIM Ref: 2018/000083-016

**Portfolio:** Attorney-General**ISSUE: CHILD ABUSE ROYAL COMMISSION – CRIMINAL JUSTICE REFORMS****Talking points:**

- Child abuse is unacceptable and ensuring the safety of children in our community is a top priority for the ACT Government.
- On 15 June, I presented the ACT Government's formal response to the approximately 300 recommendations of the Royal Commission that relate to State and Territory governments.
- Our response shows our clear, unambiguous commitment to protecting children, and righting wrongs.
- It demonstrates our intention to change the status quo, to effect cultural change within organisations, and to ensure the failures of the past are not permitted to continue.
- The response to the Royal Commission's 85 criminal justice recommendations shows our strong commitment to improving the ACT criminal justice system's response to child sexual abuse, through both legislative and non-legislative reforms.
- This response was informed by significant consultation and work we have already done on the criminal justice recommendations.
- For example, in February this year we made amendments to the existing ACT offences of grooming and maintaining a sexual relationship with a child, as well as sentencing reforms for child sex offenders, in response to the Royal Commission's recommendations.
- We have also long been a leader in adopting survivor-focused criminal laws, and already have in place a number of measures recommended by the Royal Commission.
- This includes, for example, measures to support vulnerable witnesses to give evidence in a way which protects against re-traumatising them.
- Between 22 March and 4 May 2018, I conducted a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission's recommendations. These views are being taken into account in the Government's reform process.

Cleared as complete and accurate: 10/10/2018  
Cleared by: Deputy Executive Director Ext: 76244  
Information Officer name: Karen Greenland  
Contact Officer name: Maddie Rosenberg Ext: 53310  
Lead Directorate: Justice and Community  
Safety

## QUESTION TIME BRIEF

- The major reforms the Government sought feedback on concern new legislation for failing to report offences, failing to protect at-risk children, the way victims and witnesses provide their evidence, and changes to trial and sentencing procedures for child sexual abuse offences.
- The Royal Commission Criminal Justice Legislation Amendment Bill 2018 implements nine additional Royal Commission recommendations, as well as other proposals made by stakeholders through the course of consultation on the Royal Commission reports.
- The Bill will help to support the protection of children from sexual abuse, and ensure that those who sexually abuse children are held accountable for their actions
- The Royal Commission's recommendations around abuse disclosed in the context of religious confessions form an important part of the Report and the Government has accepted them in principle.
- The question of how to treat religious confession is currently part of a national conversation.
- The ACT Government has commissioned the development of an analysis report on the implementation of recommendations relating to the reporting of child sexual assault, which have implications for the confessional seal.
- The consideration of confession is an important one and a discussion which must be had with community and religious leaders.
- The Government will continue to work with stakeholders and the ACT community as we progress the implementation of the ACT Government's response.

### Key Information

#### Royal Commission Criminal Justice Legislation Amendment Bill 2018 (the Bill)

- The Bill is scheduled for introduction on 25 October 2018, and will:
  - create a new offence in the Crimes Act 1900 of failure by a person in authority, in a relevant institution, to protect a child from the risk that a sexual offence will be committed against the child;
  - create a procedural mechanism for charging offences as a 'course of conduct' for child sexual abuse;

Cleared as complete and accurate:	10/10/2018	
Cleared by:	Deputy Executive Director	Ext: 76244
Information Officer name:	Karen Greenland	
Contact Officer name:	Maddie Rosenberg	Ext: 53310
Lead Directorate:	Justice and Community Safety	

## QUESTION TIME BRIEF

- amend the sentencing provisions in the Crimes (Sentencing) Act 2005 so that sentences for child sexual abuse must be sentenced according to current sentencing practice rather than the sentencing practice at the time of the offending, while retaining the principle that a sentence must not exceed the maximum that applied at the time of the offence; and
- amend the Evidence (Miscellaneous Provisions) Act 1991 to:
  - include principles for dealing with child witnesses and assessing competency of children;
  - harmonise the structure and definitions within chapter 4, which contains the Special Measures available to witnesses in proceedings; and
  - extend the availability of certain measures to more categories of witnesses, including witnesses with disability, family members of and people in a special relationship with particular vulnerable witnesses and for all child witnesses.
  - make consequential amendments to other legislation as a result of the changes to the Evidence (Miscellaneous Provisions) Act.

### Criminal Justice Reforms

- The Government's full response to the Royal Commission's recommendations was released on 15 June 2018.
- A consultation process about the criminal justice reforms was supported by a series of factsheets and information available on the ACT Government's YourSay website and the Justice and Community Safety Directorate website.
- The Justice and Community Safety Directorate has been consulting directly with a range of key stakeholders in the justice system and more broadly to inform the Government's approach to legislative reform in this space. This includes consultation with the Sexual Assault Reform Program (SARP) Reference Group.
- In addition to the legislative reforms scheduled to be introduced in October 2018, further reforms are proposed to be progressed in 2019 to implement further recommendations made by the Royal Commission.
- Implementing the recommendations relating to creating a failure to report an offence and the extension of this to religious confessions has been a contentious topic in the ACT since legislation was introduced to expand the ACT's Reportable Conduct Scheme to religious confessions. It is also a contentious issue at a national level, and discussions with community and religious leaders, particularly the Catholic Church, are ongoing.

Cleared as complete and accurate:	10/10/2018	
Cleared by:	Deputy Executive Director	Ext: 76244
Information Officer name:	Karen Greenland	
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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-017

**Portfolio:** Attorney-General**ISSUE: COMMONWEALTH REDRESS SCHEME FOR SURVIVORS OF  
INSTITUTIONAL SEXUAL ABUSE****Talking points:**

- The ACT Government acknowledges the nature and impact of the abuse suffered by victims of child sex sexual abuse. Many survivors of child sexual abuse suffer long lasting and severe injuries that can affect them for the rest of their lives.
- The ACT Government is working closely with the Commonwealth and other jurisdictions to implement the Redress scheme in a manner that ensures that meets the needs of survivors.
- The Scheme started on 1 July 2018 and will run for 10 years.
- The Scheme will offer access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to \$150,000.
- All jurisdictions have now announced they will join the Redress scheme.
- In addition, a number of non-government institutions have announced their participation in the Scheme. The Commonwealth has indicated this achieves coverage of over 90 percent of anticipated claimants.
- Survivors will be able to access legal and community support services to assist through the redress application process.
- The Commonwealth has established a dedicated telephone helpline (1800 737 377) and website ([www.nationalredress.gov.au](http://www.nationalredress.gov.au)) to provide information for survivors and their families about the Scheme.
- It is estimated that there will be 225 applications with ACT Government liability out of an estimated total of 830 across the ACT over the 10 years of the scheme. The Commonwealth will be responsible for claims pre self-government (11 May 1989) and non-government institutions will be liable for the balance.

Cleared as complete and accurate:	15/10/2018	
Cleared by:	Executive Director	Ext: 76244
Information Officer name:	Karen Greenland	
Contact Officer name:	Dianna Wallace	Ext: 70534
Lead Directorate:	Justice and Community Safety	

- The Commonwealth has started to receive applications. As yet the ACT Government has not received a request for information in relation to any applications.

**Key Information**

- The Redress Scheme commenced 1 July 2018.
- The Redress Scheme includes psychological counselling, a direct personal response and payments for up to \$150,000.
- The Catholic Church, Scouts Australia, the YMCA, the Salvation Army, the Uniting Church and the Anglican Church have announced they will participate in the Scheme.

**Background Information**

The Redress Scheme began operating on 1 July 2018. Through the scheme survivors can access counselling and psychological services, a direct personal response from the institution where the abuse occurred and monetary payments of up to \$150,000.

The Commonwealth legislation was passed by the Parliament on 19 June 2018.

In the 2018-19 Budget, the Government allocated \$13.9 million for the first four years of the National Redress Scheme, it is estimated that it will cost approximately \$30 million over the life of the Scheme.

Meetings continue to take place between the jurisdictions that have opted in and the Commonwealth, to progress the operational aspects of the scheme.

ACT Government has a Whole of Government Implementation group that has been meeting regularly in order to progress policy issues specific to ACT implementation. The average payment of Redress is estimated at \$76,350.

As recommended by the Royal Commission, the National Redress Scheme will assess applications based on a reasonable likelihood that the abuse happened.

A national apology for survivors of institutional child abuse will be presented by the Prime Minister at Parliament House on 22 October 2018.

The Commonwealth Attorney-General the Hon Christian Porter MP sent a letter to you and the Minister for Corrections on 3 August 2018 asking that there be live streaming of the national apology in the Alexander Maconochie Centre. ACT Corrective Services is exploring the arrangements necessary for this to occur. The Commonwealth has also written to the Chief Minister and requested that arrangements be made to support ACT survivors and their supporters to view the apology. It is live streamed in the Legislative Assembly. The Chief Minister, Treasury and Economic Development Directorate is coordinating these arrangements.

Cleared as complete and accurate:	15/10/2018	
Cleared by:	Executive Director	Ext: 76244
Information Officer name:	Karen Greenland	
Contact Officer name:	Dianna Wallace	Ext: 70534
Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-019

**Portfolio:** Attorney-General

**ISSUE: RESIDENTIAL TENANCIES**

**Talking points:**

Make Renting Fair Canberra Alliance

- I am aware of the Make Renting Fair Canberra Alliance, which was launched on 1 October 2018.
- The Alliance is a coalition between the Tenants' Union ACT, UnionsACT, ACT Shelter and Better Renting.
- The Alliance is advocating for a number of rental reforms, such as ending 'no cause' terminations, extending the notice periods for with cause terminations, limits to rental increases, minor modification rights, minimum housing standards and regulation of agents and landlords.
- The Government is actively considering the issues raised by the Alliance and will continue to consult with Tenants' Union ACT, UnionsACT, ACT Shelter and Better Renting.

Residential Tenancies Amendment Bill 2018 (No 2)

- The Residential Tenancies Amendment Bill 2018 (No 2) (the Bill) is scheduled for introduction in the October 2018 sittings.
- The Bill will amend the *Residential Tenancies Act 1997* to improve protections for tenants and respond to stakeholder concerns.
- The Bill proposes the following amendments:
  - making it easier for tenants to keep pets in rental properties
  - making it easier for tenants to make modifications in rental properties
  - refining the domestic violence and personal protection order provisions to assist the ACT Civil and Administrative Tribunal (ACAT) to address practical issues that have arisen with current drafting

Cleared as complete and accurate:	00/10/2018	
Cleared by:	Executive Director	Ext: 70674
Information Officer name:	Daniel Ng	
Contact Officer name:	Keziah Judd	Ext: 70526
Lead Directorate:	Justice and Community Safety	

- allowing tenants to vacate with no penalty during a fixed term when notice of a ‘no cause’ termination has been given
- providing that a tenant does not need to pay a ‘break lease’ fee if the lessor finds a replacement tenant, subject to reasonable costs and
- requiring lessors to apply to ACAT for any rental increase in excess of a prescribed amount.

### Progress on residential tenancy reforms

- Ensuring that our residential tenancies legislation supports vulnerable people to be secure in their homes is a key Government priority.
- The Deputy Chief Minister is currently leading the development of a new Housing Strategy for the ACT. Its focus will be on assisting those who need help most.
- Improving the operation of the Residential Tenancies Act forms part of this work.
- The legislation introduced on 10 May 2018 and passed on 5 June 2018 is just one piece in the Government’s ongoing commitment to reform Residential Tenancy laws in the ACT.
- That amending legislation addresses the self-executing component of conditional termination and possession orders. It also suspends the use of commercial guarantees as an alternative to a rental bond, to provide further opportunity to consider the legal policy implications and conduct further stakeholder consultation.
- The government has been working with stakeholders to develop amendments to the occupancy agreement provisions in the Residential Tenancies Act. Reforms in this space will be progressed in 2019.
- Three groups – established in 2017 – have been examining issues around caravan parks and manufactured homes, issues facing students in on and off campus accommodation, and a boarding house and crisis accommodation group is examining issues relating to this sector.
- The working groups are made up of key stakeholders including advocacy groups, people living in occupancy agreement accommodation and providers of occupancy agreement accommodation.

Cleared as complete and accurate: 00/10/2018  
Cleared by: Executive Director Ext: 70674  
Information Officer name: Daniel Ng  
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Lead Directorate: Justice and Community  
Safety



- The government is actively considering all recommendations in the 2016 report on the review of the Residential Tenancies Act along with the residential tenancy reforms passed by the Legislative Assembly of Victoria in August 2018. These reforms are currently before the Legislative Council of Victoria and include changes to make it easier for tenants to keep pets in rental properties, make modifications and abolishing ‘no specified reason’ notices to vacate.

### **Background Information**

- The Environment, Planning and Sustainable Development Directorate have policy carriage of examining energy efficiency in rental properties. They have advised that the work is scheduled for a second tranche of reforms.
- The report on the review of the Residential Tenancies Act was tabled in the June 2016 Legislative Assembly sittings.
- The report included first and second tranche recommendations.
- The Residential Tenancies Legislation Amendment Act 2016 gave effect to the first tranche recommendations, including:
  - requirements for smoke alarms
  - changes to bond release provisions
  - mechanisms allowing a person experiencing personal or domestic violence to apply to ACAT for changes to their tenancy arrangements.
- Second tranche recommendations include giving further consideration to the following issues:
  - conditional termination and possession orders
  - occupancy agreements
  - share house tenancies and subletting
  - early termination of a fixed term lease by a tenant who has accepted accommodation in social housing premises or aged care
  - reducing the maximum rent payable in advance to two weeks
  - ACAT issuing notices about additional inconsistent terms
  - tenant termination of a lease containing unlawful inconsistent terms
  - removing or modifying the requirement for a ‘detriment to the lessor’s interest in the premises’ when terminating a lease on the grounds that a tenant has used the premises for illegal purposes
  - minimum standards for reasonable security.

Cleared as complete and accurate:	00/10/2018	
Cleared by:	Executive Director	Ext: 70674
Information Officer name:	Daniel Ng	
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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000086-036

**Portfolio:** Attorney-General**ISSUE: CRIMES (CONSENT) AMENDMENT BILL 2018****Talking points:**

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not just for victims and survivors but also for the entire community.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws through introduction of the *Crimes (Consent) Amendment Bill 2018* (the Bill), which was introduced in the Legislative Assembly by Ms Caroline Le Couteur MLA in early April 2018.
- Broadly speaking, the Bill seeks to introduce a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Bill was referred by the Assembly to the Justice and Community Safety Standing Committee for inquiry. The Government looks forward to responding to the Committee's report when it is provided to the Assembly before the end of October 2018.

**Key Information**

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, the Crimes Act includes a list of circumstances which 'negate' consent.
- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of 'free and voluntary agreement'.
- It is relevant that any proposed changes to sexual consent provisions are considered in connection with the large body of work being undertaken by Government to implement the *Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*.

Cleared as complete and accurate: 27/09/2018  
Cleared by: Executive Director Ext: 70522  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Amie Gunawan Ext: 71764  
Lead Directorate: Justice and Community Safety

### Law reform commission recommendations

- The 2010 Australian Law Reform Commission's *Final Report Family Violence – A National Legal Response* recommends that ACT sexual offence provisions should 'include a statutory definition of consent based on the concept of free and voluntary agreement' (recommendation 25-4).
- The NSW Law Reform Commission is currently reviewing sexual consent provisions in NSW legislation.

### **Background Information**

- On 11 April 2018, Ms Le Couteur introduced the *Crimes (Consent) Amendment Bill 2018* in the Legislative Assembly. The Bill seeks to amend the *Crimes Act 1900* (Crimes Act) to insert a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Assembly referred the Bill to the Standing Committee on Justice and Community Safety for inquiry and report by the last sitting day in October 2018. The Standing Committee sought written submissions to its inquiry by 14 September 2018.
- The Justice and Community Safety Directorate is undertaking work to implement the 2017 Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, which will be relevant to considering how the Government will respond to the Standing Committee's inquiry and report on the Bill.

### Summary of the Bill

- The Bill proposes to insert a new statutory definition of consent into the Crimes Act. In summary, the definition would provide that consent means: a person gives free and voluntary agreement and the other person knows or is satisfied on reasonable grounds that the agreement was freely and voluntarily given. The Revised Explanatory Statement states that the policy goal of the new definition is to 'clarify the law of consent and provide better outcomes for victims and the community'.
- The Bill also creates an exception to offences of using a child for the production of child exploitation material, possessing child exploitation material, and grooming and depraving young people. The exception would dis-apply those sections to a defendant where, at the time of the alleged offence, the complainant was at least 10 years old, the defendant was not more than 2 years older or younger, and the complainant 'consented to the act constituting the offence'.
- The Revised Explanatory Statement for the Bill states that insertion of the exception aims to ensure that young people consensually sharing sexual material between each other are not at risk of prosecution. It suggests the amendments would promote consistency with the age of consent in other provisions in the Act, including section 55 (sexual intercourse with a young person), section 61 (acts of indecency with a young person) and section 72D (distribution of intimate image of a young person).

Cleared as complete and accurate: 27/09/2018  
Cleared by: Executive Director Ext: 70522  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Amie Gunawan Ext: 71764  
Lead Directorate: Justice and Community Safety



**ACT**  
Government

Justice and Community Safety

**ATTORNEY-GENERAL**  
**2017-18 Annual Report Hearings**  
**7 November 2018**  
**2:00 to 4:30pm**

**Strategic and Accountability Indicators**

1.	Output 1.1 – Policy Advice and Justice Programs (LPP)
2.	Output 1.3 – Parliamentary Counsel’s Office (PCO)
3.	Output 1.4 – Director of Public Prosecutions
4.	Output Class 3.1 – Courts and Tribunal (Courts)

**Output Class Financial Summaries**

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6.	Financial Statement Variance Explanations – Territorial
7.	Output Class 1.0 – Justice Services
8.	Output 1.1 – Policy Advice and Justice Programs (LPP)
9.	Output 1.2 – Legal Services to Government (ACTGS)
10.	Output 1.3 – Parliamentary Counsel’s Office (PCO)
11.	Output 1.4 – Director of Public SF Prosecutions
12.	Output 3.1 – Courts and Tribunal (Courts)

**CORPORATE**

13.	Staffing Profile (A-G portfolio)
14.	JACS Staff Survey (A-G/MJCARS portfolios)
15.	Bullying and Harassment (A-G portfolio)
16.	Special Employment Arrangements and Attraction and Retention Incentives (whole of Directorate)
17.	Voluntary redundancies (whole of Directorate)

18.	Procurement
19.	Fraud and Integrity (whole of Directorate)
20.	Public Interest Disclosures (whole of Directorate)
21.	Freedom of Information statistics (whole of Directorate)
22.	Freedom of Information (Whole of Government)
23.	Travel undertaken by Directorate Staff (whole of Directorate)
24.	Work, Health and Safety Performance (whole of Directorate)
25.	JACS Sustainability (whole of Directorate)
26.	Budget Rollovers
27.	JACS Better Infrastructure Fund
28.	Internal Audit
29.	JACS Executive Retreat
30.	Misconduct Matters
<b><u>BUSINESS UNIT SPECIFIC BRIEFS (incl. QTBs)</u></b>	
<b><u>Output Class 1.1: - Legislation, Policy and Programs</u></b>	
<b>Racing and Gaming</b>	
31.	Gambling Tax Revenue
32.	Belconnen Raiders Club (QTB)
33.	Govt Response to Stevens Report and Community Club (QTB)
34.	Gaming Machine Harm Reduction Measures (QTB)
35.	Greyhound Funding and Transition to end Industry (QTB)
36.	Thoroughbred Racing Issues (QTB)
37.	Community Club Grants – include who has used the grants and what for (QTB)

<b>Security and Crime</b>	
38.	National Security Issues (QTB)
39.	Outlaw Motor Cycle Gangs – Taskforce Nemesis (Copy of ACT P Brief only) (QTB)
40.	Serious and Organised Crime Response (Policy) (QTB)
41.	CCTV Cyber Risks (QTB)
<b>General</b>	
42.	Underspend in Interpreter Services
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44.	Redress (QTB)
45.	Residential Tenancies (QTB)
46.	Crimes (Consent) Amendment Bill 2018 (QTB)
<b><u>Output Class 1.2: - Legal Services to Government</u></b>	
47.	Output 1.2 Legal Services to Government – Strategic and Accountability Indicators
48.	ACTGS Counsel Briefing
49.	Approval of external legal service providers.
50.	Model Litigant Guidelines.
<b><u>Output Class 1.3: Legislative Drafting and Publishing Services</u></b>	
51.	ACT Legislation Register
<b><u>Output Class 3.0: Courts and Tribunal, Judicial and Access to Justice</u></b>	
52.	Drug and Alcohol Court (QTB) – update to include funding *2018*1130-014-008
53.	PPP Law Courts Progress (QTB)
54.	Court and Tribunal Technologies

55.	Courts Coat of Arms (QTB)
56.	DPP Resourcing (including DPP appointment process) (QTB)
57.	Resourcing of Magistrates and Coroners Court (include TP on age of retirement) (QTB)
58.	Coroner's Court Reform (QTB)
59.	Bail Laws (include TPs on issues raised re: HR compatibility with coronal process – following Cook Coronial) (QTB)
60.	Eastman Update (QTB)
<b><u>Legal Aid Commission</u></b>	
61.	Service Level 2017-18
62.	Financial Outcome 2017-18
<b><u>Public Trustee and Guardian</u></b>	
63.	Strategic and Accountability Indicators
64.	Financial Summary
<b><u>Additional Briefs</u></b>	
65.	Age of Criminal Responsibility
66.	Disability Justice Strategy
67.	Restorative Cities
68.	SAB – Apprehended Bias Issues
69.	ACT proposed participation in the National Facial Biometrics Matching Capability (NFBMC) user driver licence data
70.	Judicial Council Complaints and Oversight

TRIM Ref: JACS2018/1130-014-001

**Portfolio/s:** Attorney-General

**ISSUE: Output 1.1 – Policy Advice and Justice Programs – Strategic and Accountability Indicators**

The following pages of the 2017-2018 Justice and Community Safety Directorate (JACS) Annual Report (AR) reference Output 1.1 Policy Advice and Justice Programs' Performance Analysis – pages 33 to 52; Strategic Indicators on pages 164, 165, 167, and 168; and Accountability Indicators on page 346. The major influences leading to variances from the 2017-2018 Original Target to the 2017-2018 Actual are explained in this brief.

**Talking points:**

Strategic Indicators – Reduction in levels of crime (2017-2018 AR, page 164, Table 41)

Success	Strategic Indicator	2017-2018 Target	2016-2017 Result	2017-2018 Result
	Percentage change <sup>1</sup> and number of known and reported criminal offences:			
Reduction in level of crime	against the person per 100,000 population <sup>2</sup>	682	+19.3% 961.8	-11.3% 852.9
	against property per 100,000 population	4875	-4.7% 5145.0	-2.6% 5012.4

**Offences against the person:**

- Reduction in levels of crime – the target number of offences against the person reported or becoming known to police per 100,000 population was not achieved in 2017-2018 (as the number of such offences per 100,000 population exceeded this target).
- While the target was not achieved, there was a decrease of 109 offences per 100,000 population (11.3 per cent) from 962 in the 2016-2017 financial year to 853 in the 2017-2018 financial year.
- There have been large increases in recent years in reporting of domestic and family violence offences. These increases have contributed to the

<sup>1</sup> Change refers to the change from the previous financial year.

<sup>2</sup> The increase in offences against the person can be attributed in part to the current focus on family and domestic violence and the increased confidence people have in reporting family and domestic violence incidents to police.

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 Lead Directorate: Justice and Community Safety



failure to meet the person offences targets. These offences were previously underreported. We will continue to encourage reporting of family violence.

*Offences against property:*

- Reduction in levels of crime – the number of offences against property or becoming known to police per 100,000 population was not achieved against the target. There was a decrease of 2.6 per cent or 132 per 100,000 population from 5,145 in 2016-2017 to 5,012 in 2017-2018.
- The reduction in offences against property reflects the Government and ACT Policing’s commitment to property crime through the Property Crime Prevention Strategy 2016-2020.

Strategic Indicators – Perceptions of safety (2017-2018 AR, page 165)

Success	Strategic Indicator	2017-2018 National Average	2016-2017 Result	2017-2018 Result
Perceptions of safety	The proportion of people who felt ‘safe’ or ‘very safe’:			
	at home by themselves during the night	88.4%	=> 90.6%	92.6%
	walking by themselves in their neighbourhood during the night	53.1%	=> 56.1%	59.1%
	by themselves travelling on public transport during the night	32.0%	=> 32.4%	40.0%

- The 2017-2018 result showed that the proportion of people who felt safe or very safe at home by themselves at night was 92.6 per cent. This exceeded the national average of 88.4 per cent by 4.2 per cent.
- The 2017-2018 result showed that the proportion of people who felt safe or very safe walking by themselves in their neighbourhood during the night was 59.1 per cent. This exceeded the national average of 53.1 per cent by 6.0 per cent.

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- The 2017-2018 result showed that the proportion of people who felt safe or very safe travelling on public transport by themselves during the night was 40.0 per cent. This exceeded the national average of 32.0 per cent by 8.0 per cent.
- These strong results reflect the reality that Canberra remains one of the safest cities in Australia.
- The ACT Government is committed to making sure the ACT continues to be one of the safest places to live.

Strategic Indicator – New government laws are compatible with human rights at the time of introduction (2017-2018 AR, page 168)

Strategic Indicator	2017–2018 Target	2017–2018 Result
Percentage of new Government laws that are compatible with human rights legislation at the time of introduction	100%	100%

- The result of 2017-2018 for this indicator is 100 per cent of laws introduced by the Government being compatible with human rights.
- During 2017-2018, 54 Bills were assessed as being compatible with the Human Rights Act before being tabled in the ACT Legislative Assembly.
- Considerable effort goes into ensuring that bills are human rights compatible at the time they are introduced. The human rights area of JACS, and policy officers across the government, spend time and effort working together to deliver the Government’s legislative agenda in a human rights compliant way.

Accountability Indicator – Legislation developed within the JACS portfolio ministers’ timeframes (2017-2018 AR, page 346)

- The indicator relates to the legislation which JACS portfolio ministers request for development for introduction in the Legislative Assembly within the agreed timeframe. The result for this measure in 2017-2018 is 100 per cent.

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Accountability Indicator – number of initiatives that reduce regulatory burden (2017-2018 AR, page 346)

- The indicator, which commenced in the 2014-2015 year and supports the Government’s commitment to reduce red tape, identifies the number of initiatives which contribute to this commitment. The target for 2017-2018 was two initiatives and the result was five initiatives.
- These were amendments to:
  - Gaming Machine Amendment Bill 2017 – reduced red tape for small and medium clubs by making it easier to deal with their tax liabilities. Clubs eligible for the rebate will be able to lodge quarterly gaming machine tax payments and make quarterly payments to the Problem Gambling Assistance Fund, should they choose. These changes will help eligible clubs to manage their cash flows.
  - Justice and Community Safety Legislation Amendment Bill 2017 (No 2) – reduced red tape through:
    - Co-operatives National Law (ACT) Act – making it easier to update fees;
    - Coroners Act – removing the automatic requirement for an inquest;
    - Road Transport (Offences) Regulation – removing an unnecessary step in relation to the vehicle transfer process; and
    - Residential Tenancies Act – allowing electronic lodgement of rental bonds.
  - Courts and Other Justice Legislation Amendment Bill 2018 – reduced red tape that prevents people with disability from being included in a jury, by requiring the Court to make orders for support to be given to a person to enable them to participate; and simplifying the jury roll and empanelment processes.
  - Residential Tenancies Amendment Bill 2018 – reduced the regulatory burden on tenants by replacing the self-executing conditional termination and possession orders (CTPOs) with a new order called a ‘payment order’ to help manage rental arrears.

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- Prostitution Amendment Bill 2018 – reduced red tape for sole operator sex workers by removing the requirement for them to register annually with Access Canberra

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## Key Information

Output Class 1 Justice Services						
Output 1.1 Policy Advice and Justice Programs						
Description	High quality policy, legislation, ministerial support and advice to portfolio Ministers, Cabinet and other agencies on justice, safer families and community safety matters. Administer security coordination and emergency management policy, and innovative justice and crime prevention programs (including the Restorative Justice Program and family violence initiatives) across government and the community.					
	2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	Variance %	Note	
Total Cost (\$'000)	23,665		21,624	(9%)		
Controlled Recurrent Payments (\$'000)	21,965		19,769	(10%)	1	
<b>Accountability Indicators</b>						
a	Percentage of legislation requested by the JACS portfolio ministers is developed within timeframes agreed by the JACS portfolio ministers	92%		100%	9%	
b	Proportion of surveyed users of restorative justice programs satisfied with service received <sup>i</sup>	97%		98%	1%	
c	Number of initiatives that reduce regulatory burden <sup>ii</sup>	2		5	150%	2
d	Family Violence Statement presented to the ACT Legislative Assembly <sup>iii</sup>	1	n/a	n/a	n/a	
The above Accountability Indicators should be read in conjunction with the accompanying notes.						
The above Accountability Indicators were examined by the ACT Audit Office in accordance with the <i>Financial Management Act 1996</i> . The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the <i>Financial Management (Statement of Performance Scrutiny) Guidelines 2017</i> .						
<b>Notes</b>						
i Following a restorative justice conference, surveys designed to monitor convenors' delivery of the process and participant experience for quality assurance and service improvement, are provided to each offender, victim and support person. Nine key questions are included in the surveys. These questions capture feedback on different aspects of the restorative justice process to provide an insight into the level of participant satisfaction. 207 out of 255 participants responded to the survey in 2017-18.						
ii Relevant initiatives include changes or innovations, made as part of legislative reforms or policy or program design or modification, and which have been identified as reducing regulatory burden.						
iii This is a new indicator in 2017-18 associated with the Safer Families function. This indicator was to outline the Government's progress and achievements in addressing family and domestic violence. This indicator was transferred to the Community Services Directorate following Administrative Arrangement changes from 1 July 2017.						
<b>Explanation of Material Variances (<math>\geq \pm 10\%</math>)</b>						
1 Total Controlled Recurrent Payments is lower than target primarily due to revised timing of the Natural Disaster Resilience Program and the transfer of the function of the Coordinator-General for Family Safety to Community Services Directorate.						
2 The higher than target outcome is mainly due to five bills which were passed and identified as reducing regulatory burden initiatives in 2017-18. The five initiatives are: 1. Gaming Machine Amendment Bill 2017; 2. Justice and Community Safety Legislation Amendment Bill 2017 (No 2); 3. Courts and Other Justice Legislation Amendment Bill 2018; 4. Residential Tenancies Amendment Bill 2018 and 5. Prostitution Amendment Bill 2018.						

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TRIM Ref: JACS2018/1130-017-001

**Portfolio/s:** Attorney-General

Output Class 1 Justice Services					
Output 1.3 Legislative Drafting and Publishing Services					
Description	Provision of high quality and timely legislative drafting and publishing services for ACT legislation and maintenance of the ACT legislation register.				
	2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	Variance %	Note
Total Cost (\$'000)	5,206		4,535	(13%)	1
Controlled Recurrent Payments (\$'000)	4,348		4,369	0%	
<b>Accountability Indicators</b>					
a	High level of client satisfaction for legislative drafting and publishing services by the Parliamentary Counsel's Office: percentage of satisfied client survey				
	90%		89%	(1%)	
b	Timely legislative drafting and publishing services by the Parliamentary Counsel's Office:				
	– Percentage of drafting responses provided within 30 day standard				
	95%		99%	4%	
	– Percentage of notifications notified on ACT Legislation Register on requested notification				
	99%		100%	1%	
	– Percentage of republications of changed legislation published on ACT legislation register on day the change happens				
	99%		100%	1%	
The above Accountability Indicators should be read in conjunction with the accompanying notes.					
The above Accountability Indicators were examined by the ACT Audit Office in accordance with the <i>Financial Management Act 1996</i> . The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the <i>Financial Management (Statement of Performance Scrutiny) Guidelines 2017</i> .					
<b>Note</b>					
i	Parliamentary Counsel Office (PCO) annually conducts 3 client surveys over a two week period: the ACT Legislation Register Survey, the Legislative Drafting Service Survey and the ACT Legislation Register Notifications Service Survey. Satisfied client survey respondents means respondents who indicated an overall level of satisfaction of 'good' or 'excellent'. 206 out of 232 participants indicated an overall level of satisfaction to the survey in 2017-18.				
<b>Explanation of Material Variances (<math>\geq</math> +/-10%)</b>					
1	Total Cost is lower than target primarily due to lower depreciation associated with timing in completion of a capital project and lower long service leave due to the lower rate used to estimate the present value of long service leave liabilities.				

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**ISSUE: Output 1.3 – Strategic and Accountability indicators –  
Parliamentary Counsel’s Office**

The following pages of the 2017-2018 Justice and Community Safety Directorate (JACS) Annual Report (AR) reference Output 1.3 (Parliamentary Counsel’s Office) performance analysis – pages 62-71 and Accountability Indicators – page 348.

**Talking points:**

- The 2017-18 accountability indicator results for PCO are in line with targets.

**Key Information****1.3a – client satisfaction**

Overall, 89% of clients were satisfied with the legislative drafting and publishing services provided by PCO.

The survey questions are reviewed and updated annually to reflect changes to the legislation register.

- 86% of respondents rated the overall service provided by the ACT legislation register as excellent/good
- 100% of respondents rated the overall notifications services provided by the PCO as excellent/good
- 98% of respondents were satisfied with the PCO drafting services with 76% rating the service as excellent.

**1.3b – timeliness**

The results exceed the performance targets for all three timeliness measures. It indicates that:

- 99% of drafting responses were provided within the 30 day standard – target 95%
- 100% of notifications were notified on the ACT legislation register on the requested notification day – target 99%
- 100% of republications of changed legislation were published on the ACT legislation register on the day the change happened – target 99%.

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**Background Information**

- PCO conducted three client satisfaction surveys in April 2018 – a legislation register survey, a notification service survey and legislative drafting service survey – targeting its main client groups.
- **Legislation register survey**—An invitation to complete the survey is placed on the legislation register home page, in a whole-of-government advertisement sent to ACT government employees, the ACT Law Society newsletter, and a ACT Bar Association email to members. Email invitations are sent to the law librarians network via the JACS library.
- **Notifications service survey**—Cabinet liaison officers in all client agencies are asked to complete the survey.
- **Legislative drafting service survey**—Current drafting/instructing officers in all client agencies are asked to complete the survey.

Cleared as complete and accurate: 30/10/2018  
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TRIM Ref: JACS2018/1130-014-003

**Portfolio: Attorney-General**

Output Class 1 Justice Services					
Output 1.4 Public Prosecutions					
Description	Prosecution of summary and indictable matters, at first instance and on appeal, provision of assistance to the Coroner, and provision of witness assistance services.				
	2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	Variance %	Note
Total Cost (\$'000)	14,056		14,925	6%	
Controlled Recurrent Payments (\$'000)	13,240		13,674	3%	
<b>Accountability Indicators</b>					
a	Percentage of cases where court timetable is met in accordance with Courts' rules	80%		80%	0%
b	Average cost per matter finalised	\$2,800		\$2,983	7%
The above Accountability Indicators should be read in conjunction with the accompanying notes.					
The above Accountability Indicators were examined by the ACT Audit Office in accordance with the <i>Financial Management Act 1996</i> . The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the <i>Financial Management (Statement of Performance Scrutiny) Guidelines 2017</i> .					

## ISSUE: Output 1.4 Director of Public Prosecutions

### Talking points:

- The Government is committed to supporting the vital work of the DPP.
- This commitment can be seen in the increases in funding immediately following the NOUS Group Strategic Review of the DPP and in recent announcements of baseline funding increases coming into effect over the mid to long term.
- The Government has announced in the 2018-2019 Budget that an additional \$6.922 million funding will be provided over the next four years for additional prosecutorial and paralegal staff.
- This funding will be provided progressively with an additional six Full Time Equivalent positions (FTE) from 2018-2019.
- In 2021-2022 there will be a total of 12 additional FTE for the DPP.
- This staffing increase will be supplemented by a one-off capital injection of \$350,000 for expanded accommodation.

Cleared as complete and accurate: 02/11/2018  
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 Lead Directorate: Justice and Community Safety

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- The 2017-2018 Budget also allocated three full time prosecutors for the Eastman matter in the 2017-2018 year and one ongoing prosecutor to increase the capacity of the DPP. Furthermore, the 2017-2018 Budget Review provided resource allocations for four full time additional staff in 2017-2018 and 2018-2019 to support the work of the Confiscation of Criminal Assets scheme.
- This built on funding of \$1.363 million over four years from 2016-2017 Budget through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence.
- This follows an announcement that the DPP will be provided with \$987,000 over four years for additional staff to support the increased capacity of the Magistrates Court.
- I am confident that the appointment of an eighth magistrate, the additional funding for Legal Aid and the DPP, the re-appointment of special magistrates, and recent amendments to justice legislation across the statute book aimed at building efficiency will improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about separate administration and direct appropriation for the DPP*

- Another important outcome of the NOUS Group review was a set of recommendations for more efficient management of the DPP's budget resources. The NOUS Group put forward that both for reasons of independence and for efficiency, a different model of budgeting should be in place, including direct appropriation for the DPP.
- The Government's approach to date has been to use the administrative resources of the Justice and Community Safety Directorate (JACS) to offer economies of scale to smaller, independent agencies. Services like human resources and finance are provided by a centralised team in JACS to other agencies, including the Human Rights Commission and the Emergency Services Agency.

Cleared as complete and accurate: 02/11/2018  
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- The analysis by the NOUS Group provides a basis for considering a different approach. The Government is considering this recommendation and will work with the DPP to ensure that our model of appropriation and funding is as efficient as possible, and appropriate to the DPP's working environment.

*If asked about the upcoming selection process for appointment of the DPP*

- As of 4 July 2018, I have extended the appointment of the current ACT Director of Public Prosecutions, Mr Jon White SC, until 31 December 2018.
- This extension will allow time for my directorate to lead an open and transparent merit selection process.
- Advertisements seeking expressions of interest for the position were published in the press on Friday, 27 July 2018. Applications closed at midnight on 19 August 2018.
- An executive recruitment firm was engaged to ensure the ACT receives a wide array of applications from competitive and suitable applicants, from both within the ACT and across Australia.

*If asked about the impact of new Supreme Court Practice Direction 2 of 2018: Criminal Case Conferencing on DPP resourcing*

- The ACT Supreme Court has introduced a formal case conferencing mechanism for criminal matters committed for trial through a practice direction.
- The case conference will involve defence and prosecution counsel attending a two hour conference convened by a judge to work through issues in dispute in the trial, the charges, the evidence, and the way evidence will be presented in the trial.
- The case conferences have the potential to assist both parties to resolve matters early and supports a more efficient trial procedure, which will have positive benefits to victims, accused persons, and the court.
- It will apply to all matters committed for trial from 20 August 2018. The first round of conferences are scheduled to occur from 29 October 2018 to 5 November 2018.
- I understand that the scheme will be reviewed after a six month trial.

Cleared as complete and accurate: 02/11/2018  
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- The Director of Public Prosecutions has expressed concerns about the impact the scheme will have on the resourcing of his office. Specifically, that the case conferencing will mean that senior prosecutors will be required to spend additional hours at court participating in the case conference as well as additional time preparing for the conference.
- While I acknowledge these concerns, I support the objectives of the Practice Direction and any efforts to facilitate the efficient, transparent, and fair resolution of criminal matters.
- I have asked the JACS Directorate to closely monitor the conferencing scheme during its six month pilot period and evaluate the impact the practice direction has had on the resourcing of the Office of the Director of Public Prosecutions.

**Key Information**

- In the 2017-2018 Budget, the Government provided additional funding (one FTE ongoing) to increase the capacity of the DPP to better support prosecutions in the Territory. It also provided funding for costs associated with the retrial of Mr David Eastman and other related proceedings. Funding was provided for an additional three positions in the DPP, external counsel costs, witness expenses and other administrative costs.
- Mr Eastman's re-trial has commenced. It is expected to run for four to six months. The trial has now been running for three months and is expected to run for a further two months.
- The DPP has undertaken significant preparation for the pre-trial and trial.
- That funding will assist the DPP to keep pace with demand and respond to the needs of the court, police, other investigative agencies and the criminal justice sector more broadly.

**If asked for specifics about the 2018-2019 baseline business case**

- Base level funding: \$6.922 million over four years plus \$350,000 one-off capital injection for accommodation
- The additional baseline FTE in 2021-2022 will represent an increase of new prosecutors plus new executives of 17.4% on 2016-2017 FTE levels (according to Agency Profile Table, DPP Annual Report 2016-17, p 49).

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# ANNUAL REPORT HEARING BRIEF

- Additional FTE from 2018-2019 through the out-years is shown below:

Position Level	2018-2019 FTE	2019-2020 FTE	2020-2021 FTE	2021-2022 Total extra FTE
Executive / Crown Prosecutor			2	2
Prosecutor Gr 5		1	1	1
Prosecutor Gr 4	1	1	1	2
Prosecutor Gr 3	2	2	2	2
Para Legal Gr 4	1	1	1	1
Para Legal Gr 3	2	2	2	3
Admin Officer Gr 5		1	1	1
<b>Total</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>12</b>

### 2017-2018 Budget:

- Recurrent: (\$3.028 million over four years):
  - three additional resources and other operational costs relating to retrial of Mr David Eastman and related proceedings (\$2.257 million) in 2017-2018 only
  - one Prosecutor Grade 4 over four years (\$0.771 million).
- Full-time equivalent (FTE):
  - one Prosecutor Grade 1 in 2017-2018 only (Eastman matter)
  - one Prosecutor Grade 3 in 2017-2018 only (Eastman matter)
  - one Prosecutor Grade 4 in 2017-2018 only (Eastman matter)
  - one Prosecutor Grade 4 over four years.

### DPP Review:

- The Nous Group delivered its Report on the DPP Strategic Review on 9 August 2017.
- Noting demand projections, the Report makes five broad recommendations:
  - provide increased funding to the DPP immediately and in the mid to long-term
  - apply a unified resourcing justice strategy to the ACT justice system as a whole
  - directly appropriate funding to the DPP, rather than via the JACS appropriation
  - allow paralegals to appear in simple applications in the Magistrates Court
  - develop a more efficient platform to share information between courts, law enforcement, Corrective Services and the DPP.

Cleared as complete and accurate: 02/11/2018  
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**Background Information**Previous budget increases:

- In the 2016-2017 ACT Budget, the DPP received funding of \$1.363 million over four years through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence (three FTE in 2016-2017 and 2017-2018, 2.5 ongoing).
- The 2016-2017 Budget provided \$2.325 million for a specific team in the DPP (three FTE) to represent the office to progress the retrial of Mr David Eastman for the murder of Mr Colin Winchester and other related proceedings.

This funding follows previous years' supplementation to the DPP totalling \$1.7 million from 2012-2013 to 2015-2016 for the Eastman matter.

- In the 2014-2015 Budget, the Government provided \$1.158 million over four years to establish a Work Safety Prosecutions Unit supported by two FTE, as well as \$0.027 million in one-off capital funding for fit-out and fixtures to accommodate the new unit.

WorkSafe Prosecutions

- The Industrial Court Magistrate, Chief Magistrate Lorraine Walker, criticised the prosecutions of several work safety matters. On 6 December 2016 and 14 July 2017, *The Canberra Times* reported comments made by the Chief Magistrate that were strongly critical of the DPP handling of workplace health and safety matters. She also expressed concern that resources in the DPP are generally not being provided for industrial court matters.
- On 8 November 2017, during annual report hearings the DPP answered a question about what could be done to increase the chances of success in industrial prosecutions. The DPP noted the question was difficult to answer concisely. He explained that industrial deaths are difficult to investigate and require a criminal standard of investigation from a very early stage. He also noted the need for 'unimpeachably high quality' expert reports.
- The DPP suggested that deaths on Canberra construction work sites be treated as criminal investigations. *The Canberra Times* reported on the DPP's comments on the same day.

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TRIM Ref: JACS2018/1130-016-001

**Portfolio/s:** Attorney-General

**ISSUE: ACT Courts and Tribunal Strategic and Accountability Indicators**

**Talking points:**

- The ACT Government continues to invest in the courts and tribunal through the construction of state-of-the-art court facilities, ensuring appropriate levels of judicial resources and funding the development of the new case management system and jury management system.
- These investments will support the courts and tribunal to reduce the number and age of pending cases, and provide better registry and other services to court and tribunal users.

**Key Information**

Review of indicators

- Changes have been made to streamline and improve the usability of the 2018-19 strategic and accountability indicators for the ACT Courts and Tribunal (ACTCT).
- The previous strategic indicators for each court and the ACT Civil and Administrative Tribunal (ACAT) reported on the median time from lodgement to finalisation of matters. From 2018-19 ACTCT will use the International Framework for Courts Excellence (IFCE) global measure for on-time case processing. This measures the percentage of cases resolved or finalised within set timeframes. Some of the timeframes are ambitious.
- The ACTCT previously had 22 accountability indicators which have been reduced to the nine indicators that are expected to be of most interest to the Assembly and the public. The indicators relate to the cost per finalised matter in each court and the case clearance rate for each court and ACAT.

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- The indicators that have been removed related to the number of judicial officers or members per 100 finalisations, the fees collected per lodgement and the backlog. Data on these indicators is published in the annual Report on Government Services.
- Workload statistics are reported in the Annual Review for each court and tribunal and data on the courts is also included in the annual Report on Government Services.

## Strategic Indicators – page 163

Table 40 Justice system completion rates

Success	Strategic Indicator	2013–14 Result	2014–15 Result	2015-16 Result	2016-17 Result	2017-18 Result
Timely completion of civil cases in the courts	Median number of days to finalise civil cases from time of lodgement					
	Magistrates Court <sup>13</sup>	N/A	47	32	43	36
	Supreme Court <sup>14</sup>	N/A	365	365	291	308
Timely completion of criminal cases in the courts	Median number of days to finalise criminal cases from time of lodgement					
	Magistrates Court	N/A	85	81	91	70
	Supreme Court <sup>15</sup>	N/A	211	285	266	254
Timely completion of ACT Civil and Administrative Tribunal (ACAT) cases	Median number of days to finalise ACAT cases from time of lodgement <sup>16</sup>	N/A	49	57	48	63

<sup>13</sup> The target for 'median number of days to finalise civil cases from time of lodgement in the ACT Magistrates Court' was 50 days and the result was 36 days. This is a positive result and was due to the increased use of mediation and more rigorous case management to resolve matters earlier. These figures exclude Children and Coroners Court matters from calculating the median.

<sup>14</sup> The target for 'median number of days to finalise civil cases from time of lodgement in the ACT Supreme Court' was 365 days and the result was 308 days. This is a positive result and was due to the earlier disposition of matters as a result of referral of all cases to mediation, greater case management and the introduction of central civil listing.

<sup>15</sup> The target for 'median number of days to finalise criminal cases from time of lodgement in the Supreme Court' was 200 days and the result was 254 days. The outcome exceeds the target due to the Supreme Court focussing on the finalisation of older criminal matters.

<sup>16</sup> The target for 'median days to finalise ACAT cases from time of lodgement' was 50 days and the result was 63 days.

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- The strategic indicators show significant improvement in the ACT Magistrates Court for the median number of days to finalise civil and criminal matters.
- The strategic indicators show a positive result for the Supreme Court in finalising civil cases with a target at 365 days and a result of 308 days. The target for finalisation of criminal cases in the Supreme Court was 200 days and the result was 254 days. The outcome exceeds the target due to the Supreme Court focussing on the finalisation of older criminal matters.
- ACAT has seen an increase in the median days to finalise cases with the result being 63 days which is over the target of 50 days.

#### Accountability Indicators (pages 353-355)

##### Number of Judicial Officers per 100 finalisations – indicator (a)

- The Accountability indicators show that the ACT Courts are under the target for the number of judicial officers per 100 finalisations. The reason for this is the 1,880 failure to vote charges finalised this financial year. If these were removed, the Courts were still below the target at 0.13.

##### Fees collected – indicators (b) and (c)

- The Accountability indicators show that the fees collected by the Supreme Court and Magistrates Court are below the targets. The Courts have little ability to control the amount of fees collected and the result is largely due to the number of matters being subject to no fee or to a fee exemption or waiver.

##### Costs – indicators (d) and (e)

- The Accountability indicators show that the costs per finalised case are generally lower than the target, except for the Supreme Court civil matters. The reason for being below the target is the delay in the construction of the new courts facilities as the target included payments under the post construction contract that didn't eventuate.

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### Backlog indicator

- The backlog indicators report on the percentage of all pending cases that have been pending more than 12 months or, in the case of the Supreme Court, more than 12 months and more than 24 months.
- The Magistrates Court backlog indicator for criminal cases pending for more than 12 months (g) is above the target of 5% at 10% . This is due to a higher than expected number of defended hearings. The backlog indicator for civil cases (i) is on target at 10%.
- The Coroners Court backlog indicator (j) is higher than the target at 48% rather than 35%. The reason for this is that the Coroners Court focuses on finalising older and more complex matters which means other pending matters increase in age.
- The Supreme Court has been focussing on finalising older cases which takes more time. As a result the backlog indicators (f) & (h) for civil and criminal cases are slightly higher than the target. At the end of the financial year the Supreme Court had a total of 282 criminal matters pending. Of these, 12 were pending for more than 24 months and 31 were pending for more than 12 months.

### Clearance Rate

- The clearance rate is the percentage of finalisations divided by the number of lodgements. A score of 100% or better is a good result as it means more matters are being finalised than being lodged which reduces the number of pending cases. Scores under 100% mean the number of pending cases is increasing.
- The Magistrates Court clearance rate (l) & (n) is at 131% for criminal matters and at 101% of civil matters. The high rate for criminal matters is due to 1 880 failure to vote charges that were finalised this financial year. If these are removed the Magistrates Court criminal clearance rate is still above target at 103%. This means that the Magistrates Court is finalising more matters than are being lodged.

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- The Supreme Court clearance rate (k) for criminal matters is at 102%, meaning that the Court is finalising more matters than are being lodged. However, in regard to civil matters, the Supreme Court (m) is at 91% meaning that fewer matters are being cleared than are being lodged.

#### ACT Civil and Administrative Tribunal

- The ACT Civil and Administrative Tribunal (ACAT) is above the target for the percentage of pending cases for more than 12 months (q). The reason for this is that the ACAT had 68 civil dispute matters delayed pending a ruling on a question of law under section 77 of the ACAT Act. The ruling on the question of law has been finalised and the ACAT is working to finalise the 68 matters that were delayed pending the decision.
- The ACAT is below target for the clearance indicator at 94% (r).

#### **Background Information**

- The ACT Courts and Tribunal is responsible for the provision of high quality support to judicial officers and tribunal members in the ACT Courts and Tribunal and high quality services to the public using the courts and the tribunal.

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# ANNUAL REPORT HEARING BRIEF

Output Class 3 Courts and Tribunal						
Output 3.1 Courts and Tribunal						
Description	High quality support to judicial officers and tribunal members in the ACT Law Courts and Tribunal and high quality services to the public using the courts and the tribunal.					
	2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	Variance %	Note	
Total Cost (\$'000)	54,036		44,893	(17%)	1	
Controlled Recurrent Payments (\$'000)	39,221		28,549	(27%)	1	
<b>Accountability Indicators</b>						
<b>Courts</b>						
a	Number of judicial officers per 100 finalisations <sup>i</sup>	0.14		0.11	(21%)	2
b	Real average civil court fees collected per lodgement - ACT Supreme Court	\$2,900		\$2,690	(7%)	
c	Real average civil court fees collected per lodgement - ACT Magistrates Court	\$205		\$170	(17%)	3
d	Cost per finalised criminal case <sup>ii</sup> :					
	- Supreme Court	\$23,000		\$19,681	(14%)	4
	- Magistrates Court	\$2,000		\$1,156	(42%)	5
e	Cost per finalised civil case:					
	- Supreme Court	\$12,500		\$13,228	6%	
	- Magistrates Court	\$3,500		\$2,330	(33%)	4
f	Supreme Court Criminal Case Backlog Indicator – Percentage of pending criminal cases for more than:					
	– 12 months	10%		11%	10%	6
	– 24 months	0%		4%	4%	
g	Magistrates Court Criminal Case Backlog Indicator – Percentage of pending criminal cases for more than 12 months	5%		10%	100%	7
h	Supreme Court Civil Case Backlog Indicator – Percentage of pending civil cases for more than:					
	– 12 months	10%		13%	30%	8
	– 24 months	5%		6%	20%	9
i	Magistrates Court Civil Case Backlog Indicator – Percentage of pending civil cases for more than 12 months	10%		10%	0%	
j	Coroners Court Case Backlog Indicator – Percentage of pending cases for more than 12 months	35%		48%	37%	10

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# ANNUAL REPORT HEARING BRIEF

k	Criminal Case Clearance Indicator - Percentage of Supreme Court finalisations, divided by the number of lodgements	100%		102%	2%	
l	Criminal Case Clearance Indicator - Percentage of Magistrates Court finalisations, divided by the number of lodgements	100%		131%	31%	11
m	Civil Case Clearance Indicator - Percentage of Supreme Court finalisations, divided by the number of lodgements	100%		91%	(9%)	
<b>Output Class 3 Courts and Tribunal</b>						
<b>Output 3.1 Courts and Tribunal - Continued</b>						
		2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	YTD Variance %	Note
n	Civil Case Clearance Indicator - Percentage of Magistrates Court finalisations, divided by the number of lodgements <sup>iii</sup>	100%		101%	1%	
<b>Tribunal</b>						
o	Number of presidential members per 100 finalisations	0.12		0.12	0%	
p	Real average fees collected per lodgement - ACAT <sup>iv</sup>	\$160		\$170	6%	
q	Total number and relative percentage of pending cases in the ACAT for more than 12 months	5%		8%	60%	12
r	Clearance Indicator - Percentage of ACAT finalisations, divided by the number of lodgements	100%		94%	(6%)	
The above Accountability Indicators should be read in conjunction with the accompanying notes.						
The above Accountability Indicators were examined by the ACT Audit Office in accordance with the Financial Management Act 1996. The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the Financial Management (Statement of Performance Scrutiny) Guidelines 2017.						
<b>Notes</b>						
i	2017-18 judicial resources do not include visiting judges nor judicial officers on long service leave.					
ii	For the purpose of this report a 'case' is defined as per the counting rules detailed in the Report on Government Services (ROGS) Data Collection Manual Courts, Chapters 6, 7 and 8. It is the measurement of workload in the civil jurisdiction. It is the issues, grievances or complaints that constitute a single and related series of disputes brought by an entity (or group of entities) against another entity (or group).					
iii	The civil case clearance indicator for the Magistrates Court includes the Coroners Court.					
iv	ACAT - ACT Civil and Administrative Tribunal					
<b>Explanation of Material Variances (<math>\geq</math> +/-10%)</b>						
1	Total Controlled Recurrent Payments (CRP) and Total Cost are lower than target primarily due to the delay in the construction of new courts facilities. The target included payments under the post construction contract that did not eventuate.					
2	The outcome is below the target because of the 1,880 failure to vote charges lodged last financial year being finalised in this financial year. If these charges are excluded then the actual outcome would be 0.13 or 7% below the target.					
3	The outcome is below the target because of a higher than expected proportion of matters being subject to no fee (particularly family violence applications) or to a fee exemption or waiver.					
4	The outcome is below the target because of the delay in the construction of new courts facilities. The target included payments under the post construction contract that did not eventuate.					

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5	The outcome is below the target because of the delay in the construction of new courts facilities and the 1,880 failure to vote charges finalised in this financial year. The target included payments under the post construction contract that did not eventuate.
6	The outcome is above the target because of the focus on finalising older cases which take more time.
7	The outcome is above the target because of a higher than expected number of defended hearings which take more time to finalise.
8	The outcome is above the target because the Supreme Court continued to give priority to reducing civil matters pending for more than 24 months which means the listing time for matters less than 24 months is reduced.
9	The outcome is above the target because of the extent of the backlog and a higher than expected number of complex matters, which take more time to finalise. During the time required to deal with these cases other pending cases increase in age.
10	The outcome is above the target because of the focus on finalising older and more complex matters. During the time required to deal with these cases other pending cases increase in age.
<b>Output Class 3 Courts and Tribunal</b>	
<b>Output 3.1 Courts and Tribunal - Continued</b>	
<b>Explanation of Material Variances (<math>\geq \pm 10\%</math>) - Continued</b>	
11	The outcome is above the target because of the 1,880 failure to vote charges lodged in last financial year that were finalised in this financial year. If these charges are excluded then the actual outcome would be 103% or 3% above target.
12	The outcome is above the target because the finalisation of 68 civil dispute matters has been delayed pending a ruling on a question of law under section 77 of the ACAT Act.

## Strategic Indicator 1: Justice System Completion Rates

The ACT justice system seeks to ensure fairness to all persons involved. A fair justice system is accessible, deals with matters in a reasonably expeditious manner and is one in which all persons involved conduct themselves in a way that promotes, protects and respects rights.

Cleared as complete and accurate: 15/10/2018  
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**ISSUE: Financial Statement Variance Explanations – Controlled (Directorate)****Context:**

This brief explains the Justice and Community Safety (JACS) Directorate 2017-18 Operating Statement (refer to Annual Report 2017-18, page 228).

**Talking points:**2017-18 Budget to 2017-18 Actual Variance Explanation**Revenue**

- Total Income for 2017-18 of \$305.3m was \$3.2m lower than the original budget mainly due to lower:
  - *Controlled Recurrent Payments (CRP)*: the decrease of **\$13.4m** mainly due to
    - rolled over funding to 2018-19 (**\$10.6m**) relating to the delays in Eastman Retrial proceedings (\$2.9m), revised timing of the Natural Disaster Resilience Program (\$1.3m), the remediation for Belconnen Fire and Ambulance station (\$1.1m) which was transferred to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) and other recurrent initiatives (\$5.3m);
    - savings associated with the delay in the construction of the new ACT Courts Public Private Partnership (PPP) contract (**\$5.7m**);
    - approved FMA instruments (**\$4.9m**) including:
      - s14 funding re-directed to Capital Injections for Courts PPP project (\$3.5m); and
      - s16 Administrative Arrangements (AA) Transfers (totalling \$1.4m) including the Greyhound Racing Grant Provision to CMTEDD (\$1.0m) and Office of Coordinator General Family Safety (OCGFS) function to Community Services Directorate (CSD) (\$1.3m) being partially offset by transfer of *Better services in your community – More transparent government* from CMTEDD to JACS (\$1.0m).

These are partially offset by FMA s16B roll-over funding from 2016-17 to 2017-18 (**\$4.5m**) and 2<sup>nd</sup> appropriation approved in 2017-18 (**\$3.3m**).

The decrease in the above revenue is largely offset by higher own source revenue and gains (**\$10.2m**) in 2017-18 compared to original budget:

- *User Charges*: the increase of \$3.2m mainly relating to higher government solicitor client funded services revenue (\$3.8m) which is partially offset by lower Emergency Services Agency (ESA) Ambulance and Non Inpatient Revenue (\$0.7m);
- *Other Revenue*: the increase of \$1.9m mainly relating to higher ESA cost recovery associated with overseas deployments and higher Commonwealth grants;
- *Resources received free of charge*: the increase of \$2.7m mainly due to new payment arrangement for workers' compensation premium in 2017-18; and
- *Other Gains*: the increase of \$2.3m predominately due to the contribution to the construction and fitout for the hangar upgrade at the helicopter base in Hume in 2017-18.

## Expenditure

- Total Expenditure of \$336.1m in 2017-18 was \$3.6m lower than original budget mainly due to lower:
  - *Superannuation Expenses*: the decrease (\$1.1m) is mainly due to staff members retiring from the more expensive superannuation schemes;
  - *Supplies and Services*: the decrease (\$5.0m) is mostly due to net rollovers of funding (\$4m); AA transfer of the OCGFS budget to CSD (\$0.6m); Courts PPP saving (\$0.9m) and estimated outcome adjustments which are slightly offset by 2017-18 Budget Review initiatives (\$0.7m);
  - *Depreciation and Amortisation*: the decrease (\$6.1m) is mainly due to revised timing for completion of capital works projects and delay in the construction of the new Courts' PPP project; and
  - *Borrowing Costs*: the decrease (\$5.3m) is mainly due to saving associated with the delay in Courts PPP project.
  - *Grants and Purchased Services*: the decrease (\$0.3m) is mainly due to rolled over funding for the Natural Disaster Resilience Program (NDRP)

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to 2018-19, partially offset by higher level of grant payments to community sector organisations.

The decrease in the above expenses were partially offset by higher expenses in:

- *Employee Expenses*: the increase of \$11.8m is mainly due to new mid-year review initiatives funding (\$2.5m), higher workers compensation premium costs (\$3.2m), higher wages and salaries expenses associated with client funded services for the ACT Government Solicitor's office (\$3.8m), wages agreements and remuneration tribunal increases (\$1.8m) and s16b rollover from 2016-17 to 2017-18 (\$0.7m); and
- *Other Expenses*: the increase of \$2.4m is mainly due to the transfer of the Belconnen Fire and Ambulance Station to CMTEDD in 2017-18.

#### 2017-18 Actual to 2016-17 Actual Variance Explanation

##### **Revenue**

- Total Income increase of **\$11.7m** in the 2017-18 actual from the 2016-17 actual is mainly due to higher:
  - *Controlled Recurrent Payments (CRP)*: the increase of \$14.5m mainly due to 2017-18 new and mid-year initiatives funding (\$15.6m), wages agreements increase and indexation (\$4.8m), partially offset by funding transferred to 2018-19 (\$4.6m) and AA transfer of the OCGFS function to CSD from 1 July 2017 (\$1.3m).
  - *Other Revenue*: the increase of \$2.4m mainly relates to ESA cost recovery associated with overseas deployments and higher Commonwealth Grants.

The increase in above revenue is partially offset by lower revenue in:

- *Resources received free of charge*: the decrease of \$3.2m mainly relating to workers' compensation supplementation associated with lower premium rate driven by better claim performance; and
- *Other Gains*: the decrease of \$1.7m predominately relates to the recognition in 2016-17 of a leasehold asset for 2 Constitution Avenue (\$3.4m) which was partially offset by the contribution to the construction and fitout for the hangar upgrade at the helicopter base in Hume (\$2.2m) in 2017-18.

## Expenditure

- Total Expenditure - the increase of \$15.3m in 2017-18 actual from the 2016-17 actual is mainly due to higher:
  - *Employee Expenses*: the increase (\$7.3m) is mainly due to wages agreements increases and indexation (\$4.1m); additional staffing from client funded services; increased workload and other activities (\$3.4m);
  - *Superannuation Expenses*: the increase (\$1.2m) primarily relates to wage agreement increases and indexation (\$0.5m), additional staffing (\$0.4m) and mid-year budget review initiatives (\$0.3m);
  - *Supplies and Services*: the increase (\$5.3m) is primarily due to higher Information Communication Technology (ICT) support and related services costs (\$2.5m); rent and outgoings expenses (\$1.3m), and service agreements expenses to Commonwealth and community sector organisations (\$1.3m);
  - *Grants and Purchased Services*: the increase (\$2.1m) is mainly due to higher grant payments to community sector organisations (\$0.9m), Natural Disaster Resilience Program (\$0.7m) and other initiatives (\$0.5m).
  - *Other Expenses*: the increase (\$1.5m) is mainly due to the loss (\$3.3m) arising from the land transfer of the old Belconnen Fire and Ambulance Station to CMTEDD which is partially offset by lower provision and impaired ambulance debts (\$1.7m).

The increase in the above expenses were partially offset by lower Depreciation and Amortisation(\$2.0m) mainly due to the old Belconnen Fire and Ambulance Stations being fully depreciated in 2016-17.

**ISSUE: Financial Statement Variance Explanation - Territorial**

This brief explains the JACS Territorial 2017-18 Operating Statement (refer Annual Report 2017-18, page 284).

**Talking points:**

- 2017-18 Budget to 2017-18 Actual Variance Explanation

**Revenue**

*Total Revenue:* Territorial income for 2017-18 totalled **\$187.3 million**, which was **\$2.8 million**, or approximately **1.5 per cent** higher than the original budget in 2017-18.

The higher revenues include:

- payments for expenses on behalf of the Territory of **\$0.9 million**;
- insurance and legal cost recoveries of **\$0.9 million**; and
- court imposed traffic infringement fines and fees of approximately **\$1.0 million**.

**Expenditure**

*Total Expenditure:* the total expenditure in 2017-18 was **\$189.4 million**, which was **\$2.5 million**, or **1.3 per cent** higher than the original budget in 2017-18. This was mainly due to higher:

- Criminal injury compensation, victim financial assistance payments, and other Territorial legal expenses of **\$2.8 million**; and
- revenue transfers to Government of **\$2.5 million**.

These are slightly offset by lower:

- ACT Policing payments (**\$2.2 million**) mainly relating to transfer of funding to future years associated with the Retrial of Mr David Eastman, the Equipping more ACT Police with TASERs and delays in signing the Australian Federal Police Enterprise Agreement; and
- Depreciation, grants and other expenses (**\$0.6 million**).

- 2016-17 Actual to 2017-18 Actual Variance Explanation

**Revenue**

*Total Revenue:* Territorial income for 2017-18 totalled **\$187.3 million**, which was **\$7.3 million**, or **4.1 per cent** higher than 2016-17 actual.

The higher revenues include:

- payments for expenses on behalf of the Territory of **\$7.3 million**, mainly relates to the full year impact (\$3.3 million) of Racing and Gaming (R&G) policy function transfer from Chief Minister, Treasury and Economic Development Directorate (CMTEDD) following Administrative Arrangement (AA) changes from 1 November 2016; higher funding for ACT Policing services (\$3.0 million); and increased income to meet the higher Territorial legal and Employee Expenses (1.0 million); and
- court fees and fines of **\$0.5 million**.

These are partially offset by lower legal and insurance recoveries of **\$0.5 million**.

**Expenditure**

*Total Expenditure:* the total expenditure in 2017-18 was **\$189.4 million**, which was **\$7.2 million**, or **4 per cent** higher than 2016-17 actual. This was mainly due to:

- full year impact (**\$3.3 million**) of grants and purchased services as a result of R&G function transfer from CMTEDD following the AA changes from 1 November 2016;
- higher supplies and services (**\$3.8 million**) relating mainly to payment to ACT Policing (\$3.0 million), higher legal and compensation cost (\$0.5 million) and recognition of a provision associated with incorrectly imposed Court levies (\$0.3 million); and
- higher employee cost (**\$0.2m**).

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TRIM Ref:

JACS2018/1130-009-003

**Portfolio/s:** Attorney-General**ISSUE: Financial Statement Variance Explanation - Output Class 1 Justice Services****Context**

This brief explains the Justice and Community Safety (JACS) Directorate 2017-18 Operating Statement for Output Class 1 – Justice Services (refer Annual Report 2017-18, page 233)

**Talking points:**2017-18 Budget to 2017-18 Actual Variance Explanation**Revenue**

- Total Income for 2017-18 of \$66.1m was \$3.7m over the original budget which is mainly due to higher:
  - *User Charges*: the increase of \$3.8m predominately relates to higher government solicitor client-funded services revenue;
  - *Resources Received Free of Charge*: the increase of \$0.3m is mainly due to the new payment arrangement for workers' compensation premium; and
  - *Other Revenue*: the increase of \$0.9m is mainly due to funding received for grant program.

The increase in the above revenue was partially offset by lower:

- *Controlled Recurrent Payments* (\$1.3m), mainly relates to:
  - approved s16 net Administrative Arrangements (AA) transfers (\$1.4m) primarily associated with the Office of Coordinator General Family Safety (OCGFS) function to Community Services Directorate (CSD) (\$1.3m); and
  - net s16b funding rollovers for various initiatives from 2017-18 to 2018-19 (\$1.6m);

These are partially offset by 2017-18 mid-year review funding (\$1.4m) and Commonwealth funding for legal assistance services (\$0.3m).

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## Expenditure

- Total expenditure for 2017-18 of \$68.5m was \$2.6m over the original budget predominately relating to higher:
  - *Employee Expenses*: the increase of (\$6.9m) is mainly due to higher wages and salaries expenses associated with government solicitor client-funded services (\$3.8m), additional resources engaged in Legislation, Policy and Programs (LPP) Branch to deliver government priorities (\$1.5m), higher salaries expenses in Director of Public Prosecutions (DPP) office (\$1.4m) due to high volume complex matters, cost associated with 2017-18 mid-year review initiatives (\$0.9m) and wages agreements increase (\$0.3m). These are partially offset by AA transfer of OCGFS function to CSD (\$0.7m).

The above increase has been partially offset by lower:

- *Supplies and Services*: the decrease of (\$2.9m) is mainly due to underspent (\$1.6m) in some areas including LPP and DPP to offset higher employee expenses, AA transfer of OCGFS function to CSD (\$0.6m) and net s16b rollovers to 2018-19 (\$0.6m);
- *Depreciation and Amortisation*: the decrease of (\$1.5m) is mainly due to revised timing for completion in capital works projects.

## 2017-18 Actual to 2016-17 Actual Variance Explanation

### Revenue

- Total Income for 2017-18 of \$66.1m was \$5.7m higher than the 2016-17 Actual which is mainly due to higher:
  - *Controlled Recurrent Payments*: the increase of \$3.6m is mainly due to new 2017-18 budget initiatives (\$4.1m), 2017-18 budget review funding (\$1.4m) and Commonwealth funded legal assistance services (\$0.3m). These are partially offset by net AA funding transfers (\$0.8m) and unspent funds to be rolled into 2018-19 (\$1.5m);
  - *Other Revenue*: the increase of \$1.5m is mainly due to the higher Commonwealth grants revenue.
  - *User Charges*: the increase of \$0.8m predominately relates to higher government solicitor client-funded services revenue.

Cleared as complete and accurate: 01/11/2018  
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Lead Directorate: Justice and Community Safety

## Expenditure

- Total expenditure for 2017-18 of \$68.5m was \$5.8m higher than 2016-17 actual predominately relating to higher:
  - *Employee Expenses*: the increase (\$2.4m) mainly due to new budget initiatives (\$0.7m) and 2017-18 mid-year review funding (\$0.9m), wages agreements increase (\$0.3m) and higher DPP & ACT Government Solicitor wages and salaries (\$1.1m). These have been slightly offset by AA transfer of OCGFS function to CSD (\$0.6m);
  - *Grants and Purchased Services*: the increase (\$2.2m) is mainly due to higher grant payments to community sector organisations (\$0.9m), Natural Disaster Resilience Program (\$0.7m) and other initiatives (\$0.5m).
  - *Supplies and Services*: the increase (\$0.6m) is mainly due to the higher legal counsel cost (\$0.4m) associated with Eastman Retrial and other related proceedings, accommodation (\$0.3m), and information, communication and technology (ICT) expenses (\$0.1m). These are partially offset by OCGFS transfers (\$0.2m) to CSD; and
  - *Superannuation Expenses*: the increase (\$0.3m) is mainly due to wage agreements increases and indexation, additional staffing associated with new budget initiatives.

TRIM Reference: JACS2018/1130-009-005

**Portfolio/s:** Attorney-General

**ISSUE: Output 1.1 – Policy Advice and Justice Programs Financial Summary**

**Context:**

Page 346 of the 2017-18 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) for Output 1.1, Policy Advice and Justice Programs. The major influences leading to variances from the 2017-18 Original Target to the 2017-18 Actual are explained in this brief.

**Talking points:**

**Output 1.1 Policy Advice and Justice Programs**

	<b>2017-18 Original Target</b>	<b>2017-18 Actual \$'000</b>	<b>YTD Variance %</b>
<b>Total Cost (\$'000)</b>	23,665	21,624	(9%)
<b>Controlled Recurrent Payments (\$'000)</b>	21,965	19,769	(10%)

- *Total Cost:* the favourable variance of \$2.0m between the Original Target and the 2017-18 Actual is mainly due to:
  - net roll-over funding (\$1.9m) to 2018-19 primarily due to revised timing of the Natural Disaster Resilience Program (\$1.3m); and
  - funding transfers of the Coordinator-General for Family Safety function to Community Services Directorate (\$1.3m).

These are partially offset by higher costs relating to:

- 2017-18 Mid-year Budget Review initiatives (\$0.7m) including Commonwealth Redress Scheme (\$0.3m), Royal Commission Implementation (\$0.2m) and Drug and Alcohol Court Development and Design (\$0.2m);
  - Commonwealth funded legal assistance services (\$0.3m);
  - wages agreements increase (\$0.2m) and related pressures to deliver government priorities.
- *Controlled Recurrent Payments:* the variance of \$2.2m between the Original Target and the 2017-18 Actual is mainly due to:

Cleared as complete and accurate: 16/10/2018  
 Cleared by: Executive Director Ext: 76244  
 Contact Officer name: Wei Li / Mon Chan Ext: 73264 / 70509  
 Lead Directorate: Justice and Community Safety

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- net roll-over funding (\$1.9m) to 2018-19 primarily due to revised timing of the Natural Disaster Resilience Program (\$1.3m); and
- funding transfers of the Coordinator-General for Family Safety function to Community Services Directorate (\$1.3m).

These are partially offset by higher costs relating to:

- 2017-18 Mid-year Budget Review initiatives (\$0.7m) including Commonwealth Redress Scheme (\$0.3m), Royal Commission Implementation (\$0.2m) and Drug and Alcohol Court Development and Design (\$0.2m);
- Commonwealth funded legal assistance services (\$0.3m).

TRIM Ref: JACS2018/1130-009-006

**Portfolio/s:** Attorney-General

**ISSUE: Financial Summary – Output 1.2 – Legal Services to Government**
**Context:**

Page 347 of 2017-2018 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) for Output 1.2, Legal Services to Government. The major influences leading to variances from the 2017-2018 Original Target to the 2017-2018 Actual are explained in this brief.

**Talking points:**
**Output 1.2: Legal Services to Government**

	2017-2018 Original Target	2017-2018 Actual \$'000	YTD Variance %
<b>Total Cost (\$'000)</b>	13,962	19,169	37%
<b>Controlled Recurrent Payment ('000)</b>	8,968	9,403	5%

- *Total Cost:* the unfavourable variance of \$5.2m between the Original Target and the 2017-2018 Actual is primarily due to the engagement of additional staff to undertake work for client agencies.

ACT Government Solicitor receives own source revenue to meet expenses associated with this variance primarily from insurance work for the ACT Insurance Authority and other major client projects.

- *Controlled Recurrent Payment:* the variance of \$0.4m is mainly due to additional funding provided during 2017-2018 Mid-year Review process for 'Better support when it matters – Stronger resourcing for the Government Solicitor's Office' initiative (\$0.3m).

Cleared as complete and accurate: 15/10/2018  
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TRIM Reference JACS2018-009-007

**Portfolio/s:** Attorney-General

**ISSUE:        Output 1.3 – Legislative Drafting and Publishing Services**

**Financial Summary**

**Context:**

Page 348 of the 2017-18 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) at Output level for Output 1.3, Legislative Drafting and Publishing Services. The major influences leading to variances from the 2017-18 Original Target to the 2017-18 Actual are explained in this brief.

**Talking points:**

**Output 1.3: Legislative Drafting and Publishing Services**

	2017-18 Original Target	2017-18 Actual \$'000	YTD Variance %
<b>Total Cost (\$'000)</b>	5,206	4,535	(13%)
<b>Controlled Recurrent Payment ('000)</b>	4,348	4,369	0%

- *Total Costs:* the favourable of \$0.7m between the Original Target and 2017-18 Actual is primarily due to lower depreciation associated with timing of completion of the ACT legislation Register Replacement project (\$0.4m), lower Supplies and Services (\$0.1m) and long service leave expenses (\$0.1m) due to the lower rate used to estimate the present value of long service leave liabilities.

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 Lead Directorate: Justice and Community Safety

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**ISSUE:           Output 1.4 – Public Prosecutions Financial Summary**

**Context:**

Page 349 of 2017-2018 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) for Output 1.4, Public Prosecutions. The major influences leading to variances from the 2017-2018 Original Target to the 2017-2018 Actual are explained in this brief.

**Talking points:**

**Output 1.4: Public Prosecutions**

	2017-2018 Original Target	2017-2018 Actual	YTD Variance %
<b>Total Cost (\$'000)</b>	14,056	14,925	6%
<b>Controlled Recurrent Payment (\$'000)</b>	13,240	13,674	3%

- *Total Costs:* the unfavourable variance of \$0.9m between the Original Target and the 2017-2018 Actual is mainly due to the net rollover funding (\$0.3m) from 2016-2017, predominately relating to Eastman Retrial and related proceedings, additional resourcing associated with ‘Better support when it matters – Director of Public Prosecutions – Additional Resources to confiscate criminals’ assets’ initiative (\$0.3m) through 2017-2018 Mid-year Review Budget process, wages agreements increase (\$0.2m) and higher worker compensation expenses (\$0.1m).

**ISSUE: Financial Statement Variance Explanation - Output Class 3 Courts and Tribunal****Context**

This brief explains the Justice and Community Safety (JACS) Directorate 2017-2018 Operating Statement for Output Class 3 – Courts and Tribunal (refer Annual Report 2017-2018, page 235)

**Talking points:**2017-2018 Budget to 2017-2018 Actual Variance Explanation**Revenue**

- Total Income – the decrease of \$10.5m in 2017-2018 actual from the original budget is mainly relating to lower Controlled Recurrent Payments (\$10.7m) due to:
  - savings (\$5.7m) associated with the delay in the construction of the new ACT Courts through the Public Private Partnership (PPP) contract, and
  - approved *Financial Management Act 1996* (FMA) instruments (\$5m) which include s14 funding being re-directed to Capital Injections for the Courts PPP project (\$3.5m) and net rollovers to 2018-2019 (\$1.5m).

**Expenditure**

- Total expenditure – the decrease of \$9.1m in 2017-2018 actual from the original budget is mainly due to lower:
  - *Supplies and Services*: the decrease of \$4.9m is mainly due to savings associated with the delay in construction of new ACT Courts through the PPP project (\$3.9m) and net rollovers of the Eastman Retrial cost due to delay in proceedings (\$1.2m); and
  - *Borrowing costs*: the decrease of \$5.3m is mainly due to saving associated with delay of the Courts PPP project.

The decrease in the above expenses is partially offset by higher Employee Expenses (\$1.2m) predominately relating to increased Judges' long leave provision and Judges' remuneration payment (\$1.3m).

### 2017-2018 Actual to 2016-2017 Actual Variance Explanation

#### **Revenue**

- Total Income – the increase of \$1.2m from 2016-2017 actual is mainly relating to higher Controlled Recurrent Payments (\$1.0m) due to additional budget funding for Drug and Alcohol Court (\$0.3 m); Remuneration Tribunal increase (\$0.4m) and Retrial of Mr David Eastman cost (\$0.3m).

#### **Expenditure**

- Total Expenditure – the increase of \$2.6m from 2016-2017 actual mainly relates to higher Employee Expense (\$2.6m) due to upward movement in leave expenses (\$1.5m) including Judges' long leave entitlements, wage agreements and Remuneration Tribunal increases (\$0.8), and higher costs associated with Retrial of Mr David Eastman (\$0.3m).

TRIM Ref: JACS2018/1130-010-001

**Portfolio:** Attorney-General

Minister for Justice, Consumer Affairs and Road Safety

**ISSUE: STAFFING PROFILE**

This issue is referenced in Section B.8 Human Resources Management on pages 204-207 of the 2017-18 Annual Report.

**Talking points:**

- As at 27 June 2018 (the last captured pay period in the reporting period), the Justice and Community Safety Directorate (JACS) employed 1,869 people. The full time equivalent (FTE) for the Directorate was 1,781.0 FTE (AR p204 Table 61).
- This was an increase of 51 headcount from June 2017 headcount of 1,818. FTE has increased in the same period by a similar number of 51.5 FTE from 1,729.5 FTE.
- The increase was due to additional staff which were:
  - approved through 2017-2018 Supplementary Appropriation
  - funded through own sourced revenue by the Government Solicitor and Legislation, Policy and Programs
  - for new ACT Ambulance Services and ACT Fire and Rescue recruit colleges
  - associated with project activities
  - to backfill officers who were on paid maternity and extended personal leave.
- At the date of reporting, there were 810.4 FTE female (which represents 45.5 per cent of the JACS workforce) and 970.5 FTE male (which represents 54.5 per cent of the workforce) (AR p 204 Table 62). In June 2017, there were 782.7 FTE (45.3 per cent) female and 946.7 FTE male (54.7 per cent).

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Contact Officer name:	Doreen Tan	Ext:70995
Lead Directorate:	Justice and Community Safety	

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## Key Information

- Staff profile by classification group and gender (AR p205 Table 63):

Classification Group	Female	Male	Total
Administrative Officers	345	162	507
Ambulance Officers	78	137	215
Ambulance Support Officers	24	24	48
Correctional Officers	53	164	217
Executive Officers	19	18	37
Fire and Rescue Officers	14	322	336
General Service Officers and Equivalent	0	13	13
Health Professional Officers	13	2	15
Judicial Officers	7	7	14
Legal Officers	100	30	130
Legal Support	15	5	20
Professional Officers	1	1	2
Prosecutors	25	19	44
Senior Officers	163	92	255
Statutory Office Holders	6	6	12
Technical Officers	3	1	4
<b>TOTAL</b>	<b>866</b>	<b>1003</b>	<b>1869</b>

- Staff profile by employment category and gender (AR p205 Table 64):

Employment Category	Female	Male	Total Headcount
Casual	17	21	38
Permanent Full-time	576	860	1436
Permanent Part-time	106	32	138
Temporary Full-time	153	83	236
Temporary Part-time	14	7	21
<b>TOTAL</b>	<b>866</b>	<b>1003</b>	<b>1869</b>

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# ANNUAL REPORT HEARING BRIEF

- JACS had 1,574 permanent employees, 257 temporary employees and 38 casuals (AR p205 Table 64).
- Headcount by division and employment category (AR p204 Table 61 and p205 Table 64)

Division	Permanent	Temporary	Casual	Total
ACT Corrective Services	383	28	8	419
ACT Courts and Tribunal	130	56	10	196
ACT Government Solicitor	83	31	12	126
Corporate	72	17	0	89
Director of Public Prosecutions	63	23	1	87
Emergency Services Agency	664	49	3	716
Human Rights Commission	37	12	2	51
Inspectorate of Custodial Services	0	1	0	1
Legislation, Policy and Programs	65	20	1	86
Office of Director-General	6	3	0	9
Parliamentary Counsel's Office	17	6	0	23
Public Trustee and Guardian	44	11	1	56
Security and Emergency Management Branch	10	0	0	10
<b>TOTAL</b>	<b>1574</b>	<b>257</b>	<b>38</b>	<b>1869</b>

Note: Temporary employees include Contract Executives and Statutory Office Holders.

- ACT Courts and Tribunal's high proportion of temporary staff were mainly judiciary staff. Emergency Services Agency's temporary employees were mainly new recruits with the ACT Ambulance Service.
- JACS had 52 employees who identified themselves as being from Aboriginal and Torres Strait Islander background (AR p206 Table 65). This represented 2.8 per cent of the total JACS workforce. This was an increase from 50 in June 2017.
- Of the 52 Aboriginal and Torres Strait Islander employees, 23 (44.2 per cent) were female and 29 (55.8 per cent) were male.

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- Eight employees held senior officer classification level positions and one was a Contract Executive. The classification levels of Aboriginal and Torres Strait Islander employees in JACS are as follows:

Employment Category	Headcount
Administrative Officers	19
ACT Ambulance Service Officers	3
Correctional Officers	13
Executive Officers	1
ACT Fire and Rescue Service Officers	6
Legal and Legal Support Officers	2
Senior Officers	8
Total	52

## Background Information

- The 2017-2018 JACS Annual Report reported the JACS headcount as 1,869. The headcount was an increase of 51 headcount from the previous year.
- As at 27 June 2018, JACS had the following staff on temporary contract:
  - 60 staff on temporary contract of three months or less, which represents 3.2 per cent of the public servants within the Directorate
  - 56 staff on temporary contract of three months to six months in length, which represents 3.0 per cent of the public servants within the Directorate
  - 51 staff on temporary contract of six months to 12 months in length, which represents 2.7 per cent of the public servants within the Directorate.

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TRIM Ref: JACS2018/1130-010-011

**Portfolio/s:** Attorney-General**ISSUE: JACS STAFF SURVEY**

The Canberra Times published a news article “Justice Directorate staff are concerned about bullying and harassment” on Monday 9 April 2018 at 2:57 pm.

**Talking points:**

- The information collected in the 2017 Justice and Community Safety (JACS) Staff Survey provides valuable information on staff perception at that point in time on what works well in JACS and identifies opportunities for improvement.
- The survey is one tool that assists the Directorate in understanding the broad culture of the organisation and makes an assessment of the level of staff engagement.
- It is important to note that while there is room for improvement, Directorate’s results reflect that JACS is average when compared to other large public sector organisations.
- The results are also reflective of the diverse nature of the functions and services it delivers. For example the functions undertaken by Corrections and Emergency Services by their very nature are high risk and staff operate in high pressure environments, which can have an impact on organisational culture.
- JACS is committed to improving its workplace culture and has a Workforce Strategy 2017-2019 to help achieve this. The survey results are used by the Directorate and Business Heads to inform other work that is being delivered across the Directorate as part of its Workforce Strategy.
- It should be noted that responses related to favouritism, harassment and bullying have statistically improved over time, with nearly 10 per cent more employees reporting that they felt free from bullying and harassment in the last survey, compared with the 2015 data.

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## Background Information

- The JACS Staff Survey was conducted during April and May 2017. The next survey will be conducted in 2020.
- JACS is committed to continuing the process of undertaking staff surveys, to understand what is happening and work on how to respond and improve the organisation as a whole. This is part of the whole of JACS workforce strategy.
- In support of this, business units are working with staff on the results of the survey.
- JACS will continue to progress actions to facilitate a more engaged, enabled and empowered workforce.
- Detailed results from the JACS staff surveys, including those of the ESA, are not made public for a number of reasons:
  - the assurances made to staff about the confidentiality of their responses and the risk of undermining staff confidence and participation in future surveys (which is voluntary);
  - the commercial value and intellectual property of Best Practice Australia as the survey provider would be compromised; and
  - the nature of the reports, which are designed as working documents by executives and managers within the organisation.
- The following information relates to the 2015 and 2017 Staff Survey responses on bullying and harassment questions. To achieve the almost 10% improvement involved combining these 2 questions and averaging across 2 survey year population sizes.

Staff Survey	Response to "A workplace that is free from harassment"	Response to "A workplace that is free from Bullying"
2015	57% (731)	52% (729)
2017	66% (861)	59% (865)

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**ISSUE: Bullying and Harassment****Talking points:**

- In 2017-18, the Justice and Community Safety Directorate (JACS) undertook a total of seven preliminary assessments relating to allegations of bullying and harassment and sexual harassment. All processes were conducted in accordance with Section H of the relevant ACT Public Service (ACTPS) Enterprise Agreement.
- All of the preliminary assessments undertaken were from ACT Corrective Services (ACTCS). Five related to allegations of bullying and harassment and two related to allegations of sexual harassment.
- No bullying and harassment or sexual harassment complaints were received from the ACT Emergency Services Agency (ESA) in the 2017-18 financial year.
- However, since the commencement of the 2018-19 financial year three female staff members from the ACT Ambulance Service (ACTAS) have raised workplace behaviour concerns by some male staff.
- A preliminary assessment was undertaken into these matters, with systemic issues identified. An action plan, including support mechanisms to be provided to the individual staff members, is currently being developed.

**Bullying and Harassment**

- Of the five preliminary assessments related to allegations of bullying and harassment:
  - one progressed to a formal misconduct investigation which was subsequently ceased prior to the finalisation of the investigation. This was due to a lack of evidence in support of the claims and both parties agreeing to participate in other remedial action;
  - three were found to have insufficient evidence to support the allegation/s at the preliminary assessment stage; and

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- one was managed by other remedial action without the need for a formal misconduct investigation.

### Sexual Harassment

- Of the two preliminary assessments relating to allegations of sexual harassment:
  - one was found to have insufficient evidence to support the allegation following the preliminary assessment; and
  - one progressed to a formal misconduct investigation which was found to be substantiated. The individual resigned prior to a final sanction being given.
- Since 2015, the directorate has captured more detailed data including information relating to complainants. This data shows that during the 2017-18 financial year, the majority of allegations made were against staff in the senior officers classification or equivalent.

### Compensation

- In 2017-2018, the directorate had a total of 10 compensation claims lodged where the claimant indicated bullying and harassment was involved. Liability was accepted for five of these.

	JACS Other	ACTCS	ESA
Compensation Claims	0	3	7
Liability Accepted	0	2	3

- The number of preliminary assessments undertaken and compensation claims received do not match for a number of reasons including:
  - data is from a different source; not all preliminary assessments have a corresponding compensation claim, or the process may have different timing. For example, the preliminary assessment may be undertaken prior to any claim, and timing could be several months apart.
  - claims are coded by Comcare and reflect what is entered by the claimant on their initial claim, and may reflect a one-off incident rather than bullying and harassment.

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## Staff Training

- Respect, Equity and Diversity (RED) training, which includes bullying prevention and management, has been mandatory for all staff since the launch of the ACTPS RED Framework in December 2010. In addition, the directorate Inclusion Statement 2016-2019 (launched in 2015-2016) continues to set the foundation to build inclusiveness within the workplace.
- Since the launch of the ACTPS RED Framework in 2010, there has been 1,672 staff have attended RED training across the directorate (inclusive of separated staff).
- During 2017-2018, a total of 142 JACS staff participated in RED training.

	JACS Other	ACTCS	ESA
RED Training	37	54	51

- At the end of 2017-2018, the directorate had a total of 35 RED contact officers (including one from Public Trustee and Guardian).

	JACS Other	ACTCS	ESA
RED Contact Officers	9	8	18

- JACS provide ongoing promotion and implementation of the *ACTPS Resolving Workplace Bullying, Harassment and Discrimination Guidelines* which included RED in the induction program for all new employees.
- A total of 157 JACS staff attended induction in 2017-2018, at which the RED Framework and Social Inclusion were discussed.

	JACS Other	ACTCS	ESA
Induction training	40	52	65

## Key Information

- All reports of bullying and harassment and sexual harassment were from ACTCS.

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# ANNUAL REPORT HEARING BRIEF

- A total of 10 compensation claims were lodged where the claimant indicated bullying and harassment, with liability being accepted for five claims. Three claims were from ACTCS and seven claims were from ESA.
- During the reporting year, 142 JACS staff attended RED training. 54 were from ACTCS, 51 were from ESA and 37 were from the Attorney-General's portfolio.
- At the end of 2017-2018, the directorate had a total of 35 RED contact officers. Eight were from ACTCS, 18 were from ESA and nine were from the Attorney-General's portfolio.

## Background Information

- Information regarding investigation into alleged breaches of Section 9 of the *Public Sector Management Act 1994*, which includes bullying and harassment, are reported on an annual basis in the ACT Government State of Service Report 2016-2017 and are not disaggregated to Directorate level.
- Misconduct information for JACS was also recently provided in response to a Question on Notice (QON) reference document MIN: 2018/003809.

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**ISSUE: Attraction and Retention Incentives – Whole of Directorate****Talking points:**

- Attraction and Retention Incentives (ARIns) may be offered:
  - where a position is deemed critical to the operation of the Directorate
  - if employees with specialist qualifications or specialist or high level skills are required
  - the skills required by the employee who occupies the position are in high demand in the marketplace
  - the position would incur significant costs to replace
- An ARIn may contain enhanced pay rates, provision for privately plated vehicles or other terms and conditions of employment where the Director-General and Head of Service considers there is a clear, unambiguous and exceptional need.
- As at 30 June 2018 the Justice and Community Safety (JACS) Directorate had eight Attraction and Retention Incentives (ARIns) in place.
- This includes two group ARIns. One group ARIn for the ACT Ambulance Service (ACTAS) and one group ARIn for ACT Fire and Rescue (ACTF&R).
- Seven ARIns were terminated during the 2017-18 financial year.
- Due to the small number of ARIns within the Directorate, for privacy purposes, it is not possible to provide further information.
- ARIns must be reviewed at least annually, with a comprehensive review to be undertaken every three years.

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**Key Information**

- Information pertaining to ARIns for JACS is contained on page 203 of the Annual Report.
- ARIns within the Directorate:

<b>Description</b>	<b>Number of Individual ARIns</b>
Number of ARIns at 30 June 2018	8
Number of new ARIns commenced during the reporting period	1
Number of ARIns for employees who have transferred from Special Employment Arrangements (SEAs) during the period	0
Number of ARIns terminated during the period	7
Number of ARIns providing for privately plated vehicles as at 30 June 2018	0

- Table - Individual ARIns

<b>Classification Range</b>	<b>Remuneration as at 30 June 2018</b>
SOGA and Equivalent	\$146,138 to \$167,363
Fire Brigade (FB) 8	\$140,614

**Background Information**

- The use of ARIns is made available through relevant Enterprise Agreements.
- ARIns are used in limited circumstances and only where it is necessary to attract and/or retain employees with specialist skills.

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**ISSUE: Voluntary Redundancies (whole of Directorate)****Talking points:**

- In the 2017-2018 financial year, two employees accepted an offer of voluntary redundancy (VR).
- Of the two:
  - one related to the change of arrangements for the Managed Accommodation Program (MAP) for Corrections; and
  - one related to restructuring in the ACT Courts and Tribunal.
- Due to the small numbers no more information can be provided regarding the specifics of each voluntary redundancy as it may identify the individuals concerned.
- The delegation for voluntary redundancies is held by all executives, and usually exercised by business units heads only.
- Any restructure that may result in excess staff is referred to the JACS People and Workplace Strategy Unit to ensure that the provisions of the relevant enterprise agreement are followed, including consultation with affected staff and/or their representative.

**Key Information**

- In the 2017-2018 financial year, there were two voluntary redundancies in JACS. This is a reduction of four from the previous financial year.
- None were related to requirements to make efficiency savings.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext: 53307  
Lead Directorate: Justice and Community Safety

### **Background Information**

- Where an employee becomes excess to requirements, the Directorate endeavours to identify a suitable position for them to transfer to. Where there are limited opportunities to redeploy excess staff within the ACT Public Service, an offer of voluntary redundancy can be made to the employee. A proportion of excess staff accept an offer of voluntary redundancy. The process for redeployment and redundancy are provided in the relevant enterprise agreement.
- The length of time between the changes to the MAP and the offer of VR was due to the individual finding temporary/project roles only in the interim and was unable to be permanently redeployed.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext: 53307  
Lead Directorate: Justice and Community  
Safety

**ISSUE:       PROCUREMENT****Talking points:**

- The Justice and Community Safety Directorate (JACS) has scheduled Procurement Fraud Risk Assessments to be completed each financial year as part of the JACS Strategic Internal Audit Program 2018-21.
- In March 2018, JACS engaged an external provider to conduct an audit of the procurement processes undertaken for the 12 Moore Street Accommodation project. The audit assessed the extent to which the procurement was undertaken in accordance with relevant legislation, government policies and guidelines.
- A number of areas of good practice were highlighted in this audit including a gap analysis of the JACS Procurement Framework and other guidelines noting that all key requirements had been covered; review of detailed budget and expenditure relating to the procurement; and that approvals from the Director-General / Executive were adequately documented and in place prior to committing funds for the procurement.
- The key observations made in the final report focused on formalising the Procurement, Contract Management and Assurance Framework (the Framework), documenting key aspects of procurement, providing training to staff who undertake procurement and ensuring records are maintained.
- In 2018-19 JACS will engage external service providers to undertake audits of procurement, project management and invoice payments to identify fraud risk and improve processes.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Director Ext: 6207 5066  
Information Officer name: Kaye Yen  
Contact Officer name: Kirilee Crump Ext: 6207 9033  
Lead Directorate: Justice and Community Safety

**Key Information**

- Prior to the review's completion JACS published a new Procurement, Contract Management and Assurance Framework in December 2017. This Framework includes procurement tools and templates.
- The ACT Government Goods and Services Procurement division delivered training sessions to JACS staff in September 2017, and in February and March 2018. Ongoing training is now provided to capture new staff.

**Background Information**

- On 4 October 2018 the Canberra Times published an article stating that ACT Government staff approved up to \$1.4 million worth of work in relation to the 2017 Floriade festival without adequately following procurement processes.
- To inform this article, CMTEDD was asked to provide further information on procurement reviews and subsequent findings in other ACT Government directorates.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Director Ext: 6207 5066  
Information Officer name: Kaye Yen  
Contact Officer name: Kirilee Crump Ext: 6207 9033  
Lead Directorate: Justice and Community  
Safety

TRIM Reference: \*2018\*1130-012-001

**Portfolio/s:** JACS Ministers**ISSUE: Fraud and Integrity (whole of Directorate) (Annual Report page 189)****Talking points:**

- Two (2) instances of alleged or suspected cases of fraud were reported in 2017-2018. These were identified as a result of reporting and review mechanisms within the directorate.
- Both allegations related to amounts less than \$500.
- The first, a false reimbursement claim related to travel. The matter was investigated in accordance with the misconduct provisions of the relevant enterprise agreement, with the individual resigning prior to the process being finalised.
- The second, where an amount was unaccounted for from a petty cash tin resulted in the implementation of strengthened cash management and handling processes.
- The JACS directorate continues to raise awareness of fraud and corruption risks through various mechanisms such as the directorate intranet, the newsletter and regular all staff emails from the Senior Executive Responsible for Business Integrity Risk (SERBIR).
- Fraud and ethics training is mandatory for all directorate staff. This also increases staff awareness in relation to ethics, integrity, and fraud and corruption prevention through staff training and development.
- In 2017-2018, the directorate conducted five programmed sessions, which supported the attendance of 71 staff.

**Key Information**

- The awareness program for supervisor and manager-level employees focuses on understanding accountabilities, identification of fraud/ethical risks and promotion of ethical workplaces.
- The awareness program for all staff focuses on understanding responsibilities and reporting suspected fraud or corruption. Elements of the all-staff awareness program have also been incorporated into the induction program for new starters.

Cleared as complete and accurate: 24/10/2018  
Cleared by: Executive Director Ext: 74813  
Information Officer name: Liz Beattie  
Contact Officer name: Kirilee Crump Ext: 79033  
Lead Directorate: Justice and Community Safety

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**Background Information**

- Two incidents of alleged fraud were reported to the SERBIR in 2017-2018.
- In the first incident, a ACT Courts and Tribunal staff member falsely claimed reimbursement for the use of a private motor vehicle while undertaking travel for work. After consideration internally, the directorate has referred the incident to the Professional Standards Unit to conduct a misconduct investigation. In addition, in May 2018 the directorate engaged an external service provider to undertake an internal audit of the directorate's travel policy and forms.
- In the second incident, \$140 was found to be missing from a cash tin in the ACT Courts and Tribunal. An internal review did not identify any misconduct, however strengthened cash management and handling processes were implemented.

Cleared as complete and accurate: 24/10/2018  
Cleared by: Executive Director Ext: 74813  
Information Officer name: Liz Beattie  
Contact Officer name: Kirilee Crump Ext: 79033  
Lead Directorate: Justice and Community  
Safety

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TRIM Reference: JACS2018/1130-012-002

**Portfolio/s:** JACS Ministers**ISSUE: Public Interest Disclosures****Talking points:**

- The Justice and Community Safety Directorate (JACS) received no (0) Public Interest Disclosures (PID) in the 2017/18 year.
- JACS relies on the Public Interest Guidelines 2017 as notified by the then Public Sector Standards Commissioner in June 2017 as its guidelines.
- Matters under the *Public Interest Disclosure Act 2012* (PID Act) are reviewed to determine if they fit the criteria of what constitutes a disclosable conduct, which includes any of the following:
  - (a) conduct of a person that could, if proved—
    - (i) be a criminal offence against a law in force in the ACT; or
    - (ii) give reasonable grounds for disciplinary action against the person;
  - (b) action of a public sector entity or public official for a public sector entity that is any of the following:
    - (i) maladministration that adversely affects a person's interests in a substantial and specific way;
    - (ii) a substantial misuse of public funds;
    - (iii) a substantial and specific danger to public health or safety;
    - (iv) a substantial and specific danger to the environment.
- If a matter can be appropriately managed by another mechanism a decision maker may choose not to investigate the matter under the PID Act.

**Key Information**

That there were no PIDs received by the Directorate in 2017/18.

**Background**

In 2016/17 there were 6 matters received by the Directorate for consideration under the PID Act and 2 in 2015/16.

Cleared as complete and accurate:	06/11/2018	
Cleared by:	Deputy Director-General	Ext: 53995
Information Officer name:	Richard Glenn	
Contact Officer name:	Liz Beattie	Ext:
Lead Directorate:	Justice and Community Safety	

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**ISSUE: Freedom of Information Statistics (Whole of Directorate)**

The Freedom of Information Act 1989 and the Freedom of Information Act 2016 require all ACT Government Agencies to publish details of the number of Freedom of Information (FOI) applications received during the financial year, processing and decision timeframes through annual reporting.

**Talking points:**

- *The Freedom of Information Act 2016* commenced on 1 January 2018, which means the annual report 2017-2018 will contain information about access applications made under both FOI Act 2016 and FOI Act 1989.
- In 2017-2018, the Justice and Community Safety Directorate received 70 FOI access request in total, including 38 requests under the FOI Act 1989 and 32 requests under the FOI Act 2016\*.

	Initial requests to access documents	Full access	Partial access	Refused access	Decision pending
July – December 2017, under <i>Freedom of Information Act 1989</i>	38	4	21	16	0
January – June 2018, under <i>Freedom of Information Act 2016</i>	32	5	17	7	N/A**

\*Not all requests received in 2017-2018 financial year were processed by the Directorate in that financial year.

\*\* Number of decisions pending is not a reporting requirement under the *Freedom of Information Act 2016*.

- The majority of FOI requests resulted in full or partial release of documents requested.
- Access to documents was withheld most commonly where the documents was already publicly available.
- The annual report captures the FOI processing time reporting requirements under both FOI Acts.

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Executive Director Ext: 76244  
 Information Officer name: Kaye Yen  
 Contact Officer name: Julia Bowden Ext: 74558  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

July – December 2017, under <i>Freedom of Information Act 1989</i>	31 days or less	31-45 days	46-60 days	61-90 days	91 days or more	Decision pending	Withdrawn
	25	2	6	3	0	0	0
January – June 2018, under <i>Freedom of Information Act 2016</i>	Access Application decided within time to decide		Access Application not decided within time to decide		Additional number of days taken to decide over the time to decide		
	24		3		1, 6, 1		

- Of the 70 application processed in 2017-2018, 49 were completed within the statutory time to decide for FOI access requests. Applicants agreed to extensions to all the FOI requests that were not processed within the statutory timeframe.
- The *Freedom of Information Act 2016* also requires ACT Government Directorates to report on the publishing of Open Access Information. Between January and June 2018, Justice and Community Safety Directorate has published 123 Open Access documents. JACS is committed to continue the frequent publishing of Open Access information.

## Key Information

- The 70 FOI requests received by the Directorate during 2017-2018 related to the following business units:

Business unit	Number of requests Jul-Dec 2017	Number of requests Jan-Jun 2018
ACT Corrective Services	17	11
JACS Corporate	5	10
Emergency Services Agency	4	6
ACT Law Courts and Tribunal	2	1
Public Trustee	1	1
Human Rights Commission	4	0
Transferred to other agencies	5	3
<b>Total</b>	<b>38</b>	<b>32</b>

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Executive Director Ext: 76244  
 Information Officer name: Kaye Yen  
 Contact Officer name: Julia Bowden Ext: 74558  
 Lead Directorate: Justice and Community Safety

**Background Information**

- The ACT Legislative Assembly passed the *Freedom of Information Act 2016* on 11 August 2016.
- The new FOI Act commenced on 1 January 2018 and is weighted towards pro-disclosure. The new regime will also include an obligation to proactively release information as part of the Open Access scheme.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 76244  
Information Officer name: Kaye Yen  
Contact Officer name: Julia Bowden Ext: 74558  
Lead Directorate: Justice and Community  
Safety

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JACS2018/1130-012-006

**Portfolio/s:** Attorney-General

**ISSUE: Freedom of Information Statistics (Whole of Government)**

The Freedom of Information Act 1989 and the Freedom of Information Act 2016 require all ACT Government Agencies to publish details of the number of Freedom of Information (FOI) applications received during the financial year, processing and decision timeframes through annual reporting.

**Talking points:**

- *The Freedom of Information Act 2016* commenced on 1 January 2018, which means the annual report 2017-2018 will contain information about access applications made under both FOI Act 2016 and FOI Act 1989.
- The new FOI Act commenced on 1 January 2018 and is weighted towards pro-disclosure. The new regime also includes an obligation to proactively release information as part of the Open Access scheme.
- In 2017-2018, the ACT Government received 867 FOI access request in total, including 394 requests under the *FOI Act 1989* and 473 request under the *FOI Act 2016*\*.

	Initial requests to access documents	Full access	Partial access	Refused access	Decision pending
July – December 2017, under <i>Freedom of Information Act 1989</i>	394	70	184	97	15
January - June 2018, under <i>Freedom of Information Act 2016</i>	473	48	165	62	N/A**

\* Not all requests received in 2017-2018 financial year were processed by the ACT Government in that financial year. Not all requests proceed to a formal decision on access, as in some cases documents can be released informally or a request may be withdrawn.

\*\* Number of decisions pending is not a reporting requirement under the *Freedom of Information Act 2016*.

- The majority of FOI requests resulted in full or partial release of documents requested.

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Deputy Director-General Ext: 53504  
 Information Officer name: Richard Glenn  
 Contact Officer name: Kaye Yen Ext:75066  
 Lead Directorate: Justice and Community Safety

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# ANNUAL REPORT HEARING BRIEF

- Access to documents was withheld most commonly where the documents were already publicly available or were not in the public interest to be disclosed.
- The annual report captures the FOI processing time reporting requirements under both FOI Acts.

July – December 2017, under <i>Freedom of Information Act 1989</i>	31 days or less	31-45 days	46-60 days	61-90 days	91 days or more	Decision pending	Withdrawn
	199	68	40	22	31	15	48
January – June 2018, under <i>Freedom of Information Act 2016</i>	<b>Access Application decided within time to decide</b>				<b>Access Application not decided within time to decide</b>		
	247				84		

- The majority of the applications processed in July – December 2017 were completed within the statutory time to decide for FOI access requests. Applicants agreed to extensions to all the FOI requests that were not processed within the statutory timeframes.
- The new FOI Act has changed the FOI decision time reporting requirements to improve transparency. Between January – June 2018, 247 FOI requests were decided within the time to decide under Section 40 of the new Act. Extensions were granted by the applicants or the Ombudsman for the 84 applications that were not decided within the time to decision. Additional processing days for ACT Government Directorates and agencies are recorded in Table 3.1.3 in Section O.2 of the Justice and Community Safety Annual report.
- The new FOI Act also requires ACT Government Directorates to report on the publishing of Open Access Information for greater accountability and transparency. Between January to June 2018, the ACT Government has published 2774 Open Access documents. To date, the ACT Government has published over 3693 Open Access documents and is committed to continue the frequent publishing of Open Access information.
- The new Act (Section 96) requires each Minister, for each financial year, to prepare a report on the operation of this Act in relation to the Minister during the year (the Minister’s Annual Report).

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Deputy Director-General Ext: 53504  
 Information Officer name: Richard Glenn  
 Contact Officer name: Kaye Yen Ext:75066  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

- All required information in regards to the Minister's Annual Report has been included in the Justice and Community Safety Directorate Annual Report.

## Key Information

- The 867 FOI requests received by the ACT Government during 2017-2018 related to the following Directorates:

Directorates and the relevant portfolio bodies	Number of requests Jul-Dec 2017	Number of requests Jan-Jun 2018
ACT Ministers	1	1
Officer of the Legislative Assembly	0	0
Chief Minister, Treasury and Economic Development Directorate	137	163
Community Services Directorate	70	82
Environment, Planning and Sustainable Development Directorate	57	87
ACT Health Directorate	19	43
Education Directorate	26	13
Transport Canberra and City Services Directorate	46	52
Justice and Community Safety Directorate	38	32
<b>Total</b>	<b>394</b>	<b>473</b>

## Background Information

- The ACT Legislative Assembly passed the *Freedom of Information Act 2016* on 11 August 2016.

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Deputy Director-General Ext: 53504  
 Information Officer name: Richard Glenn  
 Contact Officer name: Kaye Yen Ext: 75066  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

TRIM Ref: JACS2018/1130-013-001

**Portfolio/s:** JACS Ministers

## ISSUE: International travel undertaken by the Justice and Community Safety for 2017-2018

### Talking points:

- The Justice and Community Safety Directorate (JACS) purchased 22 international airfares in the 2017-2018 financial year at a cost of \$57,089.46. (Note this cost is for airfares only and does not include accommodation.)
- The majority of international travel for 2017-2018 financial year was to New Zealand.
- All international travel requires Ministerial approval

### Key Information

#### 2017-2018 International Travel

Division	Airfares	Cost	Reason for travel	Destination
ACT Corrective Services	1	\$1,426.42	Conference (1)	(1) New Zealand
ACT Courts & Tribunal	3	\$6,893.76	Conference (3)	(2) New Zealand (1) Phillippines
Emergency Services Agency	9	\$19,209.09	Training (3) Workshop (2) Site Visits (2) Meeting (1) Working Group (1)	(6) New Zealand (3) USA
ACT Government Solicitors	8	\$26,397.13	Expert Witness Conference (4) Medico-legal appointments (4)	(6) New Zealand (2) United Kingdom
JACS Director General	1	\$3,163.06	Overseas meeting with ACT Head of Service and Director-General delegation	(1) Singapore
<b>Total</b>	<b>22</b>	<b>\$57,089.46</b>		

Cleared as complete and accurate: 16/10/2018  
 Cleared by: Executive Director Ext: 78420  
 Information Officer name: Moira Crowhurst  
 Contact Officer name: Natalie Tanchevski Ext: 71123  
 Lead Directorate: Justice and Community Safety

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**ISSUE:** Work health and safety performance (Whole of Directorate)

Page 194-195

**Talking points:**

- The national work health and safety targets are:
  1. Reduce the incidence rate of claims resulting in one or more weeks off work by at least 30%.
  2. Reduce the incidence rate of claims for musculoskeletal disorders (MSD) resulting in one or more weeks off work by at least 30%.
- **Target 1** - There was a 4.5% increase in the rate of claims resulting in one or more weeks off work during the reporting period.
  - All of these claims were in the operational workforces of ACT Emergency Services Agency and ACT Corrective Services with the majority (33 of 44) related to physical injuries.
  - The JACS Workplace Health and Safety (WHS) team continues to work with business units to implement prevention strategies and to carry out root cause analysis of incidents resulting in claims within this category.
- **Target 2** - The number of musculoskeletal disorders (MSD) injuries have increased for the second consecutive year with an increase of nine to 33. In the 2018/19 financial year the Directorate will be implementing a strategy of conducting root cause analysis of all incidents that result in one or more days off work to identify further improvement opportunities to reduce these types of injuries.
- While there are unique injury prevention strategies in place, this figure highlights the unique risk profile of the directorate's business units compared to the broader ACTPS.
- The majority of injuries of these kind occur in the Emergency Services and Correctional settings.

Cleared as complete and accurate:	02/11/2018	
Cleared by:	Executive Director	Ext: 55132
Information Officer name:	Virginia Hayward	
Contact Officer name:	Tim Geoghegan	Ext:73985
Lead Directorate:	Justice and Community Safety	

- The JACS WHS team continues to work with business units to promote employee access to the ACT Government physiotherapy early intervention program.

**Powered stretchers**

- The ACT Ambulance Service staff suffer musculoskeletal injuries as they perform heavy physical work in uncontrolled environments. The Government has funded \$423,000 in the 2018/19 financial year for the purchase of electric stretchers to reduce the injuries related to the movement of patients.
- ACT Ambulance Service in the 2017/18 financial year installed 5 powered stretchers to both emergency and non-emergency vehicles. In the 2018/19 financial year ACT Ambulance Service has scheduled an additional twelve powered stretchers to be retrofitted to emergency and non-emergency vehicles.
- A further six vehicles are scheduled to have powered stretchers installed in the 2019/20 financial year.
- The installation of powered stretchers to the ACT Ambulance fleet allows paramedics and patient transport staff to raise, lower and unload patients using a touch finger control rather than a manual lift. This change in work practises will assist to minimise manual handling injuries of workers when loading and unloading patients.

Cleared as complete and accurate: 02/11/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Tim Geoghegan Ext:73985  
Lead Directorate: Justice and Community  
Safety

**ISSUE: SUSTAINABILITY (B.9 Ecologically Sustainable Development)****Talking points:**

- The JACS Sustainability Management Plan 2018-20 was developed to align with the ACT Carbon Neutral Government Framework and provide a roadmap for JACS to transition to zero greenhouse emissions by 2020.
- It outlines a shift in strategy to drive value for money energy efficiency infrastructure upgrades with a return on investment at high usage and greenhouse emitting sites. These include the Alexander Maconochie Centre (AMC) and some ACT Policing sites.
- JACS dedicates funding for energy efficiency works through the Better Infrastructure Fund (BIF). This is used across selected sites within the JACS property portfolio.
- In 2017-18, energy efficiency BIF works were completed at ESA sites, including the Joint Emergency Services Centre at Gungahlin, the ESA Training Centre at Hume and the ACT Rural Fire Service (ACTRFS) at Jerrabomberra.
- Baseline energy audits for the AMC and priority ACTP sites commenced in 2017-18 have been completed. These energy audits have identified an energy efficiency program of works to reduce greenhouse emissions.
- Planning for energy efficiency works at the AMC is now underway. Energy efficiency solutions are also planned to be incorporated in the Upgrading ACT Policing Facilities project which commenced in 2018-19 at the Winchester Police Centre (WPC) and Tuggeranong Police Station (TPS).

**If asked about Carbon Budget and Targets:**

- The JACS 2018-19 Carbon Budget aims to cap greenhouse emissions at 2017 levels. The 2018-19 target focuses on greenhouse emissions from gas. It is intentionally ambitious given the lead times to deliver gas consumption reductions.
- The JACS 2017-18 Carbon Budget target was a 1.5 per cent reduction in stationary energy (electricity and gas) consumption compared to the 2016 calendar year baseline. The directorate did not achieve this target

Cleared as complete and accurate: 01/11/2018  
Cleared by: Executive Director Ext: 76244  
Information Officer name: Melissa Tierney  
Contact Officer name: Kai Andersen Ext: 59552  
Lead Directorate: Justice and Community  
Safety

and realised an increase of 4.9 per cent in stationary energy consumption.

- Gas consumption increases were primarily attributed to weather variation and operational growth, in particular, construction at the ACT Courts precinct, the addition of the Aranda Ambulance and Fire and Rescue Station, and expansion at the AMC.

## **Key Information**

### Governance

- Senior JACS executives are driving sustainability action across the directorate as part of their performance and development plans.
- JACS recruited a dedicated Sustainability Manager in 2017-18 to provide guidance to the directorate in the development and implementation of a sustainability plan.

### 2017-18 JACS Carbon Budget results

- Increases in gas consumption between 2017-18 and 2016 were primarily attributed to the ACT Courts precinct (increase of 39 per cent), the Aranda Ambulance and Fire and Rescue Station (increase of 249 per cent) and the Alexander Maconochie Centre (AMC) (increase of 4 per cent).
- These results are consistent with infrastructure development at each site:
  - a. construction at the ACT Courts began in April 2016 and ramped up in the intervening period
  - b. the Aranda Ambulance and Fire and Rescue Station came online in August 2017
  - c. the AMC increased detainee numbers, expanded the facility's laundry and added a bakery in late 2016-17.

### Energy efficiency BIF works

- In 2017-18, JACS expended \$262k on energy efficiency works:
  - a. Gungahlin, Joint Emergency Services Centre (JESC) upgrade of the building management system and lighting.
  - b. ACT ESA Training Centre heating and ventilation improvements and building management system upgrade.
  - c. ACT RFS Jerrabomberra external lighting upgrade.
  - d. The 2017-18 appropriation energy efficiency BIF of \$290k.

Cleared as complete and accurate: 01/11/2018  
Cleared by: Executive Director Ext: 76244  
Information Officer name: Melissa Tierney  
Contact Officer name: Kai Andersen Ext: 59552  
Lead Directorate: Justice and Community Safety

- e. \$251k of the expenditure was from the Better Infrastructure Fund. \$11k was cash managed internally.
- In 2018-19, \$290k is allocated energy efficiency works from the BIF.

### Water

- The SMP commits to development of a water management plan. The AMC is the primary user of water across the JACS portfolio. The water plan will build on water sensitive infrastructure at the AMC including water collection tanks and grey water recycling.
- In 2017-18, JACS water use increased by 37.5 per cent. This was predominantly due to infrastructure and detainee growth at the AMC (including added multipurpose centre, laundry, bakery and sporting field).

### Waste

- In 2017-18, JACS achieved a significant decrease in waste to land fill, paper and cardboard through rationalisation of the existing waste arrangements in the previous year.

### Transport

- The directorate has adopted the ACT transition to zero emissions vehicles action plan 2018-21. In 2017-18, the directorate commenced liaison with EPSDD and CMTEDD in relation to the ACT transition to zero emissions vehicles action plan 2018-21, specifically in relation to the transition of light passenger vehicles to electric vehicles.

### **Background Information**

- In accordance with the CNG Framework, all agencies are required to develop a SMP to set sustainability objectives and progress towards the ACT Government achieving carbon neutrality across its operations by 2020.
- In 2015-16, the CNG Framework established annual Carbon Budgets. The purpose of the Carbon Budget is to set an annual target to work towards zero greenhouse emissions by 2020.
- The CNG Framework provides funding for energy efficiency projects with a payback of 10 years or less.
- A review of the Sustainability Committee purpose, operation and terms of reference is currently being reviewed to align with the shift in the sustainability strategy and implementation of the new SMP.

Cleared as complete and accurate: 01/11/2018  
Cleared by: Executive Director Ext: 76244  
Information Officer name: Melissa Tierney  
Contact Officer name: Kai Andersen Ext: 59552  
Lead Directorate: Justice and Community  
Safety

**ISSUE: Rollovers from 2017-18 into 2018-19 and forward years****Talking points:**

- **Appendix A** provides details of rollovers relating to the Attorney General's portfolio from 2017-18 to 2018-19 and forward years through the 2018-19 Budget process. These total \$14.568 million as follows:
  - \$10.059 million rollover of capital funding; and
  - \$4.509 million rollover of recurrent funding, of which \$0.915 million relates to my and other Ministers' portfolios.
- **Appendix B** provides details of proposed FMA section 16B rollovers, subject to the Treasurer's approval, from 2017-18 by capital project and recurrent program relating to the Attorney General's portfolio. The following amounts totalling \$2.019 million are proposed to be rolled:
  - \$0.808 million rollover of capital funding; and
  - \$1.211 million rollover of recurrent funding, of which \$0.900 million relates to my and other Ministers' portfolios.
- **Appendix B** also provides details of the approved FMA section 16B rollovers for the Better Infrastructure Fund.

***If asked about significant re-profiling to 2019-20 year***

Capital works projects by their very nature experience variations in delivery. The Capital Works Funding Framework provides flexibility to respond to slower or faster delivery of individual projects. The Directorate has re-profiled significant capital funding to 2018-19 and 2019-20 years to better reflect financial completion of projects.

Cleared as complete and accurate: 31/10/2018  
Cleared by: Chief Finance Officer Ext: 54389  
Information Officer name: Dragana Cvetkovski  
Contact Officer name: Jing Jyh Wong Ext: 54756  
Lead Directorate: Justice and Community Safety

**Background Information**

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- Section 16B of the *Financial Management Act 1996* (FMA), 'Rollover of Undispersed Appropriation', allows, in certain circumstances, unspent appropriation to be rolled over to the following year by an instrument signed by the Treasurer.
- A Whole of Government re-profiling exercise has resulted in a significant proportion of 2017-18 funding being re-profiled to 2018-19 and 2019-20 years. This has created a misalignment between physical completion date and the financial re-profiling.
- In particular, this is affecting the ICMS projects where significant portion has been re-profiled to 2019-20 while this project is expected to be physically completed in 2018-19.
- This re-profiling will not slow down or delay any projects. Directorate will work closely with Treasury regarding any further changes to cash flow requirements in 2018-19.

Cleared as complete and accurate: 31/10/2018  
Cleared by: Chief Finance Officer Ext: 54389  
Information Officer name: Dragana Cvetkovski  
Contact Officer name: Jing Jyh Wong Ext: 54756  
Lead Directorate: Justice and Community Safety

TRIM Ref: JACS2018/1130-011-002

**Portfolio/s:** JACS Ministers

**ISSUE: JACS 2017-18 BETTER INFRASTRUCTURE FUND**

**Talking points:**

- The JACS Better Infrastructure Fund (BIF) in 2017-18 was \$1.769m including \$0.268m for Territorial assets and \$1.501m for Directorate assets.
- The program of works were physically and financially completed by 30 September 2018.
- The JACS 2017-18 BIF was allocated between various business units and agencies to upgrade various facilities across the Justice and Community Safety portfolio, with particular emphasis on work health and safety, and security.

*If asked how much was spent on various business units.*

Total expenditure was:

- Emergency Services Agency - \$0.456 million
- ACT Policing – Territorial assets - \$0.265 million
- Corrective Services - \$0.641 million
- Other JACS business units including JACS Energy Efficiency work program across JACS - \$0.475 million

Cleared as complete and accurate: 30/10/2018  
Cleared by: Executive Director Ext: 53196  
Information Officer name: Melissa Tierney  
Contact Officer name: Lui Corich Ext: 50284  
Lead Directorate: Justice and Community Safety

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## Background Information

- The JACS 2017-18 BIF program of works comprised the following:

Projects	Actual Cost \$'000
ACT Ambulance Service Fyshwick privacy and dignity upgrade	81
ACT Fire and Rescue Technical Operation Support Service ablutions upgrade	250
ESA Hume Training Centre retention pond works	99
JACS ESA Back up Communication Centre deck replacement	17
JACS ESA State Emergency Service Belconnen roof safety sytem upgrade	9
<b>ESA TOTAL</b>	<b>456</b>
Winchester Police Centre upgrades	265
<b>ACT Policing - Territorial total</b>	<b>265</b>
AMC audio visual capability upgrade	46
AMC cottage windows upgrade	236
AMC detainee admissions area upgrade	23
AMC emergency and exit lighting upgrade	81
AMC fall protection rails installation	209
AMC internal service roads upgrade	46
<b>Corrections TOTAL</b>	<b>641</b>
ACT Government Solicitor facility improvement	72
Director of Pulic Prosecutions Criminal Law Resource Centre physical re-fit	29
Forensic Medical Centre resurfacing of autopsy benches	77
JACS Energy Efficiency works program	265
Magistrates Court lock replacement program	10
SEMB ASNET Access Security Controls	22
<b>Other JACS TOTAL</b>	<b>475</b>
<b>Total Expenditure</b>	<b>1,837</b>
<b>Total overspend</b>	<b>68</b>

Cleared as complete and accurate: 30/10/2018  
 Cleared by: Executive Director Ext: 53196  
 Information Officer name: Melissa Tierney  
 Contact Officer name: Lui Corich Ext: 50284  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

- The majority overspends are listed as below (slightly offset by some underspend in other projects):

Projects	Overspend \$'000	Reasons
ACT Fire and Rescue Technical Operation Support Service ablutions upgrade	33	Underground services not identified on "Dial before you dig"
AMC Cottage Windows Upgrade	23	Due to installation complexity
JACS Energy Efficiency Program	14	Additional lighting at the ESA Technical Operations Support Service
<b>Total overspend</b>	<b>70</b>	

The overspend was managed internally by the Directorate.

Future JACS BIF planning will be informed by updated Strategic Asset Management Plans, building condition assessments and energy efficiency audits.

Cleared as complete and accurate: 30/10/2018  
 Cleared by: Executive Director Ext: 53196  
 Information Officer name: Melissa Tierney  
 Contact Officer name: Lui Corich Ext: 50284  
 Lead Directorate: Justice and Community Safety

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**ISSUE: INTERNAL AUDIT****Talking points:**

- The JACS internal audit function is an independent, objective assurance and consulting activity designed to add value, and improve the directorate's operations.
- The JACS Strategic Internal Audit Program is developed annually using a risk-based methodology to identify areas of strategic and operational risk with those having a high or above risk rating given a greater priority for inclusion in the audit program.
- All actions taken by business units to address recommendations identified in each external and internal audit are monitored and reported to the Audit and Performance Improvement Committee (APIC) on a quarterly basis.

**Key Information**

- As part of the annual audit program, ten audits and reviews were presented to the APIC for consideration in 2017-18:
  - JACS Assurance Map
  - A Procurement Audit
  - AMC Detainee Trust Account Fraud Risk Assessment
  - Review of Security of Ambulance Medication Kits
  - HP Records Manager 8 Access Controls Review
  - Warrant Procedural Review
  - Accountability Indicators Review
  - Statement of Performance Recommendations Review
  - Human Rights Commission, Public Trustee and Guardian, and 12 Moore Street Business Continuity Tests
  - Bushfire Preparedness Risk Assessment.

Cleared as complete and accurate: 01/11/2018  
Cleared by: Director Ext: 75066  
Information Officer name: Kaye Yen  
Contact Officer name: Kirilee Crump Ext: 79033  
Lead Directorate: Justice and Community Safety

- Field work was in progress for a further two audits at the end of the financial year. These audits are:
  - ACT Courts Travel Entitlements
  - Security and Emergency Management Branch Grant Management

The ACT Courts travel audit was completed and presented to APIC in September 2018.

### **Background Information**

- The approach to developing the 2017-18 Strategic Internal Audit Program included:
  - undertaking a selection of information gathering interviews across the directorate
  - reviewing relevant parts of the directorate's strategic risk profile to identify areas of importance and risk to the directorate, or where the potential for loss or failure is greatest
  - considering emerging internal audit topics as identified by APIC
  - understanding the need for compliance reviews in selected areas
  - reviewing past internal and external audit activities/findings
- In 2017-18, \$105,187 was spent by Governance to conduct internal audits and engage the Audit and Performance Improvement Committee Chair.
- Of the audits finalised in 2017-18, seven were undertaken by external service providers, these include:
  - JACS Assurance Map (O'Connor Marsden)
  - A Procurement Audit (RSM)
  - AMC Detainee Trust Account Fraud Risk Assessment (KPMG)
  - Warrant Procedural Review (KPMG)
  - Statement of Performance Recommendations Review (O'Connor Marsden)
  - Human Rights Commission, Public Trustee and Guardian, and 12 Moore Street Business Continuity Tests (Oakton)
  - Bushfire Preparedness Risk Assessment (Euan Fergusson Pty Ltd)
- An additional three reviews were completed internally, these include:
  - Accountability Indicators Review
  - Review of Security of Ambulance Medication Kits
  - HP Records Manager 8 Access Controls Review

Cleared as complete and accurate: 01/11/2018  
Cleared by: Director Ext: 75066  
Information Officer name: Kaye Yen  
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Lead Directorate: Justice and Community Safety

TRIM Ref: JACS2018/1130-010-010

**Portfolio/s:** JACS Ministers

**ISSUE: JACS EXECUTIVE RETREAT**

This issue is referenced to a question on notice for ACT Health regarding expenditure on their executive retreats.

**Talking points:**

- JACS have held two Executive Retreats in 2018, on 27 March and 2 October, at the Yarramundi Reach Cultural Centre.
- The Retreats were designed for executives across the directorate to share their experiences and challenges; strengthen their leadership capabilities; enhance collaboration; ensure compliance across the directorate; discuss topics relating to strategic priorities and social inclusion; and build the organisational culture.
- The total expenditure for the October Retreat including speaker fees was \$5,116.36 (excluding GST).
- The catering providers for the retreat were Koori Kulcha Aboriginal Corporation which is a Canberra Business Region Joint Organisation (CBRJO) Indigenous Supplier, and the Alexander Maconochie Centre (AMC) Bakery. Both social enterprises were engaged as part of the Directorate’s commitment to support services via social procurement.

**Key Information**

- The October 2018 Executive Retreat covered the following topics relating to JACS strategic priorities and was facilitated by internal and external stakeholders and speakers.

Topics	Facilitators
Our leadership in human rights	Dr Helen Watchirs, President, ACT Human Rights Commission
Our leadership in workplace health and safety	Elissa Clarke, Principal Solicitor, ACT Government Solicitor
Our leadership in engaging people with disability	Wayne Herbert, Member of Government ACT Disability Reference Group, and Deputy Chairman of the ACT LBGTIQ Ministerial Advisory Council

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Ext:  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

Our leadership in preventing and responding to men’s violence against women	Penny Pestano, Service Director, Canberra Rape Crisis Centre; Simon Port, Coordinator Violence Prevention Services, EveryMan; and Dearne Weaver, Client Services Director, Domestic Violence Crisis Service (DVCS)
Leadership Commitment and Close	Alison Playford, Director-General

- To organise the program, the Directorate procured services from the following social enterprises and/or with cultural significance:

Service Provider	Item	Cost (ex GST)
Yarramundi Reach Cultural Centre	Venue Hire for the session	\$636.36
Koori Kulcha Aboriginal Corporation	Catering of lunch	\$2,200.00
Alexander Machonochie Centre Bakery	Morning tea	\$280.00
Inform Communicate Motivate International (ICMI)	Wayne Herbert – Speaker Fee	\$2,000.00
<b>TOTAL</b>		<b>\$5,116.36</b>

## Background Information

- As part of their leadership development, JACS executives meet twice a year with the purpose for them to seek to strengthen their leadership capabilities, ensure compliance across the Directorate and build organisational culture.

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Ext:  
 Lead Directorate: Justice and Community Safety

TRIM Reference JACS2018/1130-010-015

**Portfolio/s:** Attorney-General**ISSUE: Misconduct matters (excluding ACTCS and ESA)****Talking points:**

- During the 2017-2018 financial year, the Justice and Community Safety Directorate (excluding ACT Corrective Services and ACT Emergency Services Agency) undertook one preliminary assessment into alleged fraudulent activity, which progressed to a formal misconduct investigation.
- The individual concerned resigned prior to the final sanction decision being made. The amount of money involved was less than \$1,000.
- No preliminary assessments were conducted into Bullying and Harassment.
- The total number of preliminary assessments and misconduct investigations undertaken in 2017-2018 demonstrates a reduction in both processes in comparison to former financial years.
- In comparison, the 2016-2017 financial year had:
  - Four preliminary assessments, with three matters relating to Bullying and Harassment.
  - One of the four matters progressed to a formal misconduct investigation.
  - Three matters did not proceed beyond a preliminary assessment. Two matters were finalised via remedial actions including counselling and training. An investigation was not considered to be warranted for the final matter.

**Key Information**

- The directorate remains committed to addressing all allegations of misconduct, including Bullying and Harassment, with a view to ensuring that appropriate action is undertaken.

Cleared as complete and accurate: 29/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext:53307  
Lead Directorate: Justice and Community Safety

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- This commitment is demonstrated by the ongoing undertaking of processes outlined in relevant Enterprise Agreements, including preliminary assessments, formal misconduct investigations and/or remedial actions including counselling and mediation.
- The directorate is also committed to the ongoing provision of Respect, Equity and Diversity (RED) training, attended by both new and existing employees.

### **Background Information**

- The single preliminary assessment undertaken in 2017/2018 that proceeded into a formal misconduct investigation related to the claiming and reimbursement of an allowance to which the staff member was knowingly not entitled.
- Information regarding investigations into alleged breaches of Section 9 of the *Public Sector Management Act 1994*, including Bullying and Harassment are reported in the ACT Government State of the Service Report 2017-2018.
- All data captured is reported collectively for all directorates.
- Misconduct data for JACS was also recently provided in response to a Question on Notice (QON), reference document MIN2018/003809.
- Detailed data relating to misconduct matters captured from 2015 shows that for the 2015-2016 financial year:
  - Eight preliminary assessments were conducted, with seven matters relating to Bullying and Harassment. Five of the seven Bullying and Harassment matters involved the submission of claims and counterclaims by a specific workgroup.
  - Six of the eight matters progressed to a formal misconduct investigation, five of which related to Bullying and Harassment.
  - Two matters did not proceed beyond a preliminary assessment due to insufficient evidence.

Cleared as complete and accurate: 29/10/2018  
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**ISSUE: GAMBLING TAX REVENUE**

**Talking points:**

- In keeping with this Government's election commitment to help small and medium clubs diversify their income streams, we have delivered a range of measures. These include, from 2017-18:
  - a. the introduction of a small and medium club gaming tax rebate to allow smaller clubs to keep 50 per cent of their gaming taxes on up to \$4 million of gross gaming machine revenue to re-invest into their organisation;
  - b. the option to make quarterly (rather than monthly) gaming machine tax and Problem Gambling Assistance Fund (PGAF) payments; and
  - c. the availability of a \$10,000 community club grant for the purpose of diversification towards alternative income streams.

*Gaming Tax Rebate*

- During 2017-18, the gaming tax rebate was claimed by seven clubs and club groups (comprising nine club venues) at a cost to the Territory of \$847,525.
- As part of his Club Industry Diversification Support Analysis, Mr Neville Stevens AO, recommended that a phased approach be applied to clubs eligible to claim the rebate, based on the previous year's Gross Gaming Machine Revenue, should they exceed the \$4 million threshold.
- The Government has given 'in principle' agreement to this recommendation to maintain clubs' existing eligibility, based on 2017-18 Gross Gaming Machine Revenue, until the two year statutory review of the tax rebate is completed by 30 November 2019.
- Under this arrangement, if an eligible club earns over \$4 million Gross Gaming Machine Revenue, the tax rebate will not apply to amounts earned over this amount.

Cleared as complete and accurate: 02/11/2018  
Cleared by: Executive Director  
Information Officer name: Daniel Ng Ext: 76244  
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Lead Directorate: Justice and Community Safety

*Community Club Grants:*

- Of the 17 eligible clubs and club groups to apply for the community club grant, applications were received from, and awarded to, 14 clubs.
- The remaining funding from the 2017-18 budget was used to fund the club industry diversification analysis undertaken by Mr Stevens.

*Point of consumption wagering tax*

- The *Betting Operations Tax Act 2018* will take effect from 1 January 2019
- Questions relating to the operation of this tax should be directed to the Treasurer, as it will be administered and collected by the ACT Revenue Office.

**Key Information**

- ClubsACT and the Raiders Club Group have expressed significant concerns at a statement in the Community Contributions consultation paper that the average effective tax rate on gaming machines is the lowest of all States and Territories.
- Under the *Betting Operations Tax Act 2018* all wagering operators with relevant revenues above a tax free threshold of \$150,000 per annum will be liable to pay the tax, at a rate of 15 per cent of net wagering revenue (player loss) for bets placed in the ACT.

***If asked:***

*Why does the ACT Government claim that it is the lowest taxed jurisdiction for gaming machines?*

- In the Community Contributions consultation paper, gross gaming machine revenue in each jurisdiction was compared against total gaming tax raised by each government, through the calculation of average effective tax rates.
  - Average effective tax rates are the most appropriate method for comparing gaming machine taxes across jurisdictions, as they measure at an aggregate level how much gaming machine tax is paid by gaming machine operators compared to how much the community spends at gaming machines.
    - The ACT has the lowest average effective tax rate for gaming machines across all jurisdictions.
- Average effective tax rates are not designed to present a measure of the tax payable by any particular individual club, but rather to present a broad comparison of the relative average tax burden faced by operators in different jurisdictions.
- It is important to note there is significant variation in the marginal tax rates and thresholds applied in different jurisdictions for gaming machine taxes, as a result of the need to account for variations in the tax base and composition of the sector across jurisdictions.

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# ANNUAL REPORT HEARING BRIEF

- For example, in New South Wales there is a significantly higher tax free threshold for clubs than the ACT, which is partially a result of the presence of very large clubs operating, that collect gross gaming machine revenues far in excess of the largest ACT clubs.
  - If NSW tax rates and brackets were applied to the ACT, only four clubs would fall into the second highest marginal tax bracket (for total revenue between \$10m and \$20m), and no clubs would be in the highest marginal tax bracket.

*Why is the Government placing further pressure on clubs through further 'taxes' such as the 'Diversification Support Fund levy' suggested in the Stevens review, and Community Contributions changes, including Chief Minister's Charitable Fund?*

- The Diversification Support Fund levy was suggested by Mr Stevens as a way to provide support to clubs through training and strategic support to help sustainability. The levy will be matched by Government funding for three years.
- The community contributions scheme was designed to ensure that our broader community and not just members of clubs benefit from the social licence given to operate gaming machines.
- The increase in the amount required for community contributions is modest and clubs will still retain the ability to direct over 90 per cent of their Net Gaming Machine Revenue toward club objectives.
- It is important to note that gaming machine revenue is not clubs' only source of revenue. In addition to money from pokies, clubs can put revenue from food and beverage sales amongst other things, towards meeting their particular club's objectives.

## Background Information

### Gaming Tax Rebate

- \$5.383 million was allocated over four years for the gaming machine tax rebate in the 2017-18 Budget.

### Community Club Grant

- Letters were sent to 17 clubs that were deemed eligible from 2016-17 GGMR data provided by Access Canberra, inviting them to apply for grants before the grant closing date of 31 October 2017.
- Fourteen grant applications were received. The Justice and Community Safety Directorate (JACS) entered into Deeds of Grants and provided funds to the 14 clubs in early 2018.
- A panel from the ACT Government assessed the applications for the grant and determined that thirteen clubs met the eligibility criteria for the Grant. Uses proposed for the grant have included: new, and refurbishments to kitchens, function

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# ANNUAL REPORT HEARING BRIEF

areas, and entertainment spaces such as dance floors; and consultancy fees for alternative land use applications.

- Deeds require each club to provide evidence of expenditure with a final report confirming the use of the funds for the agreed purpose, including receipts and invoices, and information on any related matters. These reporting provisions will help the Government evaluate the use of the grants and acquit any funds not spent on eligible purposes.
- A list of Community Club Grant recipients and stated purpose is outlined in the table below. A club group is defined as two or more related licensees, where each licensee is related to at least one other licensee in the group. To help clubs determine whether they are part of a club group, the Gaming Machine Amendment Act 2017 sets out the circumstances where a relationship between clubs results in them being considered as part of a club group. Club groups were be eligible to apply for one Grant of \$10,000.
- The three clubs that were eligible for a grant but did not apply are: The Belconnen Bowling Club; the Canberra Racing Club; and the Yowani Country Club.
- Activities that contribute towards diversifying a club's revenue streams away from electronic gaming towards alternative income streams were eligible for the Grant. Examples of activities that would be supported included:
  - o consultancy fees for planning and development advice, including advice on possible alternative land uses;
  - o financial advice on diversification options;
  - o investment in new or improved
    - food and beverage offerings (e.g. establishing a new cafe, purchasing a new oven);
    - fixtures and fittings in non-gaming areas (e.g. improving function room facilities);
    - non-gaming services or facilities (e.g. entertainment options); or
  - o other advice, activities, facilities or equipment where the club can demonstrate a clear connection to diversification away from gaming machine revenue towards a viable alternative income stream.
- Grant funds cannot be used for:
  - o any gambling-related activity, such as improvements to gaming areas, gaming equipment or gaming facilities;
  - o the purchase of stock, consumables or payment of ongoing club operating costs (including payroll, utilities etc); or
  - o payment of government fees, charges, taxes or fines.

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Lead Directorate: Justice and Community Safety

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- Recipient clubs were required to provide expenditure reports or to remit to the ACT. Government any grant funds not spent by 30 June 2018.

Expenditure reports were due on 31 July 2018. JACS has received eight expenditure reports and is following up on the other six. The reports will contribute to the evaluation of the program.

	<b>Applicant</b>	<b>Purpose</b>	<b>Amount (\$)</b>
1.	Austrian-Australian Club	Restoration of dance floor in club auditorium.	10,000
2.	Belconnen Magpies Sports Club	Consultancy fees for planning and development advice to explore alternate land use at Kippax site.	10,000
3.	Belconnen Soccer Club	Consultancy costs towards development of a childcare centre at Mackellar site.	10,000
4.	Canberra Bowling Club	Replace carpet and install a dance floor in function space.	10,000
5.	Canberra Club	Replace old kitchen equipment with updated appliances.	10,000
6.	Canberra Highland Society and Burns Club	Consultancy fees for planning and development advice to explore alternate land use.	10,000
7.	Canberra North Bowling Club and Rugby Union Club	Installation of a grease trap in the club's kitchen.	10,000
8.	Croatia Deakin Soccer Club	Update the furniture in the club's function room.	10,000
9.	Harmonie German Club	Contribute towards refurbishment of club's auditorium (bathrooms and fixtures and fittings).	10,000
10.	Italo Australian Club	A new large marquee for outdoor functions; new kitchen equipment; additional beverage delivery system; and lit signage	10,000
11.	Murrumbidgee Country Club	Consultancy fees to progress development of residential land on surplus club land; or kitchen refurbishment; or new outdoor furniture.	10,000
12.	National Press Club	Development of additional private function and dining facilities.	10,000
13.	Spanish Club	A new custom made marquee for outdoor events and construction of a new six lane petanque court.	10,000
14.	Canberra Irish Club	Consultation fees to investigate redevelopment of site improve food area;	10,000

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 Lead Directorate: Justice and Community Safety

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		Upgrade equipment for live music performances; upgrade bar fridges; or purchase of new Point of Sale equipment.	
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## QUESTION TIME BRIEF

Portfolio/s: Regulatory Services

Attorney-General

**ISSUE: GAMBLING AND RACING MATTERS**

**Talking points:**

### **Reforms to regulation of the gambling industry**

- The Government is absolutely committed to strong regulation of the gambling industry in the ACT.
- The Justice and Community Safety Directorate and Access Canberra on behalf of the Gaming and Racing Commission are working together on a number of gambling and racing reforms.
- We will also draw on lessons learnt from recent disciplinary proceedings of the GRC involving the Canberra Raiders Sports Club (the Club).
- The Commission has also noticed an increase in the number of problem gambling incidents recorded in Gambling Incident Registers in clubs across Canberra since it found that the Club breached the Gaming Machine Act 2004.

### *If asked about: Canberra Raiders Sports Club-Professor Brown matter*

- On 14 June 2018 the ACT Civil and Administrative Tribunal (ACAT) issued consent orders that set aside the Commission's original decision and remitted the matter to the Commission for reconsideration.
- A consent order is the documented agreement between parties which settles a matter which has come before the Tribunal.
- On 21 June 2018, in accordance with ACAT's orders, the Commission carefully considered the remittal and reached the decision that it was appropriate to take disciplinary action against the licensee, namely, to issue a reprimand to Raiders.
- In the context of the decision it noted that Raiders informed the Commission that:
  - it would inform the Commission in relation to its procedures and training for recording gambling incidents under the Gambling and

Cleared as complete and accurate:	18/07/2018	
Cleared by:	David Snowden	Ext: 79828
Information Officer name:	Ben Green	Ext: 77387
Contact Officer name:	Michael Azize	Ext: 79179
Lead Directorate:	Chief Minister, Treasury and Economic Development	

## QUESTION TIME BRIEF

Racing Control (Code of Practice) Regulation 2002, by providing to the Commission by 1 December 2019 an external compliance report on these matters; and

- it decided to demonstrate its continuing commitment to support harm minimisation measures by making a donation of \$60,000 to an appropriate charity.
- Until this position had been reached by the Board it was not appropriate for the Commission to comment.
- Through this process the Raiders admitted it contravened the Code of Practice by failing to record signs of problem gambling. The \$60,000 has since been provided to Lifeline, a charity that assists problem gamblers.

### Key Information

- On 7 February 2017, the ACT Gambling and Racing Commission (the Commission) received a complaint that Professor Laurie Brown lost a substantial sum of money playing poker machines at the Raiders Belconnen Club between July 2015 and January 2017.
- Access Canberra, on behalf of the Commission, investigated whether Canberra Raiders Sports Club Ltd, the licensee of the Belconnen Club, breached the *Gaming Machine Act 2004*.
- A condition of a club's gaming licence is that it complies with the Gambling and Racing Code of Practice. Under section 1.6A, a licensee must record problem gambling incidents. Problem gambling incidents includes anyone who shows signs of having a gambling problem when in the gambling facility.
- The Commission determined that a failure to record problem gambling incidents undermines the purpose and object of the Code, which includes the purpose of providing 'protection for those patrons who have difficulties in using gambling products in a controlled manner'.
- On 24 November 2017, the Commission issued a Notice indicating that disciplinary action would be taken against the Club under section 62 of the Act.
- The Club's Application to ACAT seeking a review of the Commission's decision was listed for hearing for seven days commencing on 12 June 2018.
- On 12 June 2018, the Licensee also commenced proceedings in the ACT Supreme Court seeking judicial review of the Commission's decision.
- The terms of the settlement were reached resulting in a consent decision from ACAT on 14 June 2018.

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Lead Directorate:	Chief Minister, Treasury and Economic Development	



## QUESTION TIME BRIEF

- On 21 June 2018, the Commission formally reconsidered this matter and made a decision in accordance with the terms of settlement. It advised the Club of its decision that day.

### Background Information

- Nil

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Cleared by:	David Snowden	Ext: 79828
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Lead Directorate:	Chief Minister, Treasury and Economic Development	

TRIM Ref: 2018/000083-027

**Portfolio:** Attorney-General**ISSUE: GOVERNMENT RESPONSE TO STEVENS REPORT****Talking points:**Key Points - Reduction of gaming machine authorisations to 4,000

- On 21 August 2018 I announced the suite of incentives to reduce gaming machines in the territory which included facilities to allow all clubs which voluntarily surrender authorisations to access offsets for land-related fees and charges, including lease variation charges, to make it easier for them to redevelop their land for activities other than running pokies.
- Clubs will also have access to a new Diversification Support Fund, which will be jointly funded by industry and Government to help clubs pursue a future away from gaming machines and support club staff to develop new skills.
- Small and medium clubs will be eligible for \$12,000 cash, instead of a land related fees offset, for every gaming machine authorisation they voluntarily surrender by 31 January 2019.
- Offsets for land-related fees and charges will be available to large clubs at a rate of \$15,000 per authorisation and small and medium clubs can also choose to take up the option at a higher rate of \$25,000 per authorisation.
- Clubs that opt to go pokie-free altogether will be rewarded with a 25 per cent bonus on top of any incentives they claim.
- To support clubs' consideration of their options for incentives for voluntary surrender of gaming machine authorisations the Government has engaged Mr Stevens who has commenced meetings with clubs in the lead up to the deadline of 31 January 2019.
- Mr Stevens has met with 8 clubs and 2 club representative groups (Canberra Community Clubs and ClubsACT) [correct as of 6 November 2018].

Cleared as complete and accurate:	26/09/2018	
Cleared by:	Deputy Director-General	Ext:53504
Information Officer name:	Daniel Ng	Ext. 70674
Contact Officer name:	Julie Beddoe	Ext: 74264
Lead Directorate:	Justice and Community Safety	

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- If a reduction to 4000 authorisations is not achieved through voluntary surrender, there will be a two-stage compulsory surrender of authorisations – in April 2019 and April 2020.
- The Gaming Legislation Amendment Bill 2018 was introduced on 1 November 2018 and it provides the legislative framework for the Pathway to 4,000 gaming machine authorisation.

#### Key Points – Review of the Community Contributions Scheme

- In line with the Parliamentary Agreement commitment above, an Options Paper – *Maximising the Benefits of the Community Contributions Scheme* was circulated and a review of the scheme is being conducted. Consultation closed on 13 August 2018 and a total of 220 responses were received.
- The Government introduced changes to the community contributions scheme in the Gaming Legislation Amendment Bill 2018, introduced on 1 November 2018. It is anticipated the Bill will be debated in the November 2018 sittings.
- These change will increase the funds available to the broader community, including by providing more guidance to clubs and the Gambling and Racing Commission about appropriate distribution, and to increase transparency about how those funds are allocated. To make sure that community groups and individuals know about the funding available, the Government is introducing a requirement for clubs to engage with the community about community contributions.
- The Government is redefining allowable contributions so that there is clearer guidance on what does and does not count as a contribution. The new categories will be:
  - Charitable
  - Recreational
  - Education
  - Social Inclusion, Equality or Cultural Diversity
  - Community Sport
  - Addressing Substance Misuse or Dependence
  - Women’s Sport
  - Natural Disaster Relief or Assistance

Cleared as complete and accurate: 26/09/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Daniel Ng Ext. 70674  
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Lead Directorate: Justice and Community Safety

- The exposure draft regulation sets out new definitions and guidelines for working out community purpose contributions.
- The community and club industry have the opportunity to comment on the new regulation until 30 November 2018. After considering these views, the final regulation will be made by the end of the year.
- The minimum amount of net gaming machine revenue increased by 0.8 per cent. This funding will be distributed through two funds that provide support to people in the community:
  - 0.4 per cent will go to gambling harm prevention and mitigation; and
  - 0.4 per cent will go to community charitable causes.
- For-profit hotels will be required to pay 0.8 per cent of their gaming machine revenue (after gaming machine tax) to gambling harm prevention and mitigation, and to community charitable causes as well. Large clubs and large club groups, claims for in-kind contributions will be restricted to 2 per cent of a club's net gaming machine revenue. For these clubs, 6 per cent of net gaming machine revenue will need to be paid as money.
- To promote clubs meeting their community contributions obligations, the shortfall tax for clubs who fail to make sufficient community contributions is increasing. Where there is a shortfall, clubs will now need to pay 150 per cent of that amount in tax (i.e. a shortfall of \$1,000 will result in an additional tax payment of \$1,500).

**Background Information**

- Clubs make a significant contribution to the community through the community contributions scheme. The scheme provides that eight per cent of net gaming machine revenue generated from gaming machines is returned to the community for a range of stated purposes. In 2016-17 community contributions from clubs amounted to 12.6 per cent of net gaming machine revenue, or \$11.93 million. This compares to last year's level of contributions of \$11,652,179, being 12.4 per cent of net gaming machine revenue.
- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020 and to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

Cleared as complete and accurate:	26/09/2018	
Cleared by:	Deputy Director-General	Ext:53504
Information Officer name:	Daniel Ng	Ext. 70674
Contact Officer name:	Julie Beddoe	Ext: 74264
Lead Directorate:	Justice and Community Safety	

## QUESTION TIME BRIEF

- A number of consultation responses received during consultation indicated a high level of concern from the community about the potential loss in funding to small organisations should the direct contribution portion of the scheme be abolished. There were also concerns that capping in-kind contributions would reduce the number of organisations that received assistance from clubs.
- Various reports about the community contributions scheme called for consideration of removing claims for contributions to semi-professional and professional sport, capping of in-kind contributions, improved transparency of the scheme and more funding for gambling harm mitigation.

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TRIM Ref: 2018/000083-002

**Portfolio:** Attorney-General**ISSUE: GAMING MACHINE HARM REDUCTION MEASURES****Talking points:**

- The Government will deliver on our commitment to implement strong gambling harm reduction measures while supporting a sustainable, diverse and vibrant club industry that continues to make a valuable contribution to the ACT community
- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- Recent experiences – such as that of Professor Laurie Brown’s – demonstrate that significant reform is needed to ensure the Territory’s harm reduction framework is robust and fit for purpose.
- Now that the ACT Gambling and Racing Commission has finalised its decision, I will carefully consider the outcomes of this case and will be strengthening the Territory’s gaming regulations to ensure they offer meaningful and effective harm minimisation measures and that the Gambling and Racing Commission has the tools it needs for effective enforcement.
- Before the end of this year, the Government will amend the *Gambling and Racing Control (Code of Practice) Regulation 2002* to address self-exclusion, staff training, and the enforceability and magnitude of penalties for breaches of the code.
- The Commission has written to me outlining a number of areas where we can strengthen the consumer protection and harm minimisation framework in the ACT
- This will include improving the definition of problem gambling. The signs of gambling harm in the Code of Practice will provide less room for interpretation by club staff.
- Club staff will need to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling.

Cleared as complete and accurate:	09/10/2018	
Cleared by:	Deputy Executive Director	Ext: 70674
Information Officer name:	Richard Glenn	Ext: 53504
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Lead Directorate:	Justice and Community Safety	

- Club board members will be also trained to foster a culture where gambling harm reduction and consumer protection is the priority.
- We are looking at changes to enhance the operation of self-exclusion, and a Gambling Contact Officer will need to be on-site at every club whenever the gaming machines are turned on to provide an immediate point of contact for club patrons that are impacted by gambling harm.
- I have discussed these proposed changes with representatives of workers, clubs and community representatives, including those with lived experience of gambling harm, at the Gaming Machine Harm Reduction Roundtable, on 28 September 2018.
- Later this year I will also be bringing forward changes to enforcement mechanisms and penalties under the *Gaming Machine Act 2004* to enhance the compliance framework and ensure the Gambling and Racing Commission has the tools it needs for effective enforcement.
- We are going to keep consulting, and keep delivering on this Government's commitment to a safer, stronger, and more connected city where our clubs industry is diverse and sustainable, and provides robust protections against gambling harm.

### **Background**

Parliamentary Agreement Commitment 9.2 is to reduce harm from gaming in the ACT by exploring further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines.

#### Gambling Harm key statistics (as at 2014)

The level of problem gambling in the ACT community, as measured by the widely used Problem Gambling Severity Index (PGSI), is 0.4 per cent (0.5 per cent in 2009) of the population (approximately 1,110 adults).

A further 1.1 per cent (3053 adults) in the ACT were found to be at moderate risk of gambling harm, 3.9 per cent (10,825 adults) low risk and 48.7 per cent (135,171 adults) displayed no signs of gambling harm, a further 124,901 adults were non-gamblers.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of gambling harm, with 2.9 per cent (2.9 per cent in 2009) being classified at moderate or high risk of gambling harm.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of problem gambling, with 2.9 per cent (2.9 per cent in 2009) being classified as moderate risk or problem gamblers.

In 2014, 19.9 per cent of the ACT adult population gambled on gaming machines, down from 30.2 per cent in 2009.

Cleared as complete and accurate:	09/10/2018	
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Portfolio/s Regulatory Services &amp; Attorney-General

Transport &amp; City Services

**ISSUE: GREYHOUND INDUSTRY TRANSITION****Talking points:***Transition support*

- For over 12 months, the Government encouraged people affected by the end of greyhound racing in the Territory to consider the assistance offered through transition support packages.
- As announced by the Government in November 2017, the period for transition support ended on 30 September 2018.
- Five individuals negotiated transition support options with Woden Community Service, however only two individuals decided to sign agreements to receive transition support. These packages totalled approximately \$21,000, that will help them transition to new fields of endeavour beyond the greyhound racing industry.
- Approved transition support packages were designed to address individual needs and circumstances, and included payment for training courses, financial assistance to meet the cost of specialist advice, guidance and planning about future career options, health and wellbeing support and short term financial assistance to meet immediate need.
- In order to protect the confidentiality of applicants for transition support, it is not appropriate for me to give any further details about these packages or the recipients.
- The Taskforce also approved 23 applications for greyhound re-homing support to a value of \$24,400.
- In addition, the Government decided to provide an additional one-off grant of \$10,000 each to both ACT Greyhound Support Network and Canberra Region Greyhound Connections in recognition of the significant ongoing voluntary work they do to re-home former racing greyhounds in the ACT region.
- Woden Community Service is disbursing payments to all approved recipients.

Cleared as complete and accurate: 08/10/2018

Cleared by: Director X 50468

Contact Officer Name: Belinda Barnard X 77525

Lead Directorate: Chief Minister, Treasury and  
Economic Development[Return to Index](#)



*History of transition support*

- This Government's priority has been the welfare of greyhounds, which are put at unacceptable risk through racing, and also the people who were affected by the end of greyhound racing in the ACT.
- That's why the Government established the Greyhound Industry Transition Taskforce, and why the Taskforce engaged Woden Community Service, whose staff are experienced in providing support to members of our community at a difficult times in their lives.
- Transition support was central to facilitate the process of ending greyhound racing and trialling in the ACT. The ACT Government announced the availability of over \$1 million in transition support when we announced the decision to prohibit racing and trialling, well over a year ago.
- Applications for transition support, and support to re-home ex-racing greyhounds, closed on 30 June 2018.
- From August 2017 to June 2018, the Greyhound Industry Transition Taskforce received approximately 195 'expressions of interest' in transition support.
- Immediately prior to the 30 June deadline for applications, the Taskforce received correspondence from a greyhound industry representative that included a large number of attachments that were identical versions of an unsigned letter, submitted in 186 different names.
- These letters did not in themselves constitute a valid application for a transition support package, due to the lack of necessary detail and authority. Regardless, the Taskforce accepted these letters as valid expressions of interest and offered the people involved an extended period until 16 July to make a final application.
- Woden Community Service, on behalf of the Taskforce, ultimately received formal applications for transition support for five people, one business and 72 re-homed greyhounds.

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### *Racing ban*

- On 30 April 2018, the ACT became the first jurisdiction in Australia to prohibit the racing and trialling of greyhounds.
- As the Durkin Report showed, it's impossible to divorce the NSW industry from racing in the ACT.
- The NSW greyhound racing industry has demonstrated systemic failures in its animal welfare. The ACT cannot allow a sport to continue where people who repeatedly breach animal welfare laws are allowed to cross the border and race here in the ACT.
- Owning, breeding, and training greyhounds remains permissible in the ACT in accordance with the provisions of the Animal Welfare (Keeping and Breeding of Racing Greyhounds in the ACT) Mandatory Code of Practice 2018.

### *Canberra Greyhound Racing Club conducting races at Goulburn*

- While the Canberra Greyhound Racing Club is no longer able to conduct races in the ACT, it still has capacity to reach agreement with clubs in NSW to continue its racing. Any issues that occur during any of these races are a matter for NSW.

### *Legal proceedings*

- The Canberra Greyhound Racing Club has proceedings before the Supreme Court and the Federal Court to challenge various matters to do with the end of greyhound racing in the ACT.
- As these matters are still before the Court, it is inappropriate to make any further comment.

### **Key Information**

- Those exiting the industry previously had until 30 June 2018 to apply for transition support, and until 30 September 2018 to finalise packages.
- The Taskforce approved four applications with recommended packages of support submitted by Woden Community Service for people involved in the greyhound industry. Two people decided not to continue with their applications after they were approved by the Taskforce.
- The Government engaged independent consultant Ms Mary Durkin to provide an analysis of options to support the transition to end the greyhound racing industry in the ACT. The Government agreed with Ms Durkin's recommendations.

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- According to the Durkin Report, 94 per cent of the greyhounds that raced in the ACT in 2016 were based in NSW.
- Significant penalties now apply for the conduct of racing and trialling: a monetary penalty of up to \$15,000 and maximum 1 year imprisonment.
- Further, the penalties for anyone involved with arranging, conducting or knowingly participating in illegal betting activities are significant and also involve significant financial penalties and/or a period of imprisonment.
- The new fees include a 12 month registration fee for a racing greyhound set at \$612; and an annual application fee for a greyhound racing controller licence at \$640.
- Racing greyhound owners no longer need to obtain a specific permit to keep their dogs sexually entire, as this is provided for as part of the annually renewable racing greyhound registration.
- Some additional fees may apply, consistent with the provisions of the Domestic Animals Act that apply to all dogs, for example a licence is required to breed a litter from any dog (\$397.80 for two years).
- Access Canberra and the Transport Canberra and City Services Directorate established a joint agency initiative to provide appropriate inspection activity and ensure that any response to unlawful conduct is timely and dealt with by the appropriate agency.

**Background Information**

- Parliamentary Agreement Commitment 13.1 is to end Government funding for greyhound racing at the expiry of the current Memorandum of Understanding and take active steps to transition to end the operation of greyhound racing in the ACT.
- The Government ceased funding the greyhound industry on 30 June 2017 as part of the 2016-17 Budget Review. The funding was redirected to the industry transition program.
- The ending of the period of for transition support sees the completion of all 18 recommendations in the Durkin Report. Ms Durkin's recommendations largely related to the introduction of legislation to end greyhound racing, the scope of transition support to be made available and finalising the regulatory framework.

Cleared as complete and accurate: 08/10/2018  
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TRIM Ref: 2018/000083-033

**Portfolio:** Attorney-General**ISSUE: THOROUGHBRED RACING DEVELOPMENTS – RECENT RACING  
NSW ANNOUNCEMENTS****Talking points:**

- Clause 12 of the Racing Memorandum of Understanding (MoU) between the ACT Government and Canberra Racing Club (CRC) and Harness Racing Club, includes a commitment for the establishment of a Joint Industry and Government Committee with a focus on the development and sustainability of racing in the ACT.
- The Committee has met on four occasions since February 2018, and discussed a range of issues including ACT Racehorse Trainers Workers Compensation, the introduction of Point of Consumption Tax, Industry Funding Arrangements, and potential land development opportunities at Thoroughbred Park.
- At the Committee meeting of 15 August 2018, the Justice and Community Safety Directorate (JACS) was briefed on the impact increased prize money in NSW country races is having on the Canberra industry.
- I met with the CRC on Tuesday, 7 August 2018 to discuss a range of issues pertinent to the Club.
- JACS is involved in ongoing discussions with the CRC, and I have asked for regular updates on this matter.
- I am pleased to hear that the negotiations with Racing NSW have resulted in Canberra trained horses once again being able to take part in the Highway Handicap Races for country trained horses.
- The ACT Government is committed to the ongoing development and sustainability of the thoroughbred racing industry in the ACT. These discussions have been occurring via the Joint Industry and Government Committee and I understand this important conversation is continuing.

Cleared as complete and accurate: 23/10/2018  
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Lead Directorate: Justice and Community Safety

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- I note that the CRC has commissioned a masterplan to consider future development options for its site and will be considering this in the near future before it looks to engage with Government.

**Key Information**

- The MoU between the ACT Government and the CRC and Canberra Harness Racing Club provides for funding to the CRC of approximately \$6.4 million (plus annual CPI – 0.5 per cent adjustment) until 2020-2021.
- The *Betting Operations Tax Act 2018* will take effect from 1 January 2019
  - All wagering operators with relevant revenues above a tax free threshold of \$150,000 per annum will be liable to pay the tax, at a rate of 15 per cent of net wagering revenue (player loss) for bets placed in the ACT.

**Background Information**Funding

- The CRC has sought further funding to cover increases to prize money, The CRC was advised by Treasury at the Joint Racing Industry and Government Committee on 19 July 2018 that the Government is not proposing to provide additional funding to the CRC from the tax at this time, though it would consider any alternate funding model which the CRC puts forward.
- The CRC has now provided JACS and Treasury with an interim report on an interjurisdictional study which sets out the funding which other racing clubs around Australia receive from POC taxes.

Sch 2 s 2.2 (a)(xi), (xvi)

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Sch 2 s 2.2 (a)(xi), (xvi)

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Sch 2 s 2.2 (a)(xi), (xvi)

### Eligibility for NSW races

- On 24 July 2018, the CRC wrote to the Attorney-General to provide an update on a number of issues relevant to the Canberra thoroughbred racing industry.
- In 2017 Racing NSW ruled Canberra trained horses were ineligible to compete in weekly highway handicap race meetings though a ruling that classified Canberra trained horses as provincial rather than country trained horses.
- Previously Canberra based trainers were allowed to compete as country NSW trainers.
- On 18 July 2018, Racing NSW announced increases in prize money for metropolitan, provincial and country NSW thoroughbred horse races, including increasing the prize money for the Country Highway Handicap from \$60,000 to \$75,000 and from \$20,000 to \$22,000 for country races. In addition, Racing NSW announced the introduction of the Kosciusko race, to be held in October with prize money of \$1.3 million.
- Due to this classification, Canberra trained horses are ineligible to compete in the Country Highway Handicap or Kosciusko races. This significantly reduces value of prize money they are able to compete for.
- The CRC introduced the Federal races in December 2017, with prize money of up to \$50,000 as a means to compete with the Country Highway Handicap. Eligibility to compete is restricted to Canberra trained horses and NSW Country trained horses with ballot preference given to horses with Canberra as the training location on the Stable return.
- The CRC has advised JACS that the decision to exclude Canberra trainers and the increase in prize money available for NSW trained horses has resulted in a number of prominent Canberra trainers considering whether to relocate their training facilities to NSW in order to access higher prize money.
- On 27 July 2018 three prominent Canberra trainers met with Mr Peter V'landys, CEO of Racing NSW to discuss this issue.
- Mr Peter Stubbs, CEO, CRC, provided an update to JACS on this issue on 31 July 2018 and 1 August 2018.
- The CRC consider it vital to its ongoing viability that Thoroughbred Park-based trainers not move interstate. They have advised there may be flow on effects for employment in the Territory.
- The CRC Board met on 31 July 2018 to discuss the terms of a commercial offer that could be put to Racing NSW to allow for Canberra trained horses to compete as country NSW trainers.

Sch 2 s 2.2 (a)(xi)

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Lead Directorate: Justice and Community Safety

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Sch 2 s 2.2 (a)(xi)

- On 13 August 2018, *The Sydney Morning Herald* reported that Canberra trainers are again eligible to compete in the Highway Handicaps from 1 September 2018. While NSW horses benchmarked above 50 (a rating scale for the performance of race horses) will get first preference in the Highway Handicaps, the races have not filled recently so Canberra horses are unlikely to miss out.
- Canberra trainers will not be eligible for the Kosciuszko race this year (\$1.3million race for country trained horses) as betting has already commenced.
- At the 15 August 2018 Joint Racing Industry Government Committee meeting, the CRC confirmed the arrangements reported in the press, noting that Racing NSW did not seek a financial incentive, however they have asked that NSW trained horses be eligible for the Federal races. Further negotiations about the status of Canberra trained horses for the 2019 Country Championships and Provincial Championships are continuing.

#### Thoroughbred Park masterplan

- On 23 September 2018, *The Canberra Times* reported that the CRC would be considering a Masterplan developed by the developer Lockbridge at a meeting on 25 September 2018 relating to potential alternate land uses at Thoroughbred Park.
- The CRC has reportedly agreed 'in principle' to a development masterplan that looks at opportunities to redevelop the site in Lyneham. The CRC Board has sought further detail in the masterplan from the consultant, Lockbridge, for its consideration at its next meeting on 30 October 2018.

#### Point of consumption tax

- The Betting Operations Tax Bill 2018 passed the Assembly on 18 September 2018, and the tax will commence operation on 1 January 2019.
- The Territory's model for the tax is broadly consistent with the South Australian model.
  - The tax will be set at a rate of 15 per cent of the net wagering revenue received by betting operators for bets placed in the ACT, or bets made online by ACT residents.
  - The scheme will also incorporate a \$150,000 tax free threshold for operators.
- A Point of Consumption wagering tax is being introduced to help level the playing field for all betting operators, regardless of the jurisdiction in which they are licensed. The introduction of this tax will bring the ACT into line with other Australian jurisdictions as follows:
  - South Australia's Betting Operations Tax commenced on 1 July 2017.
  - Western Australia and Queensland's Point of Consumption wagering tax schemes will commence 1 January 2019, and will be harmonised with the South Australian model.

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Safety

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- Victoria's Point of Consumption wagering tax will commence on 1 January 2019, but will incorporate a lower tax rate (8 per cent of net wagering revenue) and a higher tax free threshold (\$1 million).
- Tabcorp ACT is the current holder of the ACT totalisator licence. Consistent with all other betting operators providing their services to ACT residents, Tabcorp ACT will be liable to pay the Point Of Consumption wagering tax.
- At the time of the granting of the totalisator licence in 2014, the Territory and Tabcorp agreed an Industry and Community Support Deed (the deed). The deed requires Tabcorp to make significant financial contributions to the ACT racing industry, community organisations and the Problem Gambling Assistance Fund.
  - The deed also includes a number of clauses outlining circumstances in which compensation may be payable by either party, should certain events occur.
- The introduction of the ACT Point of Consumption wagering tax may trigger a requirement for the Territory to pay compensation, given the financial impact on Tabcorp ACT from being liable to pay the tax.
  - The Territory is in discussions with Tabcorp ACT to determine an agreed way forward on this matter.
- Mr Mark Parton MLA attempted to move an amendment which provided a mechanism for an unspecified proportion of the total point of consumption tax paid each financial year to be paid to the racing clubs. Mr Parton's amendment was ruled out-of-order as it has an appropriation effect.

Cleared as complete and accurate: 23/10/2018  
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Lead Directorate: Justice and Community Safety

TRIM ref: 2018/000083-034

**Portfolio:** Attorney-General**ISSUE: COMMUNITY CLUB GRANTS****Talking points:**

- The Government is dedicated to supporting small and medium clubs to diversify their revenue streams away from gaming machines, through viable and long-term measures to help clubs move their operations out of gaming.
- The Government has implemented a range of measures to assist small and medium clubs, including to help them to diversify their income streams. These include, from 2017-18:
  - a. introducing a small and medium club gaming tax rebate to allow smaller clubs to keep 50 per cent of their gaming taxes on up to \$4 million of gross gaming machine revenue to re-invest into their organisation
  - b. the option to make quarterly (rather than monthly) gaming machine tax and Problem Gambling Assistance Fund (PGAF) payments
  - c. the availability of a \$10,000 community club grant for the purpose of diversification towards alternative income streams.
- In August 2017, the Legislative Assembly passed amendments to the *Gaming Machine Act 2004* which implemented the tax rebate and more flexible gaming tax payment arrangements. These changes apply in relation to gaming tax payable from 1 July 2017.
- The 2017-18 Budget includes \$200,000 for Community Club Grants (the Grant). As part of its *Supporting Local Community Clubs Policy*, the ACT Government invited small and medium clubs and club groups (defined as having Gross Gaming Machine Revenue [GGMR] less than \$4m in 2016-17) to apply for a \$10,000 grant to help them to diversify their income streams away from gaming revenue.

Cleared as complete and accurate: 07/10/2018  
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Lead Directorate: Justice and Community Safety

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- Letters were sent to 17 clubs that were deemed eligible from 2016-17 GGMR data provided by Access Canberra, inviting them to apply for grants before the grant closing date of 31 October 2017.
- Fourteen grant applications were received. The Justice and Community Safety Directorate (JACS) entered into Deeds of Grants and provided funds to the fourteen clubs on 22 December 2017.
- A panel from the ACT Government assessed the applications for the grant and determined that thirteen clubs met the eligibility criteria for the Grant. Uses proposed for the grant have included: new, and refurbishments to kitchens, function areas, and entertainment spaces such as dance floors; and consultancy fees for alternative land use applications.
- Deeds require each club to provide evidence of expenditure with a final report confirming the use of the funds for the agreed purpose, including receipts and invoices, and information on any related matters. These reporting provisions will help the Government evaluate the use of the grants and acquit any funds not spent on eligible purposes.
- A list of Community Club Grant recipients and stated purpose is available within the table at [Appendix A](#).

Cleared as complete and accurate: 07/10/2018  
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## Key Information

- Appendix A: Community Club Grant recipients and identified purpose for use of the grant

	<b>Applicant</b>	<b>Purpose</b>	<b>Amount (\$)</b>
1.	Austrian-Australian Club	Restoration of dance floor in club auditorium.	10,000
2.	Belconnen Magpies Sports Club	Consultancy fees for planning and development advice to explore alternate land use at Kippax site.	10,000
3.	Belconnen Soccer Club	Consultancy costs towards development of a childcare centre at Mackellar site.	10,000
4.	Canberra Bowling Club	Replace carpet and install a dance floor in function space.	10,000
5.	Canberra Club	Replace old kitchen equipment with updated appliances.	10,000
6.	Canberra Highland Society and Burns Club	Consultancy fees for planning and development advice to explore alternate land use.	10,000
7.	Canberra North Bowling Club and Rugby Union Club	Installation of a grease trap in the club's kitchen.	10,000
8.	Croatia Deakin Soccer Club	Update the furniture in the club's function room.	10,000
9.	Harmonie German Club	Contribute towards refurbishment of club's auditorium (bathrooms and fixtures and fittings).	10,000
10.	Italo Australian Club	A new large marquee for outdoor functions; new kitchen equipment; additional beverage delivery system; and lit signage.	10,000

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11.	Murrumbidgee Country Club	Consultancy fees to progress development of residential land on surplus club land; our kitchen refurbishment; or new outdoor furniture.	10,000
12.	National Press Club	Development of additional private function and dining facilities.	10,000
13.	Spanish Club	A new custom made marquee for outdoor events and construction of a new six lane petanque court.	10,000
14.	Canberra Irish Club	Consultation fees to investigate redevelopment of site improve food area; Upgrade equipment for live music performances; upgrade bar fridges; or purchase of new Point of Sale equipment.	10,000

### Background Information

- A club group is defined as two or more related licensees, where each licensee is related to at least one other licensee in the group. To help clubs determine whether they are part of a club group, the *Gaming Machine Amendment Act 2017* sets out the circumstances where a relationship between clubs results in them being considered as part of a club group. Club groups were be eligible to apply for one Grant of \$10,000.
- The three clubs that were eligible for a grant but did not apply may be frustrated that they have missed out on this potential support. These clubs are: The Belconnen Bowling Club; the Canberra Racing Club; and the Yowani Country Club.
- Activities that contribute towards diversifying a club's revenue streams away from electronic gaming towards alternative income streams will be eligible for the Grant. Examples of activities that would be supported include:
  - consultancy fees for planning and development advice, including advice on possible alternative land uses;
  - financial advice on diversification options;
  - investment in new or improved:
    - food and beverage offerings (e.g. establishing a new cafe, purchasing a new oven);
    - fixtures and fittings in non-gaming areas (e.g. improving function room facilities);
    - non-gaming services or facilities (e.g. entertainment options); or
  - other advice, activities, facilities or equipment where the club can demonstrate a clear connection to diversification away from gaming machine revenue towards a viable alternative income stream.

Cleared as complete and accurate: 07/10/2018  
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- Grant funds cannot be used for:
  - any gambling-related activity, such as improvements to gaming areas, gaming equipment or gaming facilities;
  - the purchase of stock, consumables or payment of ongoing club operating costs (including payroll, utilities etc); or
  - payment of government fees, charges, taxes or fines.
- Recipient clubs were required to provide expenditure reports or to remit to the ACT. Government any grant funds not spent by 30 June 2018.
- Expenditure reports were due on 31 July 2018. JACS has received seven expenditure reports and is following up on the other seven. The reports will contribute to the evaluation of the program.

Cleared as complete and accurate: 07/10/2018  
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**QUESTION TIME BRIEF**

TRIM Ref: 2018/000089-001

**Portfolios:** Chief Minister

Police &amp; Emergency Services

Attorney-General

**ISSUE: NATIONAL SECURITY ISSUES (INCLUDING BIOMETRICS)****Talking points:**Counter Terrorism (Chief Minister)

- Australia is one of the most successful and most harmonious multicultural societies in the world, which is one of our greatest strengths against terrorism and violent extremism.
- Our identity is defined by an overriding commitment to our nation, its democratic values and the rule of law, not by race, religion or ethnic background.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- We cannot eliminate entirely the risk of terrorism any more than we can eliminate the risk of any serious crime. But we will do all we can to keep our community safe from those who seek to do us harm.
- Terrorism is a national issue, and we work closely with our interstate partners on the national security challenges that Australia faces.
- These national security challenges continue to evolve, so we need to keep our legislation and capabilities under constant review to meet these emerging issues.
- The ACT Government is committed to ensuring the safety and security of our community, and continues to work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism and violent extremism.
- The ACT continues to support community leaders and activities that help promote the vibrant, inclusive and culturally diverse nature of the ACT community while maintaining the rule of law and protecting human rights.

Cleared as complete and accurate: 16/10/2018  
Cleared by: Executive Director Ext: 78628  
Information Officer name: Bren Burkevics  
Contact Officer name: Andrew Butters Ext: 70317  
Lead Directorate: Justice and Community Safety

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- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening; call Triple-Zero (000).

### Facial Biometric Matching Capability (Chief Minister)

- At the October 2017 Counter Terrorism Council of Australian Governments (COAG) meeting, I agreed to the terms of a national agreement that will revolutionise the way identity verification is undertaken across the country.
- As a human rights jurisdiction, the ACT has established a bilateral schedule to the national agreement to ensure ACT participation in a way that is consistent with the ACT's human rights and privacy laws, while supporting national security needs.
- Limitations placed on how ACT data can be used will not limit the ability of other jurisdictions to participate with one another in the capability.
- The ACT will continue to explore additional participation for ACT in the range of services offered by the capability, pending further privacy and human rights scrutiny.

### If asked about recent reports that the Australian Criminal Intelligence Commission has decided to discontinue its Biometric Identification Services project.

- This project is unrelated to the National Driver Licence Facial Recognition Solution, and the decision does not impact on the Intergovernmental Agreement signed in October 2017.

Cleared as complete and accurate: 16/10/2018  
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Lead Directorate: Justice and Community Safety



Defence support to National Counter-Terrorism arrangements (Chief Minister)

- In 2016, the Commonwealth Government initiated a review of Defence support to national counter-terrorism arrangements in response to the changing nature of the terrorist threat.
- State and Territory police remain, and will continue to remain, the primary responders to any terrorist attack.
- While Defence's primary role in counter-terrorism is offshore, Defence possesses specialist capabilities that could support state and territory governments in responding to an attack.
- The Commonwealth Government in close consultation with all States and Territories has worked to develop options for practical counter-terrorism engagement and cooperation between the Australian Defence Force (ADF) and State and Territory police.
- Additionally, in 2017 the Commonwealth Government announced proposed amendments to Part IIIAAA of the *Defence Act 1903* (the Defence Act).
- Part IIIAAA provides the framework for authorising the ADF to use force to resolve a domestic violence incident, including terrorism, in support of States and Territories.
- On 28 June 2018, the Commonwealth Government introduced the Defence Amendment (Call Out of the Australian Defence Force) Bill 2018 (the Bill) to amend Part IIIAAA of the Defence Act. The Bill will seek to simplify the authorisation process for callout, and enhance the ability of states and territories to request Commonwealth assistance, through the ADF, in responding to domestic violence incidents including terrorism.
- In particular the Bill will:
  - make it easier for states and territories to request ADF support where necessary to assist in the event of a violent or terrorist incident
  - allow the Government to pre-authorise the ADF to respond to threats on land, at sea and in the air
  - simplify, expand and clarify the ADF's powers to search, seize, and control movement during a violent or terrorist incident
  - enhance the ability of the ADF to respond to incidents occurring in more than one jurisdiction.

Cleared as complete and accurate: 16/10/2018  
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If asked about reports that the amendments to the Defence Act will allow the call out of Defence to deal with strike action or protests.

- The current call out provisions within the Defence Act contain a prohibition against the Defence Force stopping or restricting any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons or serious damage to property.
- This prohibition against stopping or restricting protest, dissent, assembly or industrial action is retained in the proposed amendments to the Defence Act, just in a different format to assist in the readability of the call out provisions.

### Key Information

- Australia's National Terrorism Threat level remains at **PROBABLE**.
- Credible intelligence, assessed by national security agencies indicates that individuals or groups have developed both the intent and capability to conduct a terrorist attack in Australia.
- Since the national terrorism threat level was raised on 12 September 2014, there have been six attacks and 14 major CT disruption operations in response to potential attack planning in Australia.
- There are currently no known specific or credible threats to the ACT.

### Background Information

- The Australian Government has taken twelve tranches of legislation through Parliament since August 2014 to strengthen Australia's counter-terrorism arrangements.
- COAG has agreed to a range of legislative measures including:
  - enhancing the existing Commonwealth pre-charge detention regime under Part 1C of the *Crimes Act 1914*
  - legislation implementing the presumption against bail and parole for people who have demonstrated support for, or have links to terrorist activity, will be underpinned by nationally consistent principles
  - a new Commonwealth offence that will allow law enforcement agencies to intervene when an individual is in possession of instructional terrorist material, with appropriate safeguards
  - a new Commonwealth terrorism hoax offence. This will ensure that the potentially broad nature of terrorism hoaxes is criminalised in all jurisdictions.

Cleared as complete and accurate: 16/10/2018  
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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000086-001

**Portfolio:** Minister for Police & Emergency Services

Attorney-General

**ISSUE: OMCG INCIDENTS****THIS IS AN ACT POLICING OPERATIONAL BRIEF**

This QTB focuses on the ACT Policing operational aspects. Information about anti-consorting laws, fortification removal laws, crime scene powers and drive-by shootings can be found in the QTB titled “Serious and Organised Crime Response”.

**TALKING POINTS:**

- Countering serious and organised crime by criminal gangs and maintaining public safety is of primary focus for the ACT Government and ACT Policing.
- Through Taskforce Nemesis, ACT Policing continues to proactively disrupt criminal gang members to deter and detect criminal activity. This includes confiscation of criminal assets.
- The Government’s 2018-19 Budget commitment of \$1.594 million over four years to Taskforce Nemesis provides funding for one Forensic Accountant, one Surveillance Team Member, and associated equipment and training.
  - Planning is underway for the recruitment of two additional members allocated through the 2018-19 Budget initiative. Exact commencement dates are dependent upon recruitment and security clearance processes.
- Funding allocated to combating Criminal Gangs in August 2016 has been applied, and eight members were appointed to Taskforce Nemesis.
- In 2017, the Federal Government boosted resources for dealing with organised crime through the National Anti-Gangs Squad (NAGS). Through NAGS, ACT Policing works closely with other agencies, liaising on matters of operational and strategic importance. NAGS brings together the resources and expertise of Federal and state/territory agencies to cooperate and share information to identify, target, disrupt and deter gang-related crime.

Cleared as complete and accurate: 11/09/2018  
Cleared by: DCPO-C  
Information Officer name: ACT Policing (CI)  
Contact Officer name: ACT Policing (MPP)  
Lead Directorate: Justice and Community Safety

- As at 10 September 2018, there are four known Outlaw Motorcycle Gang's (the Comancheros, Nomads, Rebels and Finks) operating in the ACT. The total number of members associated with ACT chapters of these Criminal Gangs is estimated at approximately 60 people.

#### Recent ACT Policing operations gang activity

- Since January 2018, ACT Policing has responded to criminal gang related incidents including:
  - Eight incidents of discharging a firearm at a residential address or a person
  - Seven arson incidents.
- Since January 2018, Taskforce Nemesis has:
  - Investigated 35 criminal gang related incidents
  - Executed 78 search warrants against criminal gang targets
  - Seized 22 firearms
  - Seized \$61,750 in currency
  - Laid 73 charges against criminal gang members.
- On 6 September 2018, a senior member of the Nomads Criminal Gang pleaded guilty to charges arising from a violent incident at a Monash Tattoo Parlour on 1 February 2018.
- On 5 September 2018, a previously convicted Comanchero Criminal Gang member completed a sentence of imprisonment arising from a firearms incident in March 2015.
  - Upon completion of his sentence, the Comanchero Criminal Gang member was apprehended by Australian Border Force and will be subject to deportation due to visa revocation.
- On 25 August 2018, approximately 30 members of the Nomad Criminal Gang participated in a 'Run' (an organised, overt, motorcycle ride) through the ACT. The run was closely monitored by ACT Policing who were also supported by NSW Police and Task Force Raptor.

Cleared as complete and accurate: 11/09/2018  
Cleared by: DCPO-C  
Information Officer name: ACT Policing (CI)  
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Lead Directorate: Justice and Community Safety

- On 6 August 2018, Taskforce Nemesis executed targeted searches of a vehicle and residential premise in Calwell.
  - Police located and seized a .357 calibre revolver, a loaded 22/250 rifle, a shortened 9mm semi-automatic rifle, ammunition and illicit substances.
  - Two men were arrested and charged with 14 cumulative charges. One of the men (a 21 year old male) was charged with firearm offences relating to the search warrant executed on 6 August 2018, and the other (a 36 year old male) was charged with firearm and weapons offences related to the incident on 28 June 2018.
  - As these matters remain subject to ongoing investigations, it would be inappropriate to comment further.
  
- On 03 August 2018, members of CI Taskforce Disruption Team assisted members of NSW Police Taskforce Raptor in the delivery of pre-emptive NSW consorting and NSW State Government debt recovery notices.
  - Various members of the Finks and Comancheros Criminal Gangs were visited at private residential addresses of their workplace and served with the notices.
  
- On 6 July 2018, a physical altercation broke out between six men in Greenway. The men are believed to be criminal gang members. The altercation is understood to be a result of ongoing tensions between criminal gangs. As this matter remains subject to ongoing investigations, it would be inappropriate to comment further.
  
- On 28 June 2018, four people attended two residential properties in Calwell. A number of firearms were discharged at both properties, and three vehicles were set alight at one of the residences. Taskforce Nemesis has extradited a man from Victoria to the ACT in relation to this matter. The man was charged with attempted murder and refused bail.

Cleared as complete and accurate: 11/09/2018  
Cleared by: DCPO-C  
Information Officer name: ACT Policing (CI)  
Contact Officer name: ACT Policing (MPP)  
Lead Directorate: Justice and Community  
Safety

## Background

- Appropriate legislative frameworks are an essential component to enable police to effectively disrupt and dismantle criminal organisations. A number of legislative amendments have been made to increase the tools available to police and enhance the response capacity of police officers. Most recently, these have included legislation passed on fortifications, drive-by shootings and crime scene powers.
- ACT Policing works closely with Police in other jurisdictions by sharing intelligence, best practices, and collaboratively monitoring and combating criminal gangs.

Cleared as complete and accurate: 11/09/2018  
Cleared by: DCPO-C  
Information Officer name: ACT Policing (CI)  
Contact Officer name: ACT Policing (MPP)  
Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-024

**Portfolio:** Attorney-General & Police and Emergency Services**ISSUE: SERIOUS AND ORGANISED CRIME RESPONSE**

Outlaw Motorcycle Gangs (OMCGs) are involved in criminal activities across Australia such as drug production and trafficking, vehicle rebirthing, firearms offences, money laundering, extortion and serious assaults.

**TALKING POINTS**

- The ACT Government is strongly committed to responding to the criminal activities of OMCGs.
- ACT Policing (ACTP) has established an OMCG Taskforce – Taskforce Nemesis – to focus on operational and investigative responses to OMCG activity.
- The Taskforce is supported by a suite of criminal laws developed by the ACT Government over a number of years, and continued investment to ensure that ACTP has the resources it needs to combat criminal gangs in the ACT.

*Anti-consorting laws*

- The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.
- The Government does not support the introduction of consorting laws at this time.
- Any future consideration of consorting laws would need to be informed by strong evidence establishing the requirement for, and effectiveness of, such laws.
- Laws of this nature would also need to allay unresolved Government and community concerns about conflict with human rights and criminal law principles.
- Law reform decisions are made by the Government taking into account need and evidence about their effectiveness as well as the views of our stakeholders and the broader community.

Cleared as complete and accurate: 02/10/2018  
Cleared by: Deputy Executive Director  
Information Officer name: Karen Greenland  
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Lead Directorate: Justice and Community Safety

### Fortification removal laws

- Fortifications are structures designed to stop or hinder uninvited entry to premises.
- The *Crimes (Fortification Removal) Amendment Bill 2017* was passed in February 2018.
- The Bill provides the Chief Police Officer with the power to apply to the Magistrates Court for an order that the occupier of the premises remove fortifications on the premises. The Bill also prohibits the establishment of fortifications on certain premises.
- These laws will help make the ACT a hostile environment for criminal gangs to prevent the establishment of fortified premises such as OMCG club houses.
- The *Crimes (Fortification Removal) Amendment Act 2017* commenced on 1 September 2018.

### Crime scene powers and drive-by shootings

- The *Crimes (Police Powers and Firearms Offence) Amendment Act 2017* commenced on 8 December 2017.
- The Act introduced statutory crime scene powers to allow police officers to preserve evidence in a timely manner at crime scenes in both public and private places while taking the least restrictive approach to limiting a person's right to privacy.
- The Act also created a new offence of 'drive by shooting' which deals with people shooting at a building, including a home, whether from a car or otherwise. The offence is punishable by a maximum of 10 years imprisonment.
- These new laws have already been used by ACTP to support its work to combat criminal groups in the ACT.

### Unexplained wealth

- The Commonwealth Unexplained Wealth Legislation Amendment Bill 2018 passed Parliament on 19 September 2018.
- The Bill effectively introduces an unexplained wealth scheme in the ACT by extending Commonwealth unexplained wealth orders to ACT offences.

Cleared as complete and accurate: 02/10/2018  
Cleared by: Deputy Executive Director  
Information Officer name: Karen Greenland  
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Lead Directorate: Justice and Community Safety



- The ACT Government is currently working with the Commonwealth to finalise an Intergovernmental Agreement that will allow the ACT to benefit from key aspects of the scheme including preferable treatment under new equitable sharing arrangements.

## **Background**

At the most recent meeting of the Council of Attorneys-General held on 8 June 2018, participants agreed that organised crime is a serious and pervasive threat to the community. In recognition of this, participants agreed to have regard to the statement of guiding principles when developing legislative responses to combat organised crime.

ACTP has identified three OMCGs that operate in the ACT (the Rebels, the Nomads and the Comancheros). Media reports on 27 and 28 June 2018 indicate that ACTP has evidence of a fourth OMCG, named the Finks, being established in the ACT.

The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.

### Anti-Consorting Laws

Consorting laws make it an offence to associate with a person after being issued with a warning to refrain from associating with that person.

All jurisdictions except the ACT have consorting law schemes. Consorting law schemes differ in each jurisdiction. Some legislative schemes have been found to be invalid by the High Court. The Victorian model is the only model that requires law enforcement to demonstrate a link between the association of two people and the commission of a criminal offence. Obtaining evidence to support this belief may be challenging in an operational context.

The Human Rights Commission advised that without a suspected link to identifiable criminal activity, it is unlikely that consorting laws will be cured of their inherent incompatibility with the Human Rights Act 2004.

The ACT has not supported the introduction of consorting laws to date due to the lack of evidence for their effectiveness and the significant human rights implications.

### *Recent media*

- On 28 August 2018 [media](#) reported on an image of the Nomads OMCG on Mount Ainslie, which lead to renewed calls for anti-consorting laws from Mr Hanson.

Cleared as complete and accurate: 02/10/2018  
Cleared by: Deputy Executive Director  
Information Officer name: Karen Greenland  
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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000089-004

**Portfolio:** Attorney-General**ISSUE: ACT GOVERNMENT CLOSED CIRCUIT TELEVISION CYBER RISKS****Talking points:**

- The ACT Government has identified several ACT Government buildings that operate CCTV equipment manufactured by the two companies.
- Cyber security remains a top priority for the ACT Government. A dedicated team of ICT security specialists work to protect ACT Government information and the security and integrity of its ICT systems and networks.
- The ACT Government is closely engaged with the Australian Cyber Security Centre to maintain awareness of emerging threats, risks and how these can be mitigated.
- The ACT Government has conducted an initial risk assessment of where and how the CCTV equipment is being used, and is determining the need for further action based on information provided by equipment vendors and advice from the Australian Government.

**If asked about the Public Safety CCTV Network or any aspect of its operation.**

- Refer to the question to the Minister for Police and Emergency Services.

**Background Information**

- On 12 September 2018, ABC News ran a [story](#) that CCTV equipment manufactured by Chinese companies Hikvision and Dahua had been banned in the US due to concerns they were creating a 'surveillance network' among federal agencies. ABC highlighted that these equipment was also in use by the Australian Government.
- On 14 September, The Canberra Times lodged the following query with the office of the Minister for Police and Emergency Services:

*Is the ACT government auditing its security cameras in the wake of this story? Are we going to replace the cameras if we have them? Or is it not that big of a deal.*

The response from the office of the Minister for Police and Emergency Services was:

*The ACT Government does not use equipment manufactured by the two companies as part of the ACT's Public Safety CCTV Network.*

Cleared as complete and accurate: 30/09/2018  
Cleared by: Executive Director Ext: 78628  
Information Officer name: David Pryce  
Contact Officer name: Jonathon Owen Ext: 75969  
Lead Directorate: Chief Minister, Treasury and Economic Development

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*The ACT Government has, however, identified a small number of instances where closed circuit television (CCTV) equipment manufactured by the two identified companies is in use. The ACT Government is assessing the need for further action based on information provided by equipment vendors and advice from the Australian Government.*

Sch 2 s 2.2 (a)(iii)

Cleared as complete and accurate:	30/09/2018	
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Information Officer name:	David Pryce	
Contact Officer name:	Jonathon Owen	Ext: 75969
Lead Directorate:	Chief Minister, Treasury and Economic Development	

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Trim Reference: JACS2018:/1130-014-005

**Portfolio/s:** Attorney-General

**ISSUE:**        **Underspending in translation and interpreting services (TIS)**  
**under *Safer Families - enhancing access to justice for non-english speakers***

**Talking points:**

- Expenditure under this initiative steadily increased during 2017-18 as eligible organisations became more familiar with the program and how to access the funding.
- Eligible organisations have underspent the total funds allocated to reimburse their costs for accessing Translation and Interpretation Services National (TIS National) for domestic and family violence matters under the *Safer Families - enhancing access to justice for non-english speakers* initiative:<sup>1</sup>

\$ (mil)	2017-18
Estimated	\$0.380 mil
Spent	\$0.150 mil
Under-expenditure	\$0.230 mil

- The 2017-18 underexpenditure was initially reprofiled to supplement the initiative's funding for 2018-20. The 2018-19 budget rolled over the 2017-18 underexpenditure (\$0.23 million), increasing the initiative's funding by \$0.115 million in each year for 2018-19 and 2019-20 respectively to the Community Services Directorate (CSD) through budget funding transfer from the Justice and Community Safety Directorate (JACS).
- Subsequent to the 2018-19 ACT Government Budget, the reprofiled funding (\$0.115 mil) in each of 2018-19 and 2019-20 was allocated to the Domestic Violence Crisis Service and Canberra Rape Crisis Centre. This decision was based on the continued high demand for these crisis services.

<sup>1</sup> Budet Paper 3, p 414.

Cleared as complete and accurate: 01/11/2018  
 Cleared by: Executive Director Ext: 76244  
 Information Officer name: Karen Greenland  
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 Lead Directorate: Justice and Community Safety

\$ (mil)	2018-19	2019-20
Estimated in 2017-18 Budget	\$0.323 mil	\$0.331 mil
Following roll-over of expenditure by 2018-19 Budget	\$0.438 mil	\$0.446 mil

## Key Information

- When the program commenced in July 2017, it took some months for the eligible organisations to become comfortable using the service. Several organisations had low or no uptake of the program as their clients did not need translation services that particular year.
- Throughout 2017-18, officials met with eligible organisations to promote the program, distribute TIS National promotional materials and receive feedback on the program. Expenditure steadily increased during 2017-18 as eligible organisations became more familiar with the program and how to access the funding.

## Background Information

- On 7 June 2016, the ACT Government announced the *Safer Families* package. This included the *Safer Families – enhancing access to justice for non-english speakers (Safer Families TIS)* package, which committed to fund approximately \$1.223 million over four years for translating and interpreting services for people accessing the ACT Law Courts and Tribunal and specialist ACT family and domestic violence services, including community legal centres, due to domestic and family violence.
- The purpose of the funding was to support access to justice for people from culturally and linguistically diverse backgrounds (CALD), community members using sign languages and Aboriginal and Torres Strait Islanders experiencing family violence in the ACT.
- Funds are not provided directly to eligible organisations. TIS National bills JACS directly for services used by eligible organisations on a monthly basis. TIS National then reimburses eligible organisations.
- Organisations are eligible to be reimbursed by JACS for TIS if they do not receive specific TIS funding or free access to TIS National from the Commonwealth. 14 organisations have been identified as eligible for reimbursement:
  - Domestic Violence Crisis Service
  - Doris Women’s Refuge
  - Canberra Community Law

Cleared as complete and accurate: 01/11/2018  
 Cleared by: Executive Director Ext: 76244  
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 Lead Directorate: Justice and Community Safety

- Karinya House for Mothers and Babies
  - Legal Aid ACT
  - Toora Women Inc
  - ACT Courts and Tribunal
  - Northside Community Service
  - Companion House
  - Tenants' Union
  - Canberra Rape Crisis Centre
  - YWCA Canberra
  - Women's Legal Centre
  - Director of Public Prosecution (DPP)
- In 2015-16, Beryl Women Inc. received a grant from Hands Across Canberra for \$10,000 to cover costs associated with interpreting for women from a culturally and linguistically diverse background. They will become eligible for the Safer Families TIS program once their grant has been fully expended.
  - Adding Beryl, or any other organisation, is a straight forward process that can be completed within 24 hours.

Cleared as complete and accurate: 01/11/2018  
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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000083-016

**Portfolio:** Attorney-General**ISSUE: CHILD ABUSE ROYAL COMMISSION – CRIMINAL JUSTICE REFORMS****Talking points:**

- Child abuse is unacceptable and ensuring the safety of children in our community is a top priority for the ACT Government.
- On 15 June, I presented the ACT Government’s formal response to the approximately 300 recommendations of the Royal Commission that relate to State and Territory governments.
- Our response shows our clear, unambiguous commitment to protecting children, and righting wrongs.
- It demonstrates our intention to change the status quo, to effect cultural change within organisations, and to ensure the failures of the past are not permitted to continue.
- The response to the Royal Commission’s 85 criminal justice recommendations shows our strong commitment to improving the ACT criminal justice system’s response to child sexual abuse, through both legislative and non-legislative reforms.
- This response was informed by significant consultation and work we have already done on the criminal justice recommendations.
- For example, in February this year we made amendments to the existing ACT offences of grooming and maintaining a sexual relationship with a child, as well as sentencing reforms for child sex offenders, in response to the Royal Commission’s recommendations.
- We have also long been a leader in adopting survivor-focused criminal laws, and already have in place a number of measures recommended by the Royal Commission.
- This includes, for example, measures to support vulnerable witnesses to give evidence in a way which protects against re-traumatising them.
- Between 22 March and 4 May 2018, I conducted a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission’s recommendations. These views are being taken into account in the Government’s reform process.

Cleared as complete and accurate: 06/11/2018  
Cleared by: Deputy Executive Director Ext: 76244  
Information Officer name: Karen Greenland  
Contact Officer name: Maddie Rosenberg Ext: 53310  
Lead Directorate: Justice and Community Safety

- The major reforms the Government sought feedback on concern new legislation for failing to report offences, failing to protect at-risk children, the way victims and witnesses provide their evidence, and changes to trial and sentencing procedures for child sexual abuse offences.

*Royal Commission Criminal Justice Legislation Amendment Bill 2018*

- The Royal Commission Criminal Justice Legislation Amendment Bill 2018, introduced in October 2018 will implement eight additional Royal Commission recommendations, as well as other proposals made by stakeholders through the course of consultation on the Royal Commission reports.
- The Bill will help to support the protection of children from sexual abuse, and ensure that those who sexually abuse children are held accountable for their actions

*Reporting of sexual abuse – implications for religious confession*

- The Royal Commission’s recommendations around abuse disclosed in the context of religious confessions form an important part of the Report and the Government has accepted them in principle.
- The question of how to treat religious confession is currently part of a national conversation.
- The ACT Government has commissioned Her Honour Justice Julie Dodds-Streeton to provide an analysis report on the implementation of recommendations relating to the reporting of child sexual assault, which have implications for the confessional seal.
- Her Honour’s report will provide advice on how best to implement the relevant recommendations in a manner that is consistent across different reporting obligations, and takes account of constitutional law considerations and human rights obligations.
- Consultation is currently underway with key stakeholders, including representatives of churches, agencies and organisations responsible for the reporting of child abuse and organisations representing survivors and victims, to inform this report.

Cleared as complete and accurate: 06/11/2018  
Cleared by: Deputy Executive Director Ext: 76244  
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Lead Directorate: Justice and Community Safety



*Intermediary scheme*

- The Government accepted in-principle the Royal Commission’s recommendations that an intermediary scheme should be established to help prosecution witnesses with a communication difficulty in a child sexual abuse prosecution.
- Work is proceeding within Government to provide advice on an appropriate model for an ACT intermediary scheme, following the Intermediary Forum hosted by the Victims of Crime Commissioner in October. This provided a valuable insight from NSW and Victoria where schemes have been piloted in the last few years.
- The Government will continue to work with stakeholders and the ACT community as we progress the implementation of the ACT Government’s response to recommendations for criminal justice reforms.

**Key Information**Royal Commission Criminal Justice Legislation Amendment Bill 2018 (the Bill)

- The Bill was introduced on 25 October 2018, and will:
  - create a new offence in the Crimes Act 1900 of failure by a person in authority, in a relevant institution, to protect a child from the risk that a sexual offence will be committed against the child;
  - create a procedural mechanism for charging offences as a ‘course of conduct’ for child sexual abuse;
  - amend the sentencing provisions in the Crimes (Sentencing) Act 2005 so that sentences for child sexual abuse must be sentenced according to current sentencing practice rather than the sentencing practice at the time of the offending, while retaining the principle that a sentence must not exceed the maximum that applied at the time of the offence; and
  - amend the Evidence (Miscellaneous Provisions) Act 1991 to:
    - include principles for dealing with child witnesses;
    - harmonise the structure and definitions within chapter 4, which contains the Special Measures available to witnesses in proceedings; and
    - extend the availability of certain measures to more categories of witnesses, including witnesses with disability, family members of, and people in a special relationship with, particular vulnerable witnesses and for all child witnesses.
    - make consequential amendments to other legislation as a result of the changes to the Evidence (Miscellaneous Provisions) Act.

Cleared as complete and accurate: 06/11/2018  
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Lead Directorate: Justice and Community Safety

### Criminal Justice Reforms

- The Government's full response to the Royal Commission's recommendations was released on 15 June 2018.
- A consultation process about the criminal justice reforms was supported by a series of factsheets and information available on the ACT Government's YourSay website and the Justice and Community Safety Directorate website.
- The Justice and Community Safety Directorate has been consulting directly with a range of key stakeholders in the justice system and more broadly to inform the Government's approach to legislative reform in this space. This includes consultation with the Sexual Assault Reform Program (SARP) Reference Group.
- In addition to the legislative reforms in the Bill introduced in October 2018, further reforms are proposed to be progressed in 2019 to implement other recommendations made by the Royal Commission.
- Implementing the recommendations relating to creating a failure to report offence and the extension of this to religious confessions has been a contentious topic in the ACT since legislation was introduced to expand the ACT's Reportable Conduct Scheme to religious confessions. Justice Dodd-Streeton's report is due in January 2019 and will be available to inform the treatment of religious confessions for the purpose of reporting of child sexual assault across the reportable conduct and mandatory reporting schemes, as well as the recommended introduction of a new failure to report abuse offence.

Cleared as complete and accurate: 06/11/2018  
Cleared by: Deputy Executive Director Ext: 76244  
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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000083-017

**Portfolio:** Attorney-General**ISSUE: COMMONWEALTH REDRESS SCHEME FOR SURVIVORS OF INSTITUTIONAL SEXUAL ABUSE****Talking points:**

- The ACT Government acknowledges the nature and impact of the abuse suffered by victims of child sex sexual abuse. Many survivors of child sexual abuse suffer long lasting and severe injuries that can affect them for the rest of their lives.
- The ACT Government is working closely with the Commonwealth and other jurisdictions to implement the Redress scheme in a manner that ensures that meets the needs of survivors.
- The Scheme started on 1 July 2018 and will run for 10 years.
- The Scheme will offer access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to \$150,000.
- All jurisdictions have now announced they will join the Redress scheme.
- In addition, a number of non-government institutions have announced their participation in the Scheme. The Commonwealth has indicated this achieves coverage of over 90 percent of anticipated claimants.
- Survivors will be able to access legal and community support services to assist through the redress application process.
- The Commonwealth has established a dedicated telephone helpline (1800 737 377) and website ([www.nationalredress.gov.au](http://www.nationalredress.gov.au)) to provide information for survivors and their families about the Scheme.
- Based on actuarial estimations using population data, the experience of previous schemes and Royal Commission private hearings it is estimated that there will be 225 applications with ACT Government liability out of an estimated total of 830 across the ACT over the 10 years of the scheme. The Commonwealth will be responsible for claims pre self-government (11 May 1989) and non-government institutions will be liable for the balance.

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- Modelling undertaken by the Commonwealth government when designing the scheme estimated that the average payment of Redress would be \$76,350.
- The Commonwealth has started to receive applications. As yet the ACT Government has not received a request for information in relation to any applications.
- However, the ACT has been preparing for the commencement of the scheme for some time, and is continuing to work with the Commonwealth Department of Social Services - the Scheme Operator - to ensure that applications in relation to ACT Government institutions are responded to effectively.
- This includes work being undertaken by the Justice and Community Safety Directorate, together with other ACT directorates to manage the identification of relevant information to respond to requests for information about an application.
- VictimSupport ACT will be coordinating the provision of counselling services where counselling support is a component of redress in relation to abuse which occurred in ACT government institutions.

The Restorative Justice Unit is supporting the provision of direct personal responses from representatives of ACT government institutions.

### Key Information

- The Redress Scheme commenced 1 July 2018.
- The Redress Scheme includes psychological counselling, a direct personal response and payments for up to \$150,000.

#### *Who is eligible for redress?*

- A person is eligible if:
  - the person, when they apply, is an Australian citizen
  - was sexually abused as a child
  - the abuse occurred before the start of the scheme
  - one or more of the institutions participating in the scheme was responsible for the abuse.

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*How the application process works*

- The Scheme is being administered by the Commonwealth through the Department of Social Services, which receives applications from those seeking redress. In this context the DSS is Scheme Operator under the legislation establishing the Scheme.
- DSS then requests information from the institution or institutions the applicant has identified in their application as those in which the abuse occurred.
- Institutions have a timeframe in which to respond with relevant information (from their records) to assist the Scheme Operator to assess the application and make a decision about whether to make an award of redress and, if so, what monetary amount to award.
- The test for whether to approve an application for redress is whether there is a reasonable likelihood that the person meets the eligibility criteria – ie that they were sexually abused as a child and one of more of the participating institutions is responsible for the abuse.
- If it is assessed that this test is met the application for redress must be approved and the amount of a redress payment determined, as well as the psychological and counselling component of redress for the person.
- Independent assessors are being appointed by the scheme operator to make these assessments. Jurisdictions, including the ACT, have had an opportunity to nominate people who could be suitable for appointment as an independent assessor.

*Application of the scheme to people in gaol or who have convictions*

- A person cannot apply for redress if they are in gaol, unless the Scheme Operator determines there are exceptional circumstances justifying the application.
- A person who is sentenced to imprisonment for 5 years or longer is not entitled to redress unless the scheme operator is satisfied that providing redress would not bring the scheme into disrepute or adversely affect public confidence in or support for the scheme.
- In considering whether there are exceptional circumstances justifying an application from a person in gaol or whether an application from a person sentenced to more than 5 years imprisonment would bring the scheme into disrepute, the Scheme operator will seek views from the Attorneys-General of the jurisdictions where the person is, relevantly, in gaol, was sentenced to imprisonment and where the abuse is stated to have occurred.
- The ACT has advised that in these cases, the ACT will support the position that the person's application should be accepted. This is on the basis that there should be no discrimination against victims or survivors of institutional child sexual abuse, having regard to their status as prisoners or people who have been sentenced to a period of imprisonment. It recognises that the life path of some victims and survivors,

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including offending, will often be linked to the person's experience of abuse and the impact of this on their life.

#### *Participating institutions*

- The most recent advice from the Commonwealth is that nine non-Government institutions have joined the Scheme, including the YMCA, Scouts and the Salvation Army. A further 17 non-Government institutions have publicly announced that they will join the scheme, including the Anglican Church, the Catholic Church, the Uniting Church, the Lutheran Church, Barnardos and a number of grammar schools.
- The Commonwealth is continuing to work with other organisations which have been named in applications.

#### *Claims to date*

- The most recent information from the Scheme Operator (25 October) is that approximately 1700 claims have been received of which approximately one quarter have been assessed.
- A small number (less than 10 payments) have been made.

#### **Funding for ACT redress**

In the 2018-19 Budget, the Government allocated \$13.9 million for the first four years of the National Redress Scheme, it is estimated that it will cost approximately \$30 million over the life of the Scheme.

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TRIM Ref: 2018/000083-019

**Portfolio:** Attorney-General**ISSUE: RESIDENTIAL TENANCIES****Talking points:**Residential Tenancies Amendment Bill 2018 (No 2)

- The Residential Tenancies Amendment Bill 2018 (No 2) (the Bill) was introduced in the October 2018 sittings.
- The Bill will amend the *Residential Tenancies Act 1997* to improve protections for tenants and respond to stakeholder concerns.
- The Bill proposes the following amendments:
  - making it easier for tenants to keep pets in rental properties
  - making it easier for tenants to make modifications in rental properties
  - refining the domestic violence and personal protection order provisions to assist the ACT Civil and Administrative Tribunal (ACAT) to address practical issues that have arisen with current drafting
  - allowing tenants to vacate with no penalty during a fixed term when notice of a 'no cause' termination has been given
  - providing that a tenant does not need to pay a 'break lease' fee if the lessor finds a replacement tenant, subject to reasonable costs and
  - requiring lessors to apply to ACAT for any rental increase in excess of a prescribed amount.

## Applications to ACAT for rental increases above threshold

- The Bill specifies that lessors must apply to ACAT for a rental increase above the rental consumer price index plus ten per cent.

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- The CPI figure used is the rental component of the housing group of the Consumer Price Index for Canberra produced by the Australian Bureau of Statistics each quarter.
- The lessor will not have to seek ACAT approval if the tenant has agreed to the rental increase.
- When considering these applications about rental increases ACAT must consider:
  - the rental rate before the proposed increase;
  - the amount and timing of previous increases
  - the lessor's outgoings or costs for the premises;
  - services the lessor provides to the tenant;
  - the value of fixtures and goods supplied by the lessor as part of the tenancy;
  - the state of repair of the premises;
  - rental rates for comparable premises;
  - the value of any work performed or improvements carried out by the tenant with the lessor's consent;
  - any other matter the ACAT considers relevant.
- Given that the ACAT is required to consider 'outgoings and costs for the premises,' it is expected that the Tribunal will take into account land tax rates which apply to the property when determining whether a rental rate increase is excessive.

#### Withdrawal of rental properties

- Stakeholders have expressed concerns that the requirement for ACAT approval will contribute to withdrawal of rental properties, as it comes on top of ongoing increases in rates (under the Government's tax reform program) and previous increases in land tax.
- Under current market conditions, the ACT remains an attractive place to invest, with rental returns that compare favourably with other capital cities.
- The outlook for investment in the ACT property market remains positive, with the lowest vacancy rate in Australia.

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- Construction activity and supply of new multiunit dwellings are at historically high levels.
- Planning for future developments is also strong, indicating that the market remains optimistic about future demand.
- Investors take into account a range of factors when making investment decisions, including broader economic conditions, rental yields and capital gains reflected in investment returns.
- This is also significantly influenced by the Federal Government’s taxation policies such as treatment of negative gearing and capital gains tax. ACT Government policies, fees and charges are only one factor in the overall investment decision.

### Housing Strategy

- Ensuring that our residential tenancies legislation supports vulnerable people to be secure in their homes is a key Government priority.
- The Government released a new Housing Strategy for the ACT on 29 October. Its focus will be on assisting those who need help most.
- Improving the operation of the Residential Tenancies Act forms part of this work.

### **Background Information**

#### Rental CPI

- The rental component of CPI is based on actual rents paid by tenants occupying a property as their residence.
- As the same sample of dwellings is used each quarter, it will include both rental increases for existing tenants and rents paid by new tenants. The landlord’s costs, including taxes, are not ‘factored in’ – the only factor is the rent that a landlord is receiving for a particular dwelling for at a particular point in time.

#### 8.4 HOUSING GROUP INDEX STRUCTURE

Group, sub-group, expenditure class	Item examples	Outlets/source of price collection
HOUSING		
Rents		
Rents	Rentals actually paid to private or government landlords, including housing authorities, by tenants or subtenants occupying unfurnished or furnished premises as their main residence	Real estate agents, State housing authorities, Centrelink, Department of Defence (in Darwin)

- The rental sub-group covers payments made by households as rent for both privately owned and government-owned dwellings. Rental payments for holiday homes are excluded as these are classified under Domestic holiday travel and accommodation in the Recreation and culture group. Prices for a sample of rented dwellings within

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each capital city are collected every quarter, with the sample stratified according to location, dwelling type and size of dwelling based on the most recent Census of Population and Housing.

Rental payments for privately owned dwellings in the metropolitan areas of each capital city are obtained from real estate agents under a matched sample approach, i.e. prices are collected for the same sample of private rental dwellings every quarter.

Government rents charged to pensioners and other welfare recipients are set as a proportion of income. As these incomes are known, rents for government-owned properties are derived from information provided by the state and territory housing authorities. Consequently, price movements can be readily estimated. Occasionally, the proportion used to set rents for government-owned dwellings changes. Again this is public knowledge and is readily available for use in estimating price movements.<sup>1</sup>

#### Review of the Residential Tenancies Act

- The report on the review of the Residential Tenancies Act was tabled in the June 2016 Legislative Assembly sittings.
- The report included first and second tranche recommendations.
- The Residential Tenancies Legislation Amendment Act 2016 gave effect to the first tranche recommendations, including:
  - requirements for smoke alarms
  - changes to bond release provisions
  - mechanisms allowing a person experiencing personal or domestic violence to apply to ACAT for changes to their tenancy arrangements.
- Second tranche recommendations include giving further consideration to the following issues:
  - conditional termination and possession orders
  - occupancy agreements
  - share house tenancies and subletting
  - early termination of a fixed term lease by a tenant who has accepted accommodation in social housing premises or aged care
  - reducing the maximum rent payable in advance to two weeks
  - ACAT issuing notices about additional inconsistent terms
  - tenant termination of a lease containing unlawful inconsistent terms

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<sup>1</sup> **Source: ABS Cat. No. 6461.0 - Consumer Price Index: Concepts, Sources and Methods, 2017**

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## QUESTION TIME BRIEF

- removing or modifying the requirement for a 'detriment to the lessor's interest in the premises' when terminating a lease on the grounds that a tenant has used the premises for illegal purposes
- minimum standards for reasonable security.

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TRIM Ref: 2018/000083-036

**Portfolio:** Attorney-General**ISSUE: CRIMES (CONSENT) AMENDMENT BILL 2018****Talking points:**

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not just for victims and survivors but also for the entire community.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws through introduction of the *Crimes (Consent) Amendment Bill 2018* (the Bill), which was introduced in the Legislative Assembly by Ms Caroline Le Couteur MLA in early April 2018.
- Broadly speaking, the Bill seeks to introduce a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Bill was referred by the Assembly to the Justice and Community Safety Standing Committee for inquiry. The Committee presented its Report to the Assembly on 31 October 2018.
- The Government is currently preparing its response to the Committee's Report, including through consultation with the Sexual Assault Reform Program Reference Group, which consists of representatives from key organisations responsible for responding to sexual assault in the ACT, and with consideration of the NSW Law Reform Commission's current review of sexual consent provisions in NSW legislation, which is yet to be presented.

**Key Information**

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, the Crimes Act includes a list of circumstances which 'negate' consent.

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- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of ‘free and voluntary agreement’.
- It is relevant that any proposed changes to sexual consent provisions are considered in connection with the large body of work being undertaken by Government to implement the *Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*.

#### Law reform commission recommendations

- The 2010 Australian Law Reform Commission’s *Final Report Family Violence – A National Legal Response* recommends that ACT sexual offence provisions should ‘include a statutory definition of consent based on the concept of free and voluntary agreement’ (recommendation 25-4).
- The NSW Law Reform Commission is currently reviewing sexual consent provisions in NSW legislation. Public submissions are being accepted until 1 February 2019.

#### **Background Information**

- On 11 April 2018, Ms Le Couteur introduced the *Crimes (Consent) Amendment Bill 2018* in the Legislative Assembly. The Bill seeks to amend the *Crimes Act 1900* (Crimes Act) to insert a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Assembly referred the Bill to the Standing Committee on Justice and Community Safety for inquiry and report. The Committee presented its report to the Assembly on 31 October 2018 with ten recommendations, including that:
  - the Bill as introduced into the Legislative Assembly on 11 April 2018 not be proceeded with in its current form (Recommendation 1);
  - the ACT not consider or enact legislative change to introduce a definition of affirmative consent until the report from the current NSW Law Reform Commission inquiry in relation to sexual offences is presented (Recommendation 2); and
  - a definition of consent based on a concept of free and voluntary agreement, and affirmative and communicative consent be considered for enactment into ACT law (Recommendation 4).
- A Government Response is required to be tabled in the Assembly within four months of release of the Report – this being 1 March 2019.
- The Justice and Community Safety Directorate is undertaking work to implement the 2017 Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, which will be relevant to considering how the Government will respond to the Standing Committee’s inquiry and report on the Bill.

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## Summary of the Bill

- The Bill proposes to insert a new statutory definition of consent into the Crimes Act. In summary, the definition would provide that consent means: a person gives free and voluntary agreement and the other person knows or is satisfied on reasonable grounds that the agreement was freely and voluntarily given. The Revised Explanatory Statement states that the policy goal of the new definition is to 'clarify the law of consent and provide better outcomes for victims and the community'.
- The Bill also creates an exception to offences of using a child for the production of child exploitation material, possessing child exploitation material, and grooming and depraving young people. The exception would dis-apply those sections to a defendant where, at the time of the alleged offence, the complainant was at least 10 years old, the defendant was not more than 2 years older or younger, and the complainant 'consented to the act constituting the offence'.
- The Revised Explanatory Statement for the Bill states that insertion of the exception aims to ensure that young people consensually sharing sexual material between each other are not at risk of prosecution. It suggests the amendments would promote consistency with the age of consent in other provisions in the Act, including section 55 (sexual intercourse with a young person), section 61 (acts of indecency with a young person) and section 72D (distribution of intimate image of a young person).

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## Issue: Strategic and Accountability Indicators – ACT Government Solicitor

Page 347 of the 2017-18 Justice and Community Safety Directorate (JACS) Annual Report (AR) reference Output 1.2 (Legal Services to Government)'s performance analysis details ACTGS performance against Accountability Indicators. The major influences leading to variances from the 2017-18 Original Target to the 2017-18 Actual are explained in this brief.

Output Class 1 Justice Services					
Output 1.2 Legal Services to Government					
Description	High quality and timely legal advice and representation for the Attorney-General and				
	2017-18 Original Target	2017-18 Amended Target	2017-18 Actual	Variance %	Note
Total Cost (\$'000)	13,962		19,169	37%	1
Controlled Recurrent Payments (\$'000)	8,968		9,403	5%	
<b>Accountability Indicators</b>					
a	Timely legal services provided by the ACT Government Solicitor: percentage of advices completed within 28 days	85%		82%	(4%)
b	Timely legal services provided by the ACT Government Solicitor: percentage of urgent court and contentious matters undertaken and completed within courts, tribunal or any applicable statutory timetable	95%		100%	5%
c	Timely legal services provided by the ACT Government Solicitor: percentage of routine court and contentious matters undertaken and completed within courts, tribunal or any applicable statutory timetable	95%		97%	2%
d	High quality legal services provided by the ACT Government Solicitor: percentage of client survey respondents satisfied with quality of advice and representation <sup>i</sup>	95%		93%	(2%)
The above Accountability Indicators should be read in conjunction with the accompanying notes.					
The above Accountability Indicators were examined by the ACT Audit Office in accordance with the <i>Financial Management Act 1996</i> . The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the <i>Financial Management (Statement of Performance Scrutiny) Guidelines 2017</i> .					
<b>Notes</b>					
i	The client survey was conducted online using Survey Monkey. In 2017-18 there were a total of 241 responses to the survey question in relation to the satisfaction with the quality of legal services. The responses are calculated using the results of the Survey Monkey tool. The calculation is based on the number of 'excellent' and 'satisfactory' responses as a % of total responses received.				
<b>Explanation of Material Variances (<math>\geq</math> +/-10%)</b>					
1	Total Cost is higher than target primarily due to the engagement of additional staff to undertake work on a fee for service basis for client agencies.				

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**Talking points:**

- The ACT Government Solicitor (ACTGS) reports against accountability indicators relating to the timeliness and quality of legal services provided measured by:
  - completion of advices within specified timeframes;
  - the completion of urgent and routine court matters within applicable statutory time frames; and
  - the quality of legal services measured by client satisfaction.
- The data that contributes to these Accountability Indicators is based on activity recorded by solicitors in 'Open Practice', the legal practice management system used by ACTGS.
- ACTGS performance is in line with the estimated outcome for indicator (a), with 82 per cent of advices completed within 28 days.
- ACTGS performance to 30 June 2018 for indicator (a) relate to 2844 advices provided comprising:
  - 571 urgent requests for advice provided (24-48 hours)
  - 977 requests for advice provided within seven days
  - 792 requests for advice provided within 8-28 days
  - 272 requests for advice provided within 29-56 days, and
  - 232 requests for advice provided within 57 days plus.
- In relation to indicator (d) the ACTGS invites client agencies to participate twice yearly in the *ACT Government Solicitor Quality of Legal Services* survey (client survey).
- The June 2018 client survey indicated 93 per cent of respondents to the survey regarded the quality of legal services to be satisfactory or excellent.

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TRIM Ref: JACS2018/1130-015-007

**Portfolio/s:** Attorney-General**ISSUE: Counsel Briefing Policy (including Equal Opportunity Briefing)**

Delivery of legal services by the ACT Government Solicitor (ACTGS) to ACT Government Directorates and agencies includes the engagement of external counsel to provide representation as well as advice on a range of issues (pages 428-430 of the 2017-18 Justice and Community Safety (JACS) Annual report).

**Talking points:**

- The engagement of external counsel requires ACTGS to have regard to a range of matters which are detailed in the *Law Officers (General) Legal Services Directions 2012* (the Legal Services Directions).
- During the 2017-18 financial year ACTGS expended \$2,800,558 on external counsel.
- Of the total amount expended in 2017-18, \$842,341 was paid to female counsel. This represents approximately 30 per cent of fee expenditure and 27 per cent of total counsel engagements.
- To ensure progress toward equal briefing of female counsel, ACTGS voluntarily implements the *Law Council of Australia's* National Model Gender Equitable Briefing Policy.
- When engaging counsel ACTGS considers providing female barristers with equal briefing opportunity to that of their male counterparts.
- Engagement of all counsel by the ACTGS is subject to the following evaluation process:
  - the solicitor handling a matter makes his/her selection of suitable counsel using a range of criteria, including expertise in the area of law, the fee to be charged, the views of the client and the availability of counsel having regard to key timeframes;
  - review by the relevant section manager, who assesses the appropriateness of the selection if necessary; and
  - subsequent approval by a Deputy Chief Solicitor.

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- The range of work in which female barristers are briefed is diverse, and includes complex medical negligence and other proceedings in the ACT Supreme Court, detailed and multifaceted coronial inquests, advice on human rights, constitutional and administrative law, together with complex advice on statutory interpretation and a variety of commercial and other advices.
- ACTGS actively promotes the progress of women in the legal profession, through the engagement of female counsel, recruitment and professional development of its female lawyers and the involvement of women in the legal profession.
- During the reporting year approximately 81 per cent of solicitors employed by ACTGS were women.

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TRIM Ref: JACS2018/1130-015-009

**Portfolio/s:** Attorney-General**ISSUE: External Legal Services**

Page 431 of the 2017-18 Justice and Community Safety Directorate (JACS) Annual Report details the legal fees paid in instances where external legal service providers have been engaged to undertake Territory legal work.

**Talking points:**

- The *Law Officers (General) Legal Services Directions 2012 (the Legal Services Directions)* sets out the manner in which Territory legal work must be performed.
- The ACT Government Solicitor (ACTGS) provides legal services in most matters. Where the ACTGS is unable to provide legal services other providers may be engaged.
- In 2017-18 expenditure from Territorial Legal was \$213,355.93.
- As provided by the Legal Services Directions, the Solicitor-General's approval is required for all instances where external legal service providers are used. Examples of such engagements include advice and assistance related to major projects and activity such as those required by the ACT Insurance Authority. These expenses are met by client agencies.

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## Outsourced Legal Fees

Where the ACTGS is unable to provide legal services, external legal service providers may be approved for engagement. The expenditure in these instances during 2017-18 are as follows.

**Table 98** Outsourced Legal Fees 2017-18

Provider	Legal Fees Ex GST
ASHURST AUSTRALIA	\$21,044.16
AUSTRALIAN GOVERNMENT SOLICITOR	\$89,548.77
KEN CUSH & ASSOCIATES	\$1,970.00
KJB LAW	\$78,950.00
NSW CROWN SOLICITOR	\$21,843.00
<b>Total</b>	<b>\$213,355.93</b>

TRIM Ref: JACS2018/1130-015-008

**Portfolio/s:** Attorney-General**ISSUE: Model Litigant Guidelines**

A legal obligation is imposed to comply with model litigant guidelines under the *Law Officers Act 2011* to “ensure that proper standards in litigation apply to Territory legal work”. The guidelines apply to civil claims, litigation, and in arbitration and other alternative dispute resolution processes involving the Territory and its agencies.

**Talking points:**

- The guidelines are contained in Notifiable Instrument NI2010-88, *Law Officer (Model Litigant) Guidelines 2010 (No.1)*, which have been adopted for the purpose of the Law Officers (General) Legal Services Directions 2012 (Legal Services Directions).
- The guidelines largely duplicate existing legal obligations attaching to the Crown.
- The obligation of the Territory to act as a model litigant is well established in the law. The Territory’s obligation is independent of the adoption of model litigant guidelines; the guidelines only provide standards to aid compliance with an existing obligation recognised by the Courts.
- A comprehensive statement of the general obligation of the Crown to behave as a model litigant in all proceedings is found in the decision of the Full Federal Court in *Scott v Handley* [1999] FCA 404.
- The obligation of the Crown to behave as a model litigant has been the subject of judicial comment. The ACT Supreme Court has previously commented favourably on the model litigant behaviour of the ACT Government Solicitor (ACTGS), even before the model litigant guidelines were formally adopted, in *Harrison v Commissioner for Housing* [2003] ACTSC 22.
- Responsibility for compliance with the guidelines rests with the administrative unit or agency, including a statutory body or territory-owned corporation. Additionally, legal practitioners performing Territory legal work must act in accordance with the guidelines, and assist their clients to do so.

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- Legal services to Government are centralised through the ACTGS by the Legal Services Directions which assists in ensuring consistent compliance with the guidelines.
- The Solicitor-General continues to confer with the Directors-General in relation to compliance with the guidelines and assisting them to put in place mechanisms to monitor disputes in which an agency is involved.
- Where the ACTGS acts for an agency, a Director-General is able to rely upon the ACTGS to identify those matters where a question arises as to compliance with the model litigant guidelines and to address it or elevate it within the instructing agency appropriately. Processes are in place within ACTGS to prevent such questions arising but if so, to identify and address such matters.
- Each Director-General is requested to advise the Solicitor-General annually of the measures taken to ensure compliance with the model litigant guidelines and report on any breaches of the guidelines.

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**ISSUE: ACT Legislation Register Replacement Project**

The 2017-18 Justice and Community Safety Directorate Annual Report references the ACT Legislation Register Replacement Project on page 65. This brief provides an update on the progress of the project.

**Talking points:**Original Funding and Objective:

- The Government provided capital funding of \$5.319m over five years in the 2013-14 Budget for the ACT Legislation Register Replacement Project.
- This initiative provides funding for replacement of the ACT Legislation Register and its supporting systems. It will reduce the critical risk of system failure, ensure the system is fit-for-purpose, and improve the security and integrity of information.

Revised Funding and Timing:

- Re-profiling of funding has been provided through the 2018-19 Budget Review process to re-align the funding stream with the revised project cost expectancy. \$0.300m has been re-profiled to 2018-19 and \$0.650m to 2019-20. The project is expected to be completed in 2019-20. Project expenditure to end September 2018 was \$4.135m, or 78 per cent of the total budget.

**Key Information**Project Progress:

- Phase 2 of the project is in progress and consists of four stages. Stages 1 to 3 are completed with production deployment of PCO's Job Management System occurring in November 2016 and the redeveloped public website for the legislation register launched in August 2018. Stage 4 is underway and will provide a website subscription service for legislation event information.

Cleared as complete and accurate: 30/10/2018  
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Information Officer name: Mary Toohey  
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Lead Directorate: Justice and Community Safety

## Background Information

The legislation register is a critical system to the operation of government in the Territory. It is the ACT's authorised electronic statute book and is how Acts passed by the Legislative Assembly and other legislative instruments are brought into force in the Territory. The register provides the community with free up-to-date access to the law.

The register and website systems are a sophisticated set of interrelated systems that support the drafting, notification, republication and repeal of all ACT legislation. This project will redevelop and replace current technologies, which are at end of life, before remaining support ends.

## Original Budget (including 2nd appropriation)

	2013-14 \$,000	2014-15 \$,000	2015-16 \$,000	2016-17 \$,000	2017-18 \$,000	Total Budget
Capital	843	1,358	1,372	1,272	474	5,319

## Revised Budget Profile

	2013-14 \$'000	2014-15 \$'000	2015-16 \$'000	2016-17 \$'000	2017-18 \$'000	2018-19 \$'000	2019-20 \$'000	Total Budget
Capital	661	458	892	944	940	774	650	5,319

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TRIM Ref: 2018/000083-004

**Portfolio:** Attorney-General**ISSUE: DRUG AND ALCOHOL COURT****Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- The Government is undertaking the scoping and design work for a DAC in collaboration with the justice, drug and alcohol service sectors.
- A DAC requires a range of services both in the court context and to provide treatment, supervision and support in the community. As such this is a complex program of work and requires the planning phase to be very carefully considered.
- Alcohol and other drug treatment services in particular need to be planned to ensure appropriate therapeutic treatment pathways are clearly identified for DAC participants. The Government has held consultation workshops with the alcohol and other drug service sector to support this planning process.
- The effectiveness of DACs in achieving long-term behavioural change in offenders is supported by a substantial body of research. Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes.
- The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services and a high level of judicial intervention.
- The Supreme Court has developed proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns. These proposals are under consideration by Government.

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**Funding allocated for the development of the Drug and Alcohol Court**

- Across the 2017-2018 and 2018-2019 financial years, a total of \$2.151m has been appropriated to support the development of the Drug and Alcohol Court (DAC).
- The 2017-2018 Budget allocated \$477,000 over five months for the model and design costing of the DAC.
- The 2017-2018 mid-year appropriation allocated \$1.049m for another six months (January to June 2018) to continue the development of the DAC.
- The 2018-2019 Budget allocated a further \$625,000 for ongoing development work for six months.
- As a result of the allocation of this funding, JACS has commenced drafting the criminal justice policies and operating procedures for the DAC, ACT Health has commenced the process to engage a consultant to evaluate the cost and the impact the DAC will have on the ACT alcohol and other drug sector, and JACS has also completed work on the first stage of the Criminal Justice Cost Model.

**Background Information**

- Funding to support the development work for the DAC was provided through the 2017-18 Budget process, the 2017-18 Mid-year Budget process and the 2018-19 Budget process.
- There are a number of key considerations to resolve, such as clearly identifying the appropriate cohort of offenders who should receive this form of intensive intervention, and establishing clear pathways into treatment. These considerations require a whole of government approach to ensure the chosen model operates effectively.
- An operational DAC requires a significant investment in terms of resourcing across government and non-government services. The Government will be considering the resource needs of the DAC through future budget processes.
- Recent media inquiries have asked about the timing of release of the University of New South Wales (UNSW) report for an evaluation framework for a DAC. This work was the subject of consultation with a wide range of stakeholders in the alcohol and drug sector so its existence is widely known in that sector. The report was handed down to Government at the end of November 2017, but has not been publicly released.

**Funding Allocated for Development of Drug and Alcohol Court**

- JACS Legislation Policy and Programs completed work on the first stage of the Criminal Justice Cost Model.

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## QUESTION TIME BRIEF

- The model costs the individual components of the current ACT criminal justice system from the point of apprehension to post-sentence; it includes data up until 2016-2017, and projects costs to 2025-2026.
- The cost benefit analysis estimates that the DAC will achieve a positive return on investment in the first full year of operation. Over 10 years it is estimated that the return on investment will be a return of \$3.14 for every dollar invested.

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TRIM Ref: 2018/000094-001

**Portfolio:** Attorney-General**ISSUE: ACT Law Courts Public Private Partnership (PPP) - Progress****Talking points:**

- Stage 1 has been completed, with the Courts moving into the new building on the weekend of 13/14 October. A smoking ceremony was held prior to courts commencing operations on 15 October 2018.
- Works on Stage 2 (the refurbishment of the existing Supreme Court) commenced on 15 October 2018. The latest completion programme issued by Juris and Laing O'Rourke indicates Stage 2 completion in the third quarter of 2019.
- Payments to Juris only commence after Stage 1 completion and, as the end date of the contract is fixed, the 25-year operational phase of the Public Private Partnership (PPP) contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time.
- These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 1 will delivered six courtrooms (including five jury courtrooms).

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**Key Information**The ACT Law Courts Project

- Stage 1 reached Technical Completion on 25 September 2018. Commercial Acceptance was achieved 8 October 2018.
- Under the PPP contract Stage 1 was due to be completed by 24 November 2017 and Stage 2 by 28 August 2018.
- The Territory entered into contract with Juris Partnership (Juris) in December 2015 to design, build, finance and maintain the ACT Law Courts under a PPP arrangement (the Project). The Project represents a capital investment in the ACT Law Courts of over \$160 million.
- The Juris Partnership consortium includes Laing O'Rourke Australia Construction Pty Ltd, Macquarie Capital Group Limited and Programmed Facility Management Pty Ltd.
- The Project is being delivered in two main stages. Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 2 completes the project with the refurbishment of the existing Supreme Court building. Stage 1 delivered six courtrooms (including five jury courtrooms) and Stage 2 will deliver the remaining two non-jury courtrooms.

Progress of the Project (delays)

- Stage 1 of the construction phase was subject to significant delays. As at Commercial Acceptance the duration of the delay will be ten and a half months.
- The latest completion program issued by Juris and Laing O'Rourke indicates that Stage 2 completion would be expected in Q3 2019.

Sch 2 s 2.2 (a)(xi)

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#### Operational consequences of the delay

- During the construction phase for the new facilities the Court has retained use of the same number of courtrooms (both jury and non-jury) as were available prior to commencement of the Project. The Court has been kept fully apprised of the delay and has taken this into account when listing matters in 2018.
- Consistent with past practice, the Court has continued to utilise the Queanbeyan courthouse to provide additional jury trial capacity when required.
- The Court has also used the Military Court at Fyshwick as a result of the pressure on courtrooms arising from the delay.
- The delays have not had a direct detrimental effect on the capacity and functioning of the Court.

#### Financial consequence of the delay

- Under the PPP contract arrangements, except for certain exceptional circumstances, Juris assumes full risk for the time it takes to complete the works. Accordingly, the contractor is not entitled to any additional payments due to completion being later than the dates set out in the contract.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the PPP contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time. These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- The cost (and value-for-money) of the project to the Territory is measured as a Net Present Cost (NPC) of the future payments to be made to Juris over the term of the contract. At the date of entering into the contract, the NPC was calculated at \$250.4 million as set out in the published Contract Summary.
- Due to the delays in construction the NPC of the future payments due to be made by the Territory will reduce compared to the amount initially expected. The extent of this reduction will not be calculated until after both Stages have been completed.

Cleared as complete and accurate: 31/10/2018  
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**Background Information**

- Stage 1 completion (September 2018) provided the new facility in a condition that is fit for purpose for the Court functions, but still has some works remaining to be completed. Examples of works that may be incomplete are:
  - completion of the cladding to the ‘hood’ structures to the Vernon Circle façade;
  - completion of landscaping (planting) to the Vernon Circle frontage; and
  - installation of commissioned artwork.
- Based on the currently projected dates for Stage 1 and Stage 2 completion, the avoided Monthly Service Payments (MSPs) through 2017-18 and 2018-19 (compared to what would have been payable if the contract dates were achieved) amounts to circa \$16.9 million. After accounting for delay-related increases to capital and recurrent costs it is expected that approximately \$10m of this saving would be returned to the Budget.
- The Territory has served two Major Default Notices (MDN) on Juris relating to the failure to complete Stage 1 in November 2017. The remedy period to rectify the MDN (i.e. to achieve completion) was extended once and was due to expire on 7 December 2018. If completion was not achieved by this date the Territory was entitled to terminate the contract, however it is unlikely that termination would have been the best option for the Territory.

**Attachments**

Attachment	Title
Attachment A	Ministerial Statement – Courts Project Delay
Attachment B	JACS Media Questions – Supreme Court Heritage – Final Version
Attachment C	1740 QON – LEE – AG – Heritage Values of Court Rooms

Cleared as complete and accurate: 31/10/2018  
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TRIM Reference JACS2018/1130-016-003

**Portfolio/s:** Attorney-General**ISSUE: Courts and Tribunal Technologies****Talking points:**

- The ACT Government continues to invest in the courts and tribunal through the construction of state of the art court facilities, ensuring appropriate level of judicial resources and funding the development of the new case management system and a new jury management system.
- These investments will support the courts and tribunal to reduce the number and age of pending cases, and provide better registry and other services to court and tribunal users.
- The ACT Courts and Tribunal (ACTCT) are working to improve technologies in the courts and tribunal through implementation of the new case management system, development of a new jury management system and development of new websites.

**Key Information**Integrated Case Management System (ICMS)

- The ACTCT is implementing an integrated case management system known as the ICMS. The ICMS system is being rolled out in three stages, the first two of which were implemented in December 2015 and September 2016 respectively.
- The third stage deals with the criminal jurisdiction, and interfaces with ACT Policing and other agencies. It includes a criminal portal and the first tranche of online services (eServices) for private practitioners and other courts and tribunal users.
- The Annual Report indicated that the third stage is due for release and staged uptake from late 2018. This will now be delayed until February 2019.
- While the programming for Stage 3 was effectively completed in August 2018, there have been significant issues with the infrastructure and operating environment relating to the Stage 3 portals and interfaces. These issues are yet to be fully resolved and there is now insufficient time to resolve those issues, complete the testing, and rectify any further issues that might be identified to enable a release before the end of 2018.
- The eServices for private practitioners and some self-represented litigants will commence once Stage 3 is fully implemented in the ACTCT.

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- The possibility of developing further eService functionality in the first half of 2019 is under consideration. This functionality will increase the range of court and tribunal documents that may be lodged electronically, enhance notifications to court and tribunal users and provide a platform for using electronic documents in court and tribunal proceedings. The scope of the additional functionality will be determined having regard to the time available after implementing Stage 3 and the financial position of the project.
- The total cost of project remains the same at \$10.619m, expenditure to the end of September 2018 is \$8.652m.

#### Jury Management System

- The 2018-2019 Budget included funds for a new jury management system. Procurement is proceeding to replace the current ICT jury management system which supports the processes for selecting jurors, managing juror payments and related matters.
- The current system is over 15 years old and has limited functionality, is unstable and no longer supported.
- It is anticipated that the procurement will be undertaken in late 2018 with the building and testing of the new system to occur during 2019 and implementation in late 2019.
- It is anticipated that the new system will improve the management of jury selection, attendance and payment (including online services).

#### New Websites

- The ACTCT is working to redevelop the Supreme Court, Magistrates Court and ACAT websites to better assist users to access information and services.
- New information architecture has been developed for each site and work is now underway to review and update the content.

Cleared as complete and accurate: 16/10/2018  
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TRIM Reference MIN:2018/000085-001

**Portfolio/s:** Attorney-General*Updated by COS 31/10/18***ISSUE: COURTS COAT OF ARMS****Talking points:**

- The Government worked with the judiciary on the design of the new Courts building and will continue to do so.
- There are currently no plans to install a Coat of Arms at the new combined entry to the ACT Law Courts or behind the bench in the courtrooms or hearing rooms in the new building.
- The wording “Law Courts of the Australian Capital Territory” is placed over the entry.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This was agreed to as an appropriate heritage consideration.
- While courts tradition, inherited from Britain, sees lawyers and court officials bow to the Coat of Arms when entering a court room, this practice is an acknowledgment that justice extends from the monarch. In the absence of a Coat of Arms, bowing toward the bench acknowledges the authority of the Crown.
- Some members of the profession have expressed concern that they will now be asked to bow to the bench not the Coat of Arms.
- The existing Coat of Arms used in the ACT is not, in fact, for the Territory as a whole but only for the City of Canberra, and was commissioned in 1928 in response to the Department of Defence practice of naval ships being named after cities needing to display that city’s coat of arms.

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## Key Information

- The design for the new facility was originally intended to include a large Territory Coat of Arms prominently displayed at the public entrance to the building. In addition, as is the convention, a Coat of Arms was also to be installed behind the bench in each new courtroom.
- The Chief Justice preference is the building not be badged (either externally or internally) with the Canberra Coat of Arms. There are a number of reasons for this, including that the Coat of Arms was granted to the City of Canberra only, and is arguably therefore inappropriate for use by the courts as it does not represent all people of the ACT.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This existing Coat of Arms will remain only as a key piece of the heritage fabric of the building.

## Background Information

- The Courts Project Team has been approached on a number of occasions by a group seeking to have the Coat of Arms changed as, in their opinion, it is not representative of the ACT, only the City of Canberra. On these occasions, the advice has been that changing of the Coat of Arms is a matter for Government, but that we would keep them updated on progress on the project.

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TRIM Ref: 2018/000083-001

**Portfolio:** Attorney-General**ISSUE: DPP RESOURCING****Talking points:**

*Immediate resourcing following the NOUS Strategic Review in 2018-18 Budget review*

- The Government is committed to supporting the vital work of the Director of Public Prosecutions (DPP).
- This commitment can be seen in the increases in funding immediately following the NOUS Group Strategic Review of the DPP and in recent announcements of baseline funding increases coming into effect over the mid to long term.
- The Government announced in the 2018-19 Budget that an additional \$6.922 million funding will be provided over four years for additional prosecutorial and paralegal staff.
- This funding will be provided progressively with an additional six FTE from 2018-19.
- In 2021-22 there will be a total of 12 additional FTE for the DPP.
- This staffing increase will be supplemented by a one off capital injection of \$350,000 for expanded accommodation.
- The 2017-18 Budget also allocated three full time prosecutors for the Eastman matter in the 2017-18 year and one ongoing prosecutor to increase the capacity of the DPP.
- The 2017-18 Budget Review provided resource allocations for four full time additional staff in 2017-18 and 2018-19 to support the work of the Confiscation of Criminal Assets scheme.
- This built on funding of \$1.363 million over four years from 2016-17 Budget through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence.
- This follows an announcement that the DPP will be provided with \$987,000 over four years for additional staff to support the increased capacity of the Magistrates Court.

Cleared as complete and accurate: 05/10/2018

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- I am confident that the appointment of an eighth magistrate, the additional funding for Legal Aid and the DPP, the re-appointment of special magistrates, and recent amendments to justice legislation across the statute book aimed at building efficiency will improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about separate administration and direct appropriation for the DPP*

- NOUS consulting recommended the DPP should be directly appropriated rather than as part of the Justice and Community Safety Directorate (JACS).
- The Government's approach to date has been to use the administrative resources of JACS to offer economies of scale to smaller, independent agencies. Services like human resources and finance are provided by a centralised team in JACS to other agencies, including the Human Rights Commission and the ACT Emergency Services Agency.
- The Government is considering the NOUS recommendation and will work with the DPP to ensure that our model of appropriation and funding is as efficient as possible, and appropriate to the DPP's working environment.

*If asked about the upcoming selection process for appointment of the DPP -*

- On 4 July 2018, I extended the appointment of the current ACT Director of Public Prosecutions, Mr Jon White SC, until 31 December 2018.
- This extension will allow time for my directorate to lead an open and transparent merit selection process.
- I also asked JACS to engage the services of an executive recruitment firm to ensure the ACT receives a wide array of applications from competitive and suitable applicants, both from within the ACT and across Australia.
- Advertisements seeking expressions of interest for the position were published in the press on Friday, 27 July 2018. Applications closed on 19 August 2018 and the selection process is ongoing.

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*If asked about the impact of new Supreme Court Practice Direction 2 of 2018:  
Criminal Case Conferencing on DPP resourcing*

- The ACT Supreme Court has introduced a formal case conferencing mechanism for criminal matters committed for trial.
- The case conference will involve defence and prosecution counsel attending a two hour conference convened by a judge to work through issues in dispute in the trial, the charges, the evidence, and the way evidence will be presented in the trial.
- The case conferences have the potential to assist both parties to resolve matters early and supports a more efficient trial procedure, which will have positive benefits to victims, accused persons, and the court.
- It will apply to all matters committed for trial from 20 August 2018. The first round of conferences are scheduled to occur from 29 October 2018 to 5 November 2018.
- I understand that the scheme will be reviewed after a six month trial.
- The Director of Public Prosecutions has expressed concerns about the impact the scheme will have on the resourcing of his office. Specifically, that the case conferencing will mean that senior prosecutors will be required to spend additional hours at court participating in the case conference as well as additional time preparing for the conference.
- While I acknowledge these concerns, I support the objectives of the scheme and any efforts to facilitate the efficient, transparent, and fair resolution of criminal matters.

**Key Information**

- In the 2017-18 Budget, the Government provided additional funding (1 FTE ongoing) to increase the capacity of the DPP to better support prosecutions in the Territory. It also provided funding for costs associated with the retrial of Mr David Eastman and other related proceedings. Funding was provided for an additional three positions in the DPP, external counsel costs, witness expenses and other administrative costs.
- Mr Eastman's re-trial has commenced. It is expected to run for four – six months. The trial has now been running for three months and is expected to run for a further two months.

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## QUESTION TIME BRIEF

- The DPP has undertaken significant preparation for the pre-trial and trial.
- The Government also provided four full time additional staff (in 2017-18 and 2018-19 only) to support the work of the Confiscation of Criminal Assets scheme as part of the 2017-18 Budget Review.
- That funding will assist the DPP to keep pace with demand and respond to the needs of the court, police, other investigative agencies and the criminal justice sector more broadly.

*If asked for specifics about the 2018-19 baseline business case*

- Base level funding: \$6.922 million over four years plus \$350,000 one off capital injection for accommodation
- Full Time equivalent (FTE) additions
  - One Prosecutor Grade 4; two Prosecutors Grade 3; one Paralegal Grade 4; two Paralegals Grade 3 ongoing from 2018-19
  - One Prosecutor Grade 5; one Administrative Officer Grade 5 ongoing from 2019-20
  - Two Executive (Crown Prosecutors) ongoing from 2020-21
  - One Prosecutor Grade 4; one Paralegal Grade 3 ongoing from 2021-22
- The NOUS review recommended a 30 per cent increase in grade 3, 4 and 5 prosecutors within 12 months. Nous' basis for concluding that FTE positions for prosecutors will need to increase by 30 per cent at a minimum, is unclear.
- The additional baseline FTE in 2021-22 will represent an increase of new prosecutors plus new executives of 17.4 per cent on 2016 -2017 FTE levels (according to Agency Profile Table, DPP Annual Report 2016-17, p 49).
- Additional FTE from 2018-19 through the out-years is shown below:

<b>Position Level</b>	<b>2018-19 FTE</b>	<b>2019-20 FTE</b>	<b>2020-21 FTE</b>	<b>2021-22 Total extra FTE</b>
Executive / Crown Prosecutor			2	2
Prosecutor Gr 5		1	1	1
Prosecutor Gr 4	1	1	1	2
Prosecutor Gr 3	2	2	2	2
Para Legal Gr 4	1	1	1	1
Para Legal Gr 3	2	2	2	3
Admin Officer Gr 5		1	1	1
<b>Total</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>12</b>

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2017-18 Budget:

- Recurrent: (\$3.028 million over four years):
  - three additional resources and other operational costs relating to retrial of Mr David Eastman and related proceedings (\$2.257 million) in 2017-18 only
  - one Prosecutor Grade 4 over four years (\$0.771 million).
- Full-time equivalent (FTE):
  - one Prosecutor Grade 1 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 3 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 over four years.

DPP Review:

- The Nous Group delivered its report on the DPP Strategic Review on 9 August 2017.
- The Report notes the DPP efficiently performs a wider range of functions relative to its equivalents in other jurisdictions. Nous believes growing pressures, both in culture and practice, will likely threaten the DPP's capacity to meet its workload in the near future.
- Noting demand projections, the Report makes five broad recommendations:
  - provide increased funding to the DPP immediately and in the mid to long-term
  - apply a unified resourcing justice strategy to the ACT justice system as a whole
  - directly appropriate funding to the DPP, rather than via the JACS appropriation
  - allow paralegals to appear in simple applications in the Magistrates Court
  - develop a more efficient platform to share information between courts, law enforcement, corrective services and the DPP.

**Background Information**

DPP Strategic Review

- Nous Group noted in its report that cultural pressures include growing numbers of complex and time-consuming cases (i.e. sexual assaults, appeals, confiscation of asset referrals), introduction of new pre-trial evidence and procedures and changing community expectations (i.e. employing special approaches for vulnerable witnesses).
- Structural pressures include the recent introduction of a fifth ACT Supreme Court Judge, additional financial staff for organised crime investigations by the Australian Federal Police and expansion of the Supreme Court, which will reduce trial listing periods to five weeks (down from an average of nine weeks) and provide two additional courtrooms for jury trials.

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- On 16 October 2017, the DPP published its 2016-17 annual report. The Director's overview broadly outlined the Review's findings, including the cultural and structural pressures facing the ODPP. The DPP called for additional senior prosecutors to meet the trends of increasing workload on complex criminal matters. The DPP also emphasised his concern that the new Supreme Court facility will significantly increase the number of jury trials, and that the DPP will be unable to meet this growth without a corresponding increase in funding.
- *The Canberra Times* reported on the DPP's comments in the Annual Report on 17 October 2017.

Previous budget increases:

- In the 2016-17 ACT Budget, the DPP received funding of \$1.363 million over four years through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence (three FTE in 2016-17 and 2017-18, 2.5 ongoing).
- The 2016-17 Budget provided \$2.325 million for a specific team in the DPP (3 FTE) to represent the office to progress the retrial of Mr David Eastman for the murder of Mr Colin Winchester and other related proceedings.

This funding follows previous years' supplementation to the DPP totalling \$1.7 million from 2012-13 to 2015-16 for the Eastman matter.

- In the 2014-15 Budget, the Government provided \$1.158 million over four years to establish a Work Safety Prosecutions Unit supported by 2 FTE, as well as \$0.027 million in one-off capital funding for fit-out and fixtures to accommodate the new unit.

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Lead Directorate:	Justice and Community Safety	

WorkSafe Prosecutions

- The Industrial Court Magistrate, Chief Magistrate Lorraine Walker, criticised the prosecutions of several work safety matters. On 6 December 2016 and 14 July 2017, *The Canberra Times* reported comments made by the Chief Magistrate that were strongly critical of the DPP handling of workplace health and safety matters. She also expressed concern that resources in the DPP are generally not being provided for industrial court matters.
- On 8 November 2017, during annual report hearings the DPP answered a question about what could be done to increase the chances of success in industrial prosecutions. The DPP noted the question was difficult to answer concisely. He explained that industrial deaths are difficult to investigate and require a criminal standard of investigation from a very early stage. He also noted the need for ‘unimpeachably high quality’ expert reports.
- The DPP suggested that deaths on Canberra construction work sites be treated as criminal investigations. *The Canberra Times* reported on the DPP’s comments on the same day.

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Safety

TRIM: 2018/000083-015

**Portfolio:** Attorney-General**ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS****Talking points:***Eighth Magistrate*

- On 9 April 2018, I announced that the 2018-19 Budget would provide an additional \$3.1 million over four years in funding to support the appointment of an eighth full time resident Magistrate.
- I was pleased to announce the appointment of Ms Louise Taylor as the eighth magistrate on 10 August 2018. Ms Taylor commenced work on 10 September 2018 and her ceremonial sitting was held on 17 September 2018.
- Ms Taylor has over 15 years of experience as a lawyer in the ACT, including specialist experience as a prosecutor in criminal law. This has included experience in the offices of both the Commonwealth and ACT Directors of Public Prosecutions, and has involved oversight of the ACT's Family Violence Intervention Program.
- As the Deputy CEO of Legal Aid ACT since 2014, Ms Taylor has had direct management of the Legal Aid Commission's litigation practice, specifically in the areas of family and criminal law.
- Ms Taylor's appointment reflects the ACT Government's commitment to provide the ACT Magistrates Court with the resources it needs to meet increasing demand.
- In addition to resourcing the new Magistrate position, Legal Aid ACT will receive an additional \$1.3 million and the Director of Public Prosecutions (DPP) will be provided with \$987,000 for additional staff to support the increased capacity of the Magistrates Court.
- An eighth Magistrate means our courts can build on their excellent work from recent years, and also provide the resources it needs to meet increasing demand.

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- The appointment of an additional Magistrate, additional funding for Legal Aid ACT and the DPP along with recent amendments to justice legislation across the statute book will help improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about the recruitment of the 8<sup>th</sup> Magistrate*

- This process was conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.
- Nominations were sought from the local legal profession, including the Law Society of the ACT and the ACT Bar Association, community legal centres, and also from my counterparts interstate.
- With her wide-ranging experience in criminal prosecution and defence, particularly in the ACT context, as well as her contribution to the ACT community in volunteer roles, I am confident that Ms Taylor will make a significant contribution to enhancing access to justice outcomes at the ACT Magistrates Court

*If asked about the Chief Magistrate's views*

- I acknowledge the Chief Magistrate's view that further resources are needed for the Magistrates Court.
- As Attorney-General, I will continue to consider resourcing of the justice system as a whole, and to make sure that each component is working effectively to support an effective justice system in the ACT.

*Special Magistrates*

- The Government has also re-appointed two Special Magistrates to continue sitting within the Court as required until the end of 2018, working at a little over half an FTE each.
- Special Magistrates provide the Court with flexibility and adaptability in its listing practices and allow it to cope with unexpected absences.
- The eighth Magistrate combined with the re-appointment of the special Magistrates expands the Magistrates Court capacity from its current levels.

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### Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- This is partly offset by rollover from the current fee for service budget for a part time pathologist, and by revenue for non-complex autopsy work done on a contract, fee for service basis by the ACT Forensic Medical Centre for the Queanbeyan and Goulburn Coroners.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.

### Magistrate terms and conditions

- The Government introduced a bill to support Magistrates by making the terms and conditions of their office more inclusive. The Bill passed on 20 September 2018. The amendments will increase the retirement age of Magistrates from 65 to 70, and will also introduce a mechanism for Magistrates to be appointed or to work part-time.
- These changes will provide greater flexibility for the Court to manage its business, while supporting Magistrates who wish to transition to retirement or temporarily reduce their working hours to accommodate family or carer responsibilities for example.
- These reforms will commence within the next 6 months, when arrangements to support the changes in the Bill have been put in place.

### Magistrates Court Initiatives

- I particularly want to thank the Magistrates, Court staff and Supporting Prosecution and Legal Aid Practitioners for their patience and professionalism in providing the Canberra community with outstanding service.
- I acknowledge it has been a challenging period with the Court redevelopment, registry process overhaul and implementation of the Integrated Case Management System.

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- I acknowledge that these important initiatives have placed additional pressure on the work of Court staff and Practitioners.
- I am confident that these initiatives will deliver support for the Bench and staff to undertake their vital work while increasing the efficiency of the Court as a whole.
- The sustained investment by the ACT Government in this transformational work demonstrates our commitment to deliver an accessible, fair and efficient justice system.
- The Government is committed to working with the Chief Magistrate, Chief Justice and Courts and Tribunal administration staff to leverage efficient block and over-listing practices.

### Dedicated Coroner

- It is important to recognise that decisions about organisation of the Magistrates and Coroner's Court, and how resources are allocated for coronial hearings are ultimately a matter for the Chief Magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time ('Chief Magistrate says eighth magistrate 'not enough', Canberra Times, 10 April 2018).
- The Government is conscious of the benefits that could come from building specialist coronial expertise among the Magistrates who all hold an active coronial case load.
- Benefits would include increased public awareness of the role and public significance of the coronial jurisdiction and improved co-ordination and collaboration across government in resolving inquiries and inquests and implementing recommendations.
- I am pleased that a number of procedural and policy changes across the Magistrates and Coroner's jurisdiction have seen efficiency improvements.

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- For example, in the Coroner's jurisdiction more post-mortems are being conducted by CT-scan external examination, more matters are being finalised in-chambers without hearing, delegation of fire inquiry work to the Deputy Coroner continues to be efficient, and the Legal Manager is routinely providing in-house Counsel Assisting services where appropriate, rather than briefing external Counsel.
- The availability of a resident full time forensic pathologist will also support more timely post-mortem and autopsy investigations which will mean that the deceased will be able to be released to their loved ones sooner, and the Coroner will be better supported in investigating the manner and cause of death.
- The *Courts and Other Justice Legislation Amendment Act 2018* (the Act), commenced on 26 April 2018 and made amendments which support non-invasive finalisation of cases by making processes for conduct of ancillary examinations, establishing coronial investigation scenes and provision of medical records more flexible.
- That Act also made changes to streamline jury processes and enforcement of ACT Civil and Administrative Tribunal orders in the Magistrates Court.

### Key Information

- The criminal jurisdiction of the Magistrates Court has struggled to meet demand with a 15 per cent increase in lodgements leading to a 23 percent increase in pending matters and 15 per cent increase in cases pending for more than 12 months (excluding failure to vote charges resulting from the 2016 ACT election).
- There was a very slight increase in coronial cases lodged to 299 from 292 in 2015/16, but the Government's suite of legislative reforms in 2014 continues to mean this is much lower than the more than 1100 cases lodged in 2013/14 and 2012/13.
- The workload of the Coroner's Court can fluctuate depending on the circumstances of particular cases. For example the Court received two uncommon notices relating to deaths in the Jervis Bay and Australian Antarctic Territories that it will deal with by agreement with the Commonwealth Government.
- Just as workload can fluctuate, some complex or sensitive cases take longer to hear and resolve. In 2016-17 the median number of days to finalise a case was 94, up from 75, which exceeded the target of 85 days. This was in part due to a number of long and complex coronial matters being finalised.

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**Background Information**

- You have asked the Justice and Community Safety Directorate to prepare terms of reference for a review of Supreme Court and Magistrates court efficiency. A business case is being developed for one off funding for the 12 month review for consideration in the 2019-20 budget.
- The Chief Coroner considers that the appointment of an additional full-time Magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- Having an additional Coroner would improve efficiency and timeliness, coordination and oversight of those matters, and would contribute to the development of specific coronial expertise.
- You have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- The Justice and Community Safety Directorate recently met with family representatives in relation to a number of complex cases where the timeliness of the Coronial process, transparency of case progress and communication with families could have been better.
- There are a range of supports and networks across government for those affected by the sudden and unexpected death of a loved one, including the ACT Coronial Counselling Service which is available to bereaved families, friends and community members. The service is provided by ACT Health and Relationships Australia and is designed to provide free support and counselling to anyone affected by a death being investigated by the ACT Coroners Court.

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Lead Directorate: Justice and Community Safety



TRIM Ref: 2018/000083-012

**Portfolio:** Attorney-General**ISSUE: REFORMS TO THE OPERATION OF THE CORONERS COURT****Talking points:**Budget Announcement

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised effectively.
- The 2018-19 Budget provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.
- The 2018-19 Budget also provides \$3.1 million in funding over the next four years to appoint an eighth full time resident magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time.

Improvements to support families

- The Government is examining options for supporting the operation of the Coroner's court through administrative and legislative reforms.
- The Government is also continuing to consider reforms to better deliver the justice needs of families, affected people and the community through the coronial process.
- As part of this consideration, the Government is working with families to make sure that any reforms to coronial processes support the needs of people affected by a death.

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- In October 2017, I met with families of three young men whose deaths have been subject of extensively delayed coronial inquests.
- This group of family representatives has been advocating for reforms to the coronial process including changes to address lengthy delays throughout all stages of the coronial inquest, and to improve communications with family members about the progress of inquests, Government responses and actions taken to address recommendations.
- After hearing the experiences of these family members I have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- Officers from the Justice and Community Safety Directorate met with the families to discuss potential legislative reforms on 21 March 2018.
- I anticipate that the process of consulting with stakeholders to consider and develop reforms, including legislative amendments, will begin in the coming months.

### **Background Information**

- The Chief Coroner considers that the appointment of an additional full-time magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- You have directed the Justice and Community Safety Directorate prepare a business case for a Coroner's Court Family Liaison Officer who will provide a dedicated and consistent point of contact for families involved in the coronial system.

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TRIM Ref: 2018/000083-010

**Portfolio:** Attorney-General**ISSUE: BAIL LAWS****Talking points:**Purpose of bail laws

- Bail allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law. The ACT *Bail Act 1992* (Bail Act) is designed to: balance competing rights, interests and expectations; ensure accused people attend court; and manage the risks that might arise while a person is on bail.

Decisions to grant bail

- Deciding to grant bail requires an assessment of risk which is taken into consideration under our bail laws including through: presumptions against bail for certain offences; conditions of bail which can be imposed; and the role of ACT Policing (ACTP) in ensuring that offenders comply with their bail conditions.
- There is no data available about the number of instances where a person offends on bail, but the ACT Government is satisfied on the basis of available information that the mechanisms currently in place to determine the issue of bail and management of people on bail are satisfactory.
- The ACT Government commenced a two year trial Bail Support Program in December 2017 to contribute to the Government's commitment to reduce recidivism. The Program is designed to support Aboriginal and Torres Strait Islander people released on bail and is operated from within the Aboriginal Legal Service. Of the 43 participants (as at September 2018) none have reoffended. Only eight have breached bail with four being released again on bail and four being returned to custody.

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## Review of bail laws

### *Section 44 of the Bail Act*

- The *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* introduced an own-motion bail review power for the Director of Public Prosecutions (DPP).
- This provides the DPP with a right to apply to the Supreme Court for a review of a bail decision made by the Magistrates Court, where the accused has been charged with a domestic violence offence or serious offence, if the prosecutor considers that exceptional circumstances exist and that it is in the public interest to make the application. The reform provides for an accused to be detained for up to 48 hours pending the Supreme Court review.
- Since section 44 commenced operation on 1 May 2017, the DPP has given oral notice of a proposed application twice and on both occasions did not ultimately proceed to make an application to the Supreme Court. The accused persons were held in custody for periods of less than two hours by ACT Corrective Services (ACTCS) prior to being released on bail.
- The operation of section 44 is to be reviewed after two years of operation (May 2019).

### *Section 9F of the Bail Act*

- At the conclusion of a recent inquest, Coroner Cook recommended the ACT Government review section 9F of the Bail Act which creates a presumption against police bail for a person charged with a family violence offence. Coroner Cook expressed concerns that the presumption against bail might never be able to be displaced in practice.
- Consideration will be given to whether any amendments are required to section 9F. The ACT Government is committed to ensuring that the criminal justice system works to protect complainants and victims from harm to the fullest extent possible. This imperative is held together with the need for custody to be a measure of last resort in achieving this protection.

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## Background Information

### Presumptions under the Bail Act

- Under the Bail Act there is a general presumption in favour of the grant of bail and entitlement to be at liberty. However, there are limitations on this entitlement. For example, for murder and certain serious drug offences, there is a presumption against bail and a court must not grant bail to the person unless satisfied that special or exceptional circumstances exist favouring the grant of bail.

### Statement of incompatibility: section 9C of the Bail Act

- The declaration of incompatibility with human rights made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) relating to section 9C of the Bail Act (presumption against bail for certain offences) has not resulted in legislative amendment.
- In the final Government response (tabled 1 May 2012) community views were requested on options for amendments to the Bail Act. Due to the diverse views received during consultation the ACT Government elected not to pursue any of the three options originally proposed

### Section 56A of the Bail Act – Arrest without warrant for failure to comply with bail conditions.

- ACTP have recently been criticised in the ACT Magistrates Court (June 2018) for failing to exercise their discretion not to arrest a person for breaching a bail condition (reporting late to the police station) under section 56A of the Bail Act.
- The ACT Supreme Court ruled in the case of *Andrews and Thomson* [2018 ACTSC 199 on 30 July 2018 that section 56A did not permit police officers to enter premises to effect an arrest for breach of bail conditions. This decision and whether legislative amendments should be pursued are currently under consideration.

### Requirement in section 17 of the Bail Act for a person in custody to be brought before a court for consideration of bail within 48 hours

Recently the Chief Magistrate convened a meeting of stakeholders, including ACTP, DPP, Legal Aid, Bar Association and Law Society and ACTCS to discuss practical approaches to ensure that section 17 is complied with. The Chief Magistrate discussed options with other magistrates and advised that the Saturday bail court will continue to commence at 9am (usually finishing around two hours later) but that there will be provision made for reconvening of the court later on Saturdays if this is necessary to ensure compliance with the requirements of the Bail Act.

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TRIM Ref: 2018/000083-035

**Portfolio:** Attorney-General**ISSUE: EASTMAN TRIAL UPDATE****Talking points:**

- The retrial of Mr David Harold Eastman demonstrates that the ACT judicial system is functioning independently and appropriately. The system has upheld the defendant's right to a fair trial.
- The Government has shown absolute commitment to due process in support of the inquiry and subsequent legal processes.
- The re-trial of Mr Eastman commenced on 18 June 2018 following the empanelment of the jury on 4 June 2018.
- The media is reminded that the individuals who attend for jury service have a right to privacy. In order to respect this right, the media is asked, in particular, to avoid photographing or otherwise recording any member of the jury panel.
- The defence closed its case on Wednesday, 26 September 2018. At the parties' request there was then a 'break' to allow the parties to prepare closing addresses that are to commence on Monday 8 October 2018.
- In total, taking into account a further application heard 2 October 2018, there have so far been 58 sitting days since the trial commenced on 4 June 2018.
- The parties' closing submissions and His Honour's charge to the jury is expected to take 2 to 3 weeks. As it is expected that the trial will move to the new building on 15 October 2018, it is to be hoped that the jury will be in the new building at the time it retires to consider the verdict, probably at the end of October.

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Safety

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**Key Information**

- It is estimated that the matter will be completed by the end of November/early December 2018.
- This estimate:
  - Takes into account the possibility that the defence will lead some evidence; and
  - allows for the addresses to the jury by the parties at the end of evidence; and
  - includes the expected time necessary for the charge to the jury by Kellam AJ at the end of the parties' addresses.
- Of course this estimate assumes that there are no unexpected eventualities.
- The trial commenced with 16 jurors and is now continuing with 14 jurors, 2 jurors having been discharged for health and other reasons. Two jurors will need to be removed by ballot before the jury retires.
- Since March 2015, during the period of the pre-trial and trial, there have been (so far) a total of 48 written decisions handed down. There are no reserved decisions.

**Background Information**If asked - What funding has been provided in the 2018-19 budget?

- In 2018-19, the total funding for the Eastman matter is \$6.079 million.
  - \$2.2m to the Director of Public Prosecutions
  - \$2.159m to the ACT Courts and Tribunal
  - \$1.025m to Legal Aid Commission
  - \$695,000 to the ACT Policing.

If asked - What funding was provided in the 2017-18 budget?

- In 2017-18, the total funding for the Eastman matter was \$7.360 million, including funding for the courts and Legal Aid.
- In addition, funding of \$2.257 million was also provided to the Office of the Director of Public Prosecutions (DPP).

Cleared as complete and accurate: 05/10/2018  
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A total of 15,671, or almost half, of the discrete assistance services were delivered through the Helpline telephone services. This service continues an upwards trend – 13,356 helpline calls were received in 2013-14 (up 17% in 2017-18). The expectation is that demand will continue.

#### Duty Lawyer Services

Duty lawyer services are provided at the Magistrates (including both criminal and domestic violence) and Family/Federal Circuit Courts as well as at ACAT (where most matters are before the mental health tribunal). The duty lawyer services in 2017-18 was 5,572 – which dramatically exceeds the 2017-18 target of 3,800 (an increase of 47% on 2016-17).

The duty services role is likely to continue to grow, and the commencement of the Family Advocacy Support Services (FASS) at the Federal Circuit/Family Court in March 2017, which assists families dealing with family violence, is indicative of this trend. Indeed the linkages now being made between the Domestic Violence Unit (DVU) operating at the Magistrates' Court and the FASS are a crucial development in the Commissions' capacity to assist people in these difficult situations, particularly primary victims. The DVU has assisted 242 additional victims in the past year and the services increased 35% overall compared to 2016-17.

#### Representation Services

Representation services are the number of legal assistance services provided for the ongoing representation of people at courts and/or tribunals, in dispute resolution processes, and where the carriage of the matter requires ongoing casework assistance. This involves a grant of legal assistance, but clients may be represented more than once per grant. Representation services in 2017-18 exceeded the 2017-18 target (2,500) by 12% and the 2016-17 actuals (2,513) by 11%.

The number of grants of legal assistance for 2017-18 (2,496) increased by 8% against 2016-17 (2,318).

One of the growth areas in the Commission is for Independent Children's Lawyers with 184 grants in these matters for 2017-18 (up from 152 grants in 2016-17).

Another strong driver is family dispute resolution mediation, with the number of conferences held in 2017-18 (276 conferences) comparing favourably to 2016-17 of 261.

#### Facilitated Resolution Processes

Facilitated Resolution services captures the work associated with running family dispute mediations, including intake screening, and assessment. The 2017-18 target of 350 was exceeded with an outcome of 403. Conferencing in complex post-litigation family law matters, including in family violence matters, has increased and overall numbers of conferences and parties involved have increased.

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### Community Legal Education

Community Legal Education services are the number of educational resources produced and the number of activities undertaken. The Commission provided 327 Community Legal Education sessions and resources in 2017-18 (an increase of 22% over the 2016-17 figure of 269).

Additional to the provision of services as assessed through the above five key outcomes is some further detail about how the Commission meets the needs of the most vulnerable and disadvantaged people in the community.

### Website

Although not an accountability indicator, the number of website hits in 2017-18 was 68,075, up significantly from 2016-17 of 62,072.

The increase in website hits may be a reason why some indicators within the Discrete Assistance indicator are low.

### Delivery of Culturally Appropriate Services

The Commission also maintains a strong commitment to the Aboriginal and Torres Strait Islander community.

In the last year, services increased (from 1,154 in 2016-17 to 1,421 in 2017-18); the recruitment of a fulltime liaison and support officer in February 2017 boosted the number of people assisted (we have also supported a 12 month traineeship position). This evidences the important work that non-legal support staff play in the overall delivery of services.

The Commission provided non-legal support to 440 Culturally and Linguistically Diverse clients (where the country of birth is not Australia, or where an interpreter is required). This increased significantly from 347 in 2016-17, and reflects a high level of service delivery.

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**ISSUE:        Legal Aid ACT Financial Outcomes****Talking points:**

- The Legal Aid Commission (ACT) has a 2017-18 end of year financial position which is stronger than the original budget.
- The operating statement outcome is a deficit of \$0.334 million, compared to an original budget deficit of \$0.420 million. The out-year deficits have increased to around \$0.500 million to \$0.600 million per year.
- The funding levels of the Commission are becoming tighter and will require careful management going forward, while continuing to deliver the same high quality service.
- Given the product of the Commission is people services (either through Commission staff or outsourcing to external legal firms), there are limited areas where efficiencies can be made without impacting the service delivery.
- The Commission is working towards managing its resources in the most efficient and effective manner, while still supporting the disadvantaged and vulnerable people in need of legal representation.
- The current National Partnership Agreement on Legal Assistance Services with the Commonwealth Government is due to cease on 30 June 2020. That agreement is under independent Review. The Commission expects a new agreement to be negotiated shortly, delivering the same, or similar, level of funding as current. The revenue and expenses associated with this NPA have been removed.

Cleared as complete and accurate: 02/11/2018  
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Safety

### Key Information

- Legal Aid received \$14.7 million funding from the following sources:
  - \$7.9 million from the ACT Government (including Eastman funding);
  - \$5.5 million from the Commonwealth Government; and
  - \$1.3 million from other sources (i.e. one-off grants, Statutory Interest Account, interest, client contribution).
- The **major** expenditure (\$15.1 million) lines are:
  - \$7.5 million in employee expenses (50% of total expenses)
  - \$4.3 million in internal & external legal expenses (including Eastman) (29%);
  - \$1.2 million in superannuation (8%); and
  - \$1.0 million in rent (6%)
- The level of funding through the Statutory Interest Account (funding granted from the ACT Law Society) has reduced greatly in recent years. Since 2013-14 funding has decreased from \$1.4 million to just over \$0.6 million (a decrease of over 55%).

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Trim Reference:2018/1130-023-002

**Portfolio/s: Attorney-General****ISSUE: Public Trustee and Guardian - Strategic and Accountability Indicators****Talking points:**

- Key Performance Indicators, measures and targets - (refer table below).
- The ACT Auditor-General reported concerns with PTG's Strategic Accountability Indicators in her Report 2/2018.
- The criteria for establishing these indicators include Relevance, Clarity, External Focus, Comparability and Timeliness.
- Following the removal of a number of indicators in 2017-18, PTG's indicators required attention in relation to only two of these criteria namely Clarity and External Focus
- The language of several of PTG's indicators was changed to ensure greater clarity and has introduced into its indicators, an external focus through the results of its Continuous Customer Survey.
- The wording of several indicators (as indicated) was changed to clarify the activity being measured. The changes were made to preserve comparability where possible.
- The revised indicators will take effect from 1 July 2018.

**Key Information**

(refer next page)

**Background Information**

- Following a review of the structure of ACT's Rights Protection agencies in 2016, the Public Trustee and Guardian for the ACT (PTG) was established merging the functions of Public Trustee and Public Guardian. During the latter part of 2015/16, PTG revised its Strategic and Accountability Indicators.

Cleared as complete and accurate: 06/11/2018  
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## PUBLIC TRUSTEE AND GUARDIAN FOR THE ACT

### Key Performance Indicators for 2018-19 to 2021-22

INDICATOR	Actual Outcome 2016-17	2017-18 Budget	Actual Outcome 2017-18	Planned 2018-19	Planned 2019-20	Planned 2020-21	Planned 2021-22
Guardianship Orders - no. of people for whom PTG acted as Guardian appointed by the ACT Civil and Administrative Tribunal (ACAT) under the <i>Guardianship and Management of Property Act 1991</i> (GMPA), during the reported period <sup>1</sup>	N/A	N/A	N/A	225	230	235	240
No. of Guardianship orders appointing PTG made under the GMPA by ACAT during the reported period <sup>2</sup>	198 N/A	160 N/A	191 N/A	N/A 225	N/A 230	N/A 235	N/A 240
Management Orders - no. of orders in which PTG was appointed as Manager by ACAT under the GMPA current at the end of the reported period by ACAT <sup>3</sup> <i>(this measure has been reworded)</i>	473	495	499	495	500	505	510
Enduring Power of Attorney (EPA) - no. of EPA's appointing PTG for all matters made during the reported period <sup>4</sup> <i>(this measure has been reworded)</i>	209	230	121	100	110	120	130
Enduring Power of Attorney (EPA) - no. of EPA's appointing PTG for financial and property matters under active management at the end of the reported period <sup>5</sup> <i>(this measure has been reworded)</i>	37	40	38	37	37	39	39
Enduring Power of Attorney (EPA) - no. of EPA's appointing PTG for personal and health care matters active at the end of the reported period <sup>6</sup>	N/A	N/A	N/A	7	7	7	7
Police Call-outs - no. of responses to call outs by police and community following death during the reported period <sup>7</sup> <i>(this measure has been reworded)</i>	17	14	8	3	3	3	3
Welfare funerals - no. arranged by PTG during the reported period <sup>8</sup> <i>(this measure has been reworded)</i>	17	14	4	6	6	6	6
Examination of Accounts - no. examined by PTG during the reported period upon filing by External Managers appointed by ACAT for Protected Persons <sup>9</sup>	568	500	506	550	560	570	580

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*(this measure has been reworded)*

Deceased Estate Administrations - no. of deceased estate administrations completed during the reported period <sup>10</sup>	N/A	N/A	N/A	100	102	104	106
Number of deceased estate administrations completed <\$100,000 <sup>11</sup>	24	33	29	N/A	N/A	N/A	N/A
Number of deceased estate administrations completed >\$100,000 <sup>12</sup>	45	43	66	N/A	N/A	N/A	N/A
Trusts (for all purposes) – no. held at end of reported period <sup>13</sup>	N/A	N/A	N/A	585	590	595	600
Number of trusts held under legal disability <\$100,000 <sup>14</sup>	340	344	365	N/A	N/A	N/A	N/A
Number of trusts held under legal disability >\$100,000 <sup>14</sup>	59	59	60	N/A	N/A	N/A	N/A
Wills - no. of wills prepared by PTG during the reported period <sup>15</sup> <i>(this measure has been reworded)</i>	549	520	423	410	420	430	440
Percentage of expenditure over total income <sup>16</sup>	92%	88%	99%	N/A	N/A	N/A	N/A
Customer Survey - % of clients responding to PTG's survey during the reported year that reported PTG met or exceeded their expectations <sup>17</sup>	N/A	N/A	N/A	90%	90%	90%	90%

**Notes:**

1. This is a new indicator in 2018-19. The indicator has been established to report the number of people for whom PTG acted as Guardian during a reported year. The measure is seen as important as an appointment may be made for an individual in a financial year and revoked during the same year. This measures the true volume of work undertaken as opposed to merely the number of active accounts on hand at the end of the financial year.
2. This indicator will be discontinued in 2018-19, because it did not present a true picture of the number of orders under which PTG may have acted as guardian during the reported year.
3. This indicator has been re-worded from “No of current financial management orders made under the GMPA by ACAT” to clarify that the number of current financial management orders is taken at the end of the financial year.
4. This indicator has been re-worded from “Enduring Powers of Attorney” to clarify that the number of EPA’s made is the total of all EPA’s made during the financial year is taken at the end of the financial year. The estimated number of EPA’s made by PTG for all purposes decreased in 2017-18 due to the number of people choosing either to make their own EPA, or to refrain from making an EPA in favour of an appointment ACAT.”
5. This indicator has been re-worded from “No. of active financial management accounts under EPA” to clarify that the number of EPA’s appointing PTG for financial and property matters being reported relates to those which have become activated and are current at the end of the financial year. The number of EPA’s under active management for financial and property matters has decreased in 2017-18 due to revocation, death of the person appointing PTG as Attorney and lower numbers of EPA’s activated through loss of capacity.
6. This is a new indicator for 2018-19 and is established to provide consistency with the related indicator for active EPA’s for financial and Property matters.
7. This indicator has been re-worded from “No. of responses to community callouts following death” to clarify that the call-outs are made by police and community following a death and that the number of callouts is the number made during the reported/financial year. This measure has been retained as an indicator of Community Service Obligations. The re-worded indicator also addresses the External Focus criterion. Whilst PTG’s performance in this regard is purely reactive following callout by ACT Policing or the community, PTG is however not compelled to respond to a police callout or to act as an administrator as a result. Reasons for refraining from responding to a police callout include that PTG may become liable for significant costs with no possibility of recovery.
8. This indicator has been re-worded from “No. of welfare funerals arranged by PTG” to clarify that the number relates to the number of welfare funerals arranged during the reported year. Whilst PTG’s performance in this regard is purely reactive, PTG is however not

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- compelled to respond to requests to arrange welfare funerals. Reasons for refraining from responding to requests for welfare funerals include that PTG may become liable for significant costs with no possibility of recovery.
9. This indicator has been re-worded from “No. of examinations of accounts provided from external managers under the GMPA” to clarify that the indicator relates to the number of examinations undertaken by PTG during the financial year.
  10. This is a new indicator in 2018-19 replacing the previous indicators for estate administrations of above and below \$100,000 in value and now counts all estate administrations irrespective as to value.
  11. This indicator will be discontinued in 2018-19 given that the value of estates has increased to the point that there are few estates under \$100,000. Value of the estate is no longer a measure of performance as estates of low value may have an equal degree of complexity to estates over \$100,000.
  12. This indicator will be discontinued in 2018-19 as value of the estate is no longer a measure of performance as estates of higher value may have an equal degree of complexity to estates of a value lower than \$100,000.
  13. This is a new indicator for 2018-19 replacing the previous indicators measuring trusts by value under and over \$100,000 in value. The former categorisation no longer has any relevance as trusts of lower value can be equally complex or time-consuming to those over \$100,000. The new measure is the sum of all trusts for all purposes held at the end of the financial year.
  14. These two indicators will be discontinued in 2018-19 given the significantly broader reasons for the establishment of trusts and that value of the trust is no longer a measure of performance as trusts of low value (under \$100,000) can be equally complex or time-consuming to those over \$100,000.
  15. This indicator has been re-worded from “Wills” to clarify that the number reported is the number of Will made by PTG during the reported period. The 2017-18 estimated outcome is below budget due to PTG adopting a policy under which we will only make a Will for a person where appointed as primary executor or secondary/alternate executor to the spouse or partner. Previously PTG would make many more Wills however rarely became executor under these Wills.
  16. This indicator will be discontinued in 2018-19. The Auditor-General commented in her report that this indicator may no longer have any relevance. It had previously been included several years ago on the recommendation of ACT Treasury.
  17. This is a new indicator for 2018-19. This indicator was previously reported annually as part of PTG’s Annual Report only, but has now been included in these indicators for the first time. It responds to the criterion requiring External Focus.

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**ISSUE: Public Trustee and Guardian for the ACT – Financial Report**

The Public Trustee and Guardian for the ACT (PTG) is a largely self-funding independent Territory Authority generating internal revenue from contestable commercial undertakings. Guardianship and Official Visitor Services are provided through Controlled Recurrent Payments (appropriation).

**Talking points:**

- Sources of revenue – PTG’s revenue is sourced from interest in investment of funds, Government and non-Government user-charges and Controlled Recurrent Payments that include Community Service Obligation (CSO) funding.
- Financial arrangement – PTG pays ACT Treasury (CMTEDD) an annual dividend of 50% of its operating surplus.
- Outcome 2017-18 – PTG achieved a surplus of \$63,845 against budget of \$397,000. The decrease mainly related to an increase in Employee and Depreciation Expenses.
- Revenue – PTG achieved total revenue of \$7,610,938. This was \$291,938 higher than budget and \$265,929 higher than the previous year’s revenue due mainly to higher non-ACT Government User Charges.
- Expenses – PTG’s total expenses were \$7,547,093. This was \$625,093 higher than budget and \$764,485 higher than the previous year’s expenses. This related to PTG’s increased employee expenses due to an increase in staffing numbers during the year and an increase in depreciation expenses as a result of the revaluation of assets at the end of the previous year.
- Dividend to Government – PTG’s dividend payable to Government at 30 June 2018 was \$31,923.
- Funds Management – PTG’s investment strategy was reviewed during the 2016-17 financial year and consequently three new Common Funds were created in 2017-18. Funds were progressively moved from the previous four

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Common Funds. The transfer of funds was completed in August 2018. All external funds are under index or 'passive style' management. External Fund Manager Vanguard reports that PTG's externally managed funds all achieved index and performed well against comparative indices (Refer table "Comparative Performance of Common Funds" on next page").

- Cash Common Fund – PTG's internally managed Cash Common Fund achieved well and in excess of all indices measured against by PTG's asset/markets consultant PricewaterhouseCoopers.
- Investment Strategy – At 30 June 2018, PTG operated eight risk models (four to be closed in August 2018) designed to maximise investment performance and overall return at client level. Due to the implementation of the new investment strategy and the transition to new funds during the year, comparisons to the previous year were not able to be provided.
- Government Funds – Government funds invested and managed by PTG decreased from \$179.8m to \$177.0m due to withdrawals from the fund by clients during the year.
- Deposits to Confiscated Criminal Assets Trust Fund – PTG deposited \$868,758 to the fund compared to \$718,467 in 2016-17.
- Unclaimed Money – Unclaimed Money grew from \$32.8m in 2016-17 to \$35.86m in 2017-18.
- Deposits to, and performance of, Perpetual Care Trusts under the Cemeteries and Crematoria Act 2003 – Deposits grew from \$7.88m to \$10.19m.

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## Comparative Performance of Common Funds

PERFORMANCE PERIOD TO 30/06/18	3 MONTHS	6 MONTHS	1 YEAR	3 YEARS	5 YEARS	10 YEARS	INCEPTION
Conservative Common Fund	7.08	2.08	2.29	6.07	7.42	6.22	2.32
Balanced Common Fund	10.87	3.38	3.9	7.86	9.40	7.23	4.32
Growth Common Fund	16.38	5.26	5.18	9.91	12.10	8.10	6.61
Cash Common Fund	0.37	0.74	1.52	1.71	2.06	3.25	3.90

## Background Information

The Public Trustee and Guardian (PTG) was established on 1 April 2016, merging the responsibilities of the Public Trustee and the Guardianship function of the Public Advocate.

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**ISSUE: Age of Criminal Responsibility**

**Talking points:**

- The ACT is committed to considering the issue of raising the age of criminal responsibility in more detail.
- The ACT Government takes the wellbeing and rights of children very seriously.
- The diversion of children from the criminal justice system, including limiting the incarceration of young offenders, where this is appropriate, is clearly desirable.
- The ACT will conduct community consultation on this issue to better understand community expectations around the appropriate age of criminal responsibility.
- Cross portfolio coordination and discussions will also be required to ensure that any changes to the age of criminal responsibility in the ACT or the treatment of young offenders supports children and young people to access the services and assistance they need.
- I will be discussing this issue with counterparts in other jurisdictions in the interests of promoting a consistent approach across jurisdictions.

**Key Information**

- The age of criminal responsibility is 10 years of age across Australian jurisdictions.
- In a range of other countries, the age of criminal responsibility may range from 10 through to 14 years sometimes depending on the severity of the offence.

**Background Information**

- The issue has been highlighted through domestic and international scrutiny in recent years including through individual human rights complaints.

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## ANNUAL REPORT HEARING BRIEF

- A number of reports in the ACT have called for an increase to the minimum age.
- Several stakeholders in the ACT have written to the Government seeking an increase to the minimum age including the ACT Human Rights Commission, the Human Rights Law Centre, and the ACT Law Society.
- There has been a significant amount of correspondence and media coverage in the ACT on the issue in recent months.
- In correspondence sent to stakeholders responding to their concerns, a commitment has been made to consult on the issue in the ACT.
- The Justice and Community Safety Directorate is currently preparing a consultation strategy on the issue in coordination with the Community Services Directorate, the ACT Human Rights Commission, and the Human Rights Law Centre.
- The Age of Criminal responsibility is on the Agenda for the upcoming meeting of the Council of Attorneys-General.
- Western Australia has prepared an Agenda Paper for the item. Western Australia is recommending the establishment of an interjurisdictional working group to review the age of criminal responsibility, with the working group reporting back to the Council with the outcomes of the review and recommendations within 12 months.
- The Justice and Community Safety Directorate will be recommending that the ACT agree to the recommendation.

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**ISSUE: Disability Justice Strategy****Talking points:**

- My colleague, Minister Stephen-Smith is leading the work for the Disability Justice Strategy as Minister for Disability. This is, however, a collaborative strategy across Government.
- Work is underway between the Office of Disability within the Community Services Directorate and the Justice and Community Safety Directorate to develop a program of work for an ACT Disability Justice Strategy.
- Funding was been made available in the ACT 2018-19 budget for two dedicated positions to build upon the work undertaken in 2017-18 in developing an ACT Disability Justice Strategy. One position is located in the Office for Disability in the Community Services Directorate and the other in the Justice and Community Safety Directorate (JACS).
- Funding was also provided in the ACT 2018-19 budget to enable the continuation of Canberra Community Law's Socio-Legal Practice Clinic, which provides intensive early intervention legal and social work assistance for people over 18 who have a high level of vulnerability and no support. The continuation of this clinic was identified as a high priority by stakeholders during consultations in 2017-18.

**Key Information**

- Public consultation on the development of the Disability Justice Strategy closed at the end of September 2018 and the team from Office for Disability and JACS is synthesising feedback received from community members and targeted conversation. The team have provided opportunities to engage in community conversations, respond to public papers written for different audiences and through questionnaires or submissions as well face to face engagement.
- A paper is currently being consolidated for release in the coming months which will include relevant research, best practise and public perspectives.
- The Office for Disability has also been able to support the Victims of Crime Commissioner and JACS in coordinating a learning forum on communication intermediaries which was held on 18 October 2018.

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- In addition there has been an opportunity to coordinate the provision of a full day of disability awareness training for incoming custodial officers. This training was also held on 18 October 2018.
- The ACT Government has established a Disability Justice Reference Group comprised of key stakeholders from across the ACT Government and key justice agencies to inform the development of the Disability Justice Strategy. Three meetings have occurred to date.
- Work is also continuing within government to ensure alignment and to identify synergies with work such as the Youth Blueprint for Justice and the development of the Charter of Rights for Victims of Crime.
- Extensive public and targeted consultation on the development of the Disability Justice Strategy has been conducted and continues. Public discussion papers were released in early August 2018, through the Your Say website and consultations closed on 21 September 2018. The ACT Government is continuing to gather input outside of this process.
- The advice received through consultations will inform the priorities for the Disability Justice Strategy and will be released as part of the findings document from the public consultation process, by the end November 2018, as part of a consolidated package.
- A range of targeted stakeholder engagements have have been undertaken to confirm and clarify assumptions made throughout the collection of research information.

### **Background Information**

- The development of a Disability Justice Strategy is an election commitment for the Government.
- The lead for this work is Minister Stephen-Smith and this brief reflects similar information provided by her Directorate to their Minister.

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**ISSUE: CANBERRA AS A RESTORATIVE CITY****Talking points:**

- The Government is committed to developing Canberra as a Restorative City, to support a 'better Canberra' by building a stronger, more resilient social infrastructure that embeds restorative approaches in everyday interactions in organisations across the ACT. This complements important work being undertaken in Justice Reinvestment, Reducing Recidivism and Restorative Justice in the ACT.
- The Government has committed a total of \$187,000 for 2018-19 from the Confiscated Assets Trust to support events and workshops that foster restorative practice in Canberra.
  - \$93,000 to employ a Restorative Engagement Officer (ASO6) to support the Restorative Communities Network and provide coordination support to the Canberra as a Restorative City project. The Officer began in their role on 22 October 2018.
  - \$10,000 for three community workshops to promote awareness of restorative practices and address implementation strategies for restorative approaches across Canberra. The first workshop is currently scheduled for December 2018.
  - \$9,000 to develop an online presence/resource for restorative practitioners in Canberra.
  - \$75,000 for two separate grants in research and training for community-based restorative practice approaches. The requirements for the grants are currently being developed in conjunction with the Restorative Communities Network to ensure the grants align with community need and represent a strong cost-benefit for the ACT Government.
- I am looking forward to continuing to work with the Restorative Communities Network to see greater use of problem solving using restorative practices.

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## Background Information

- You have highlighted in the Legislative Assembly the Government's commitment to building a Canberra community that is safe, strong and connected and progress towards establishing Canberra as Australia's first Restorative city.
- In February 2016, the ACT Legislative Assembly agreed to a motion which called on 'the ACT Government to work towards the declaration of Canberra as a Restorative City' confirming 'its commitment to exploring and implementing creative solutions to shared problems using restorative processes' while continuing the ACT's vision for safer, more connected communities'.
- Engagement with the community over two years built substantial momentum towards Canberra being declared a Restorative City. Bi-partisan support has been demonstrated towards this, with events held by the Restorative Communities Network involving Ministers, former Ministers and leaders of the opposition.
- One off funding of \$187,000 was made available from the Confiscated Assets Trust Fund in 2018-19 to fund an ASO6 for nine months to support the Restorative Communities Network and coordinate a number of workshops which consider restorative approaches.

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**ISSUE: SAB – Apprehended Bias Issue**

**Talking points:**

- I am very concerned by the comments made by members of the Sentence Administration Board, and by the Court’s finding that members displayed bias.
- I am currently considering the judgement.

**Key Information**

- In the case of *ZS v Sentence Administration Board* [2018] ACTSC 289, Associate Justice McWilliam found that members of the Sentence Administration Board (SAB), including Mr Philip Moss AM and Ms Janine Bromwich, were biased in their decision to refuse an application for parole.
- A Canberra Times article on 2 November 2018 reported on the judgement.

**Background Information**

Sentence Administration Board (SAB)

- The SAB is established under the *Crimes (Sentence Administration) Act 2005* (the CSA Act).
- The CSA Act provides for the Board’s functions and powers, and a framework for the Board’s decision making.
- The SAB’s main functions as set out in the CSA Act concern parole orders and breaches, intensive correction orders breaches and reinstatements, and release on licence and breaches.
- Members of the SAB are appointed by the Minister, under section 174 of the CSA Act.
- Section 178 allows the Minister to end the appointment of a board member in limited circumstances.

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Reasons for finding of bias – ZS v Sentence Administration Board

- In providing her reasons for the findings, Associate Justice McWilliam relied on the transcript of the hearing.
- In that transcript Mr Moss states that there was ‘no point’ in hearing any further evidence, and stated that he had formed a concluded view based on the evidence provided by the corrections officer.
- Mr Moss further notes that the SAB would hear evidence from the applicant’s mother challenging the evidence of the corrections officer, only “as a courtesy.”
- Ms Bromwich stated agreement with those views.
- Associate Justice McWilliam notes in her judgement that ‘Mr Moss appears to have registered some consciousness of the issue concerning bias or at the very least apprehended bias..., as the first thing he said when the Board adjourned to consider the matter was, “I hope I didn’t go too far.”

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**ISSUE: ACT proposed participation in the National Facial Biometrics Matching Capability (NFBMC) using driver licence data****Talking points:**

- The NFBMC will potentially offer the ACT access to passport, visa and citizenship images and related data, and will make ACT driver licence images available for exchange via a common facial recognition system hosted by the Commonwealth on behalf of participating State and Territory driver licencing agencies. Two of the main services offered are:
  - the Face Verification Service (FVS), a one-to-one search which confirms a person's identity using a facial image; and
  - the Face Identification Service (FIS), a one-to-many search which allows law enforcement agencies to match an unknown person against the database of facial images.
- On 5 October 2017, the ACT signed the *Intergovernmental Agreement on Face Matching Services* (the IGA). Through its special Schedule to the IGA, the ACT:
  - agreed to participate in the Face Matching Services only to the extent agreed in the Participation Agreement (currently being negotiated);
  - noted any participation by the ACT would be consistent with the human rights principles set out in the *Human Rights Act 2004*; and
  - put limitations on the use certain services, for example:
    - only agreeing to participate in the one-to-one FVS for the purposes set out in the IGA;
    - only agreeing to participate in the one-to-many FIS for the purposes of national security and community safety only; and
    - not agreeing to participate in the One Person One Licence Service (OPOLS) – a one-to-many matching service for road agencies.

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- The ACT is participating in a national program of work, led by the Department of Home Affairs, developing the legally-binding contracts, the user and hosting policies, and the procedures for the governance of future decision making.
- This body of work is ongoing, and participation by the ACT is focused on aligning the terms set in these documents to facilitate the specific terms of participation as set in the ACT's special Schedule to the IGA. The terms of the Schedule are intended to preserve the privacy and human rights of ACT citizens.
- The ACT can limit which agencies access ACT data, what data can be accessed, and the purposes for which data can be accessed. Usage must be consistent with the principles set out in the *Human Rights Act 2004*.
- The Government is looking at funding requirements for any eventual ACT participation.

**Key Information**

- On 4 November 2018, an article titled 'Surveillance state: NSW intensifies citizen tracking' was published in *The Sydney Morning Herald* and *The Canberra Times*. The article notes that:
  - NSW will be matching CCTV images with driver licence images to identify individuals.
  - The NSW Government allocated \$52 million over four years to the project.
  - 'Unlike the controversial MyHealth Record, people can't opt out of their details being included in the system.'
  - ACT and Victoria have objected due to privacy and human rights laws.
- The ACT is negotiating the legally-binding Participation Agreement and its counterpart Hosting Agreement (the Agreements) through the Policy and Legal Working Group under the National Identity Security Coordination Group (NISCG).
- The Agreements are at an advanced stage of development, but have not yet been signed by any jurisdiction. The ACT will meet its conditions for sharing under the IGA through these documents.
- The Commonwealth Identity-matching Services Bill 2018 is still before the Parliamentary Joint Committee on Intelligence and Security.

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**Background Information**

- On 9 September 2015, the Commonwealth Minister for Justice, the Hon Michael Keenan MP, announced that the Australian Government was investing \$18.5 million to establish the National Facial Biometric Matching Capability (the Capability) to prevent the use of fraudulent identities, and to combat terrorism and organised crime.
- On 5 October 2017, the Chief Minister signed the *Intergovernmental Agreement on Identity Matching Services* (the IGA) at a special COAG. Schedule G of the IGA specified that the ACT agreed to participate to the extent agreed through the Participation Agreement, and that any participation by the ACT would be consistent with human rights principles as set out in the *Human Rights Act 2004*.

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TRIM Ref: MIN:2018/000083-047

**Portfolio:** Attorney-General**ISSUE: JUDICIAL COUNCIL COMPLAINTS****Talking points:**

- I am aware of a complaint made by the Director of Public Prosections about the conduct of a Magistrate in relation to a bail matter.
- I referred the complaint to the Judicial Council in accordance with the process in the *Judicial Commissions Act 1994*.
- I cannot comment further on the specifics of that matter.
- The Judicial Council was established to handle low-level complaints about a matter that relates, or may relate to, the behaviour or physical or mental capacity of a judicial officer, which do not warrant the appointment of a full judicial commission.
- The Council considers complaints in private and its members and staff are bound by secrecy provisions. The Council does not confirm whether complaints have been made nor comment on them. The annual reports of the Council provide information about the numbers of complaints received and their outcomes in a de-identified form.
- After receiving a complaint about an ACT judicial officer, the Council will conduct a preliminary examination. Depending on this preliminary examination, the Council may take the following actions:
  - early dismissal of the complaint
  - referring the complaint to the head of the relevant jurisdiction (the Chief Justice or the Chief Magistrate)
  - proceed to an examination by the Council.
- If the Council conducts an examination of the complaint and is satisfied that it is wholly or partially substantiated, it will consider whether the complaint justifies parliamentary consideration of the removal of the judicial officer.

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- If the Council concludes the complaint justifies parliamentary consideration, the Council is required to make a recommendation to the ACT Executive that it appoint a judicial commission to examine the complaint further.
- If the Council considers the complaint does not justify its further consideration or does not justify parliamentary consideration, the complaint is referred to the head of the relevant jurisdiction.

*If asked -*

- The Government is considering its response to the recommendation of the Select Committee on an Independent Integrity Commission 2018 that the definition of public official for the Integrity Commission Bill 2018 include members of the judiciary and judicial officers.
- The Government will consider the Select Committee's recommendation with a view to ensuring that if the Integrity Commission is to cover judicial officers, the separation of powers is properly respected.

### **Background**

- In the period from its commencement on 1 February 2017 to 30 June 2017 the Council examined three complaints. In 2017-18 the Judicial Council received 12 complaints.
- In the period from its commencement on 1 February 2017 to 30 June 2017 the Council dismissed two complaints under s 35B of the *Judicial Commissions Act 1994*. In 2017-18, 11 were dismissed. Nine of these complaints could not be substantiated after considering the relevant transcripts and audio recordings and so did not justify further consideration by the Council. Two complaints were dismissed as the person who was the subject of the complaint was no longer a judicial officer.
- In the period from its commencement on 1 February 2017 to 30 June 2017 one complaint was substantiated and referred to the relevant head of jurisdiction under s 35C of the *Judicial Commissions Act 1994*. In 2017-18 the Council found that one complaint was partly substantiated and decided to refer it to the relevant head of jurisdiction.
- No complaints received by the Judicial Council have gone to full examination by a Judicial Commission.

Cleared as complete and accurate: 10/08/2018  
Cleared by: Executive Director Ext: 70522  
Information Officer name: Kelly Williams  
Contact Officer name: Alex Jorgensen Ext:70534  
Lead Directorate: Justice and Community Safety



- An exposure draft of the Integrity Commission Bill 2018 was released for consultation which closed on 31 October 2018. The Bill excluded from the definition of public official:
  - a) the Chief Justice, a judge or the associate judge
  - b) the Chief Magistrate, a magistrate or any office that must be occupied by a magistrate
  - c) an ACAT member to the extent that the member exercises a judicial or quasi-judicial function
  - d) a person mentioned in paragraph (a) or (b) to the extent that the person exercises a judicial or quasi-judicial function.
- This exception was included on the basis that:
  - a) the potential for the Integrity Commission (as a body of the Executive branch of government) to investigate members of the judiciary would impact the proper separation of powers
  - b) a judicial officer is clearly subject to the jurisdiction of the court itself and to the Chief Justice, and any criminal conduct can be investigated in accordance with normal processes
  - c) the *Judicial Commissions Act 1994* establishes a sufficient mechanism for the investigation of complaints about judicial officers through the Judicial Council and a process for the removal of a judge from office based on an investigation of a Judicial Commission and a resolution of the Assembly
  - d) any duplication of the functions of the Judicial Council or the scope of a Judicial Commission would risk wasted resources, uncertainty about process and referral pathways and conflicting findings that would compromise confidence in the community and in the judiciary about the dual coverage.

Cleared as complete and accurate: 10/08/2018  
Cleared by: Executive Director Ext: 70522  
Information Officer name: Kelly Williams  
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Lead Directorate: Justice and Community Safety

**ATTORNEY-GENERAL****QUESTION TIME BRIEFS****27-29 November 2018**

<b>Racing and Gaming</b>	
1.	Gambling Harm Reduction Measures
2.	Government Response to Stevens Report to focus on Diversification Package
3.	Community Club Contributions
4.	Thoroughbred Racing Issues
5.	Community Club Grants
<b>QTBs – Judicial / Courts</b>	
6.	DPP Resourcing
7.	Resourcing of Magistrates and Coroners Court
8.	Coroner’s Court Reform
9.	Drug and Alcohol Court
10.	PPP Law Courts Progress
11.	Bail Laws
12.	Eastman Update
13.	Courts Coat of Arms
14.	Judicial Council Complaints and Oversight
<b>Security and Crime</b>	
15.	National Security Issues
16.	Outlaw Motor Cycle Gangs – Taskforce Nemesis (Copy of MPES brief)
17.	Serious and Organised Crime Response (AGs brief - Policy)
18.	CCTV Cyber Risks
<b>General</b>	
19.	Child Abuse Royal Commission
20.	Redress
21.	Residential Tenancies
22.	Crimes (Consent) Amendment Bill 2018

TRIM Ref: 2018/000083-002

**Portfolio:** Attorney-General**ISSUE: GAMING MACHINE HARM REDUCTION MEASURES****Talking points:**

- The Government will deliver on our commitment to implement strong gambling harm reduction measures while supporting a sustainable, diverse and vibrant club industry that continues to make a valuable contribution to the ACT community
- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- Recent experiences – such as that of Professor Laurie Brown’s – demonstrate that significant reform is needed to ensure the Territory’s harm reduction framework is robust and fit for purpose.
- I have carefully considered the outcomes of this case and will be strengthening the Territory’s gaming regulations to ensure they offer meaningful and effective harm minimisation measures and that the Gambling and Racing Commission has the tools it needs for effective enforcement.
- Before the end of this year, the Government will amend the *Gambling and Racing Control (Code of Practice) Regulation 2002* to address self-exclusion, staff training, and the enforceability and magnitude of penalties for breaches of the code.
- The Commission has written to me to outlining a number of areas where we can strengthen the consumer protection and harm minimisation framework in the ACT
- This will include improving the definition of problem gambling. The signs of gambling harm in the Code of Practice will provide less room for interpretation by club staff.
- Club staff will need to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling.
- Club board members will be also trained to foster a culture where gambling harm reduction and consumer protection is the priority.

Cleared as complete and accurate:	12/11/2018	
Cleared by:	Deputy Executive Director	Ext: 70674
Information Officer name:	Richard Glenn	Ext: 53504
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Lead Directorate:	Justice and Community Safety	

- We are looking at changes to enhance the operation of self-exclusion, and a Gambling Contact Officer will need to be on-site at every club whenever the gaming machines are turned on to provide an immediate point of contact for club patrons that are impacted by gambling harm.
- I have discussed these proposed changes with representatives of workers, clubs and community representatives, including those with lived experience of gambling harm, at the Gaming Machine Harm Reduction Roundtable, on 28 September 2018.
- I have recently introduced a Bill that contains changes to enforcement mechanisms and penalties under the *Gaming Machine Act 2004* to enhance the compliance framework and ensure the Gambling and Racing Commission has the tools it needs for effective enforcement.
- We are going to keep consulting, and keep delivering on this Government's commitment to a safer, stronger, and more connected city where our clubs industry is diverse and sustainable, and provides robust protections against gambling harm.

### **Background**

Parliamentary Agreement Commitment 9.2 is to reduce harm from gaming in the ACT by exploring further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines.

Gambling Harm key statistics (as at 2014)

The level of problem gambling in the ACT community, as measured by the widely used Problem Gambling Severity Index (PGSI), is 0.4 per cent (0.5 per cent in 2009) of the population (approximately 1,110 adults).

A further 1.1 per cent (3053 adults) in the ACT were found to be at moderate risk of gambling harm, 3.9 per cent (10,825 adults) low risk and 48.7 per cent (135,171 adults) displayed no signs of gambling harm, a further 124,901 adults were non-gamblers.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of gambling harm, with 2.9 per cent (2.9 per cent in 2009) being classified at moderate or high risk of gambling harm.

10 per cent (7.9 per cent in 2009) of gamblers had at least one symptom of problem gambling, with 2.9 per cent (2.9 per cent in 2009) being classified as moderate risk or problem gamblers.

In 2014, 19.9 per cent of the ACT adult population gambled on gaming machines, down from 30.2 per cent in 2009.

Cleared as complete and accurate:	12/11/2018	
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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-027

**Portfolio:** Attorney-General**ISSUE: GOVERNMENT RESPONSE TO STEVENS REPORT****Talking points:**

- On 21 August 2018 I announced the suite of incentives to reduce gaming machines in the territory which included facilities to allow all clubs which voluntarily surrender authorisations to access offsets for land-related fees and charges, including lease variation charges, to make it easier for them to redevelop their land for activities other than running pokies.
- Clubs will also have access to a new Diversification Support Fund, which will be jointly funded by industry and Government to help clubs pursue a future away from gaming machines and support club staff to develop new skills. Legislation for this fund will be brought forward next year.
- Small and medium clubs will be eligible for \$12,000 cash, instead of a land related fees offset, for every gaming machine authorisation they voluntarily surrender by 31 January 2019.
- Offsets for land-related fees and charges will be available to large clubs at a rate of \$15,000 per authorisation and small and medium clubs can also choose to take up the option at a higher rate of \$25,000 per authorisation.
- Clubs that opt to go pokie-free altogether will be rewarded with a 25 per cent bonus on top of any incentives they claim.
- To support clubs' consideration of their options for incentives for voluntary surrender of gaming machine authorisations the Government has engaged Mr Stevens who has commenced meetings with clubs in the lead up to the deadline of 31 January 2019.
- Mr Stevens has met with 9 clubs and 2 club representative groups (Canberra Community Clubs and ClubsACT) [correct as of 15 November 2018].
- If a reduction to 4000 authorisations is not achieved through voluntary surrender, there will be a two-stage compulsory surrender of authorisations – in April 2019 and April 2020.

Cleared as complete and accurate:	16/11/2018	
Cleared by:	Deputy Director-General	Ext:53504
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Lead Directorate:	Justice and Community Safety	

- The Gaming Legislation Amendment Bill 2018 was introduced on 1 November 2018 and it provides the legislative framework for the Pathway to 4,000 gaming machine authorisations.

**Background Information**

- The Bill is due for debate in the week of 27 November 2018.
- Clubs make a significant contribution to the community through the community contributions scheme. The scheme provides that eight per cent of net gaming machine revenue generated from gaming machines is returned to the community for a range of stated purposes. In 2016-17 community contributions from clubs amounted to 12.6 per cent of net gaming machine revenue, or \$11.93 million. This compares to last year's level of contributions of \$11,652,179, being 12.4 per cent of net gaming machine revenue.
- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020 and to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

Cleared as complete and accurate:	16/11/2018	
Cleared by:	Deputy Director-General	Ext:53504
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Lead Directorate:	Justice and Community Safety	

TRIM Reference: MIN:2018/000083-048

**Portfolio/s:** Attorney-General**ISSUE: COMMUNITY CLUB CONTRIBUTIONS****Talking points:**

- In line with the Parliamentary Agreement commitment above, an Options Paper – *Maximising the Benefits of the Community Contributions Scheme* was circulated and a review of the scheme is being conducted. Consultation closed on 13 August 2018 and a total of 220 responses were received.
- The Government introduced changes to the community contributions scheme in the Gaming Legislation Amendment Bill 2018, introduced on 1 November 2018. It is anticipated the Bill will be debated in the November 2018 sittings.
- These changes will increase the funds available to the broader community, including by providing more guidance to clubs about appropriate distribution, and to increase transparency about how those funds are allocated. To make sure that community groups and individuals know about the funding available, the Government is introducing a requirement for clubs to engage with the community about community contributions.
- The Government is redefining allowable contributions so that there is clearer guidance on what does and does not count as a contribution. The new categories will be:
  - Charitable
  - Recreational
  - Education
  - Social Inclusion, Equality or Cultural Diversity
  - Community Sport
  - Addressing Substance Misuse or Dependence
  - Women’s Sport
  - Natural Disaster Relief or Assistance
- The exposure draft regulation sets out new definitions and guidelines for working out community purpose contributions.

Cleared as complete and accurate: 26/11/2018  
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Safety

- The community and club industry have the opportunity to comment on the new regulation until 30 November 2018. After considering these views, the final regulation will be made by the end of the year.
- The minimum amount of contributions that must be made from net gaming machine revenue will increase by 0.8 per cent. This funding will be distributed through two funds that provide support to people in the community:
  - 0.4 per cent will go to gambling harm prevention and mitigation; and
  - 0.4 per cent will go to community charitable causes.
- Clubs may apply to the Minister to seek a lower minimum contribution rate where they can demonstrate that meeting the overall 8.8 per cent requirement would seriously affect the club's viability.
- For-profit hotels will be required to pay 0.8 per cent of their gaming machine revenue (after gaming machine tax) to gambling harm prevention and mitigation, and to community charitable causes as well.
- Large clubs and large club groups' claims for in-kind contributions will be restricted to 2 per cent of a club's net gaming machine revenue. For these clubs, 6 per cent of net gaming machine revenue will need to be paid as money.
- To further encourage clubs to meet their community contributions obligations, the shortfall tax for clubs who fail to make sufficient community contribution is increasing. Where there is a shortfall, clubs will now need to pay 150 per cent of that amount in tax (i.e. a shortfall of \$1,000 will result in an additional tax payment of \$1,500).

*If asked about the impact of the capping of in-kind contributions on charities and community groups:*

- In-kind contributions from large clubs will be restricted to 2 per cent of a club's net gaming machine revenue. For these clubs, 6 per cent of net gaming machine revenue will need to be paid as money. This is comparable to the 20 per cent restriction on in-kind support in NSW's ClubGRANTS scheme.
- Large clubs/club groups are those receiving over \$4 million in gross gaming machine revenue each year.

Cleared as complete and accurate: 26/11/2018  
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Lead Directorate: Justice and Community Safety



- These reforms limit (but do not stop) the ability of large clubs to make their community contributions on an ‘in-kind’ basis.
- This change supports a broader distribution of community benefits under the scheme but is restricted to large clubs because in-kind claims represent a far larger proportion of community contributions for small and medium clubs/club groups, and it is appropriate that this continue.
- We know many clubs contribute more than their minimum requirements. On last year’s data many clubs to whom the cap will apply would already be meeting these new requirements for monetary contributions. The legislation sets out the minimum requirements but it is matter for clubs if they decide to make contributions that exceed these requirements. Likewise clubs may make decisions to change the activities they support for their own reasons.
- Clubs are free to contribute as much of the remaining approximately 90 per cent of net gaming machine revenue as they wish to support their objectives. As part of clubs’ social licence the Government has set a minimum community contribution of 8.8 percent of net gaming machine revenue, but it has not set a limit on what clubs may choose to provide to community organisations.
- For clubs that already meet their minimum cash requirements, and overall community contribution rates, any decisions about whether they withdraw funding that is provided **above those minimum amounts** is entirely a matter for each club, and those decisions should not be misconstrued as being a result of the Government’s regulatory changes.
- The changes to in-kind contributions are about ensuring, amongst other things, that more cash from gaming machine revenue flows back into the community, and to community groups.

I can assure the Assembly that the focus of these reforms is for the community to get more, rather than less, out of the community contributions scheme, and I am confident that the changes the Government has developed will achieve this goal.

*If asked about the definition of professional sport proposed in the Exposure Draft Gaming Machine Amendment Regulation 2018:*

Cleared as complete and accurate:	26/11/2018	
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- It is Government's intention to listen closely to feedback which clubs provide on the proposed reforms contained in the Exposure Draft Regulation.
- We are particularly keen to hear from clubs about what they consider to be professional sport and how the proposed changes relating to professional sport would affect their club.
- The focus of these proposed reforms is to make sure the community is getting the most it can out of the community contributions scheme. Part of this is having a look at what can be claimed as a community contribution, and making sure those things do have a tangible benefit to the community.
- Under the Exposure Draft Regulation, professional sport takes its ordinary dictionary meaning.
- The intention is that a 'professional sports person' would include a sports person who makes their living primarily from playing sport, and likewise a team which was filled with people that earn a livelihood from training for, and playing, sport will be a professional sport team.
- Claims would be permitted for:
  - support to amateur sports people, that receive no remuneration or reward for playing;
  - a youth soccer team travelling interstate to compete in a national competition; and
  - sponsorship of a high performing junior sports person.
- The Regulation specifically allows for claims for professional women's sports including those towards player and coach wages.
- I recognise that there can be different interpretations of what constitutes professional sport and that is exactly why I have sought feedback from industry about what they consider to fall within the ambit of this term.
- The feedback that is received over the course of this month will inform Government's final decision about what will, and won't be, included in the final regulation.

Cleared as complete and accurate:	26/11/2018	
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- It is important to note that none of these proposed changes would stop clubs from providing funding to professional sporting clubs – clubs still retain control of the remaining 90-odd per cent of net gaming machine revenue to put towards these things.
- These reforms would just limit clubs' ability to make these payments out of the small fraction of the club's net gaming machine revenue that is reserved for distribution to the community.

**Background Information**

- Clubs make a significant contribution to the community through the community contributions scheme. The scheme provides that eight per cent of net gaming machine revenue generated from gaming machines is returned to the community for a range of stated purposes. In 2016-17 community contributions from clubs amounted to 12.6 per cent of net gaming machine revenue, or \$11.93 million. This compares to the previous year's level of contributions of \$11,652,179, being 12.4 per cent of net gaming machine revenue.
- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020 and to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.
- A number of consultation responses received during consultation indicated a high level of concern from the community about the potential loss in funding to small organisations should the direct contribution portion of the scheme be abolished. There were also concerns that capping in-kind contributions would reduce the number of organisations that received assistance from clubs.
- Various reports about the community contributions scheme called for consideration of removing claims for contributions to semi-professional and professional sport, capping of in-kind contributions, improved transparency of the scheme and more funding for gambling harm mitigation.

Cleared as complete and accurate:	26/11/2018	
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TRIM Ref: 2018/000083-033

**Portfolio:** Attorney-General**ISSUE: THOROUGHBRED RACING DEVELOPMENTS – RECENT RACING  
NSW ANNOUNCEMENTS****Talking points:**

- Clause 12 of the Racing Memorandum of Understanding (MoU) between the ACT Government and Canberra Racing Club (CRC) and Harness Racing Club, includes a commitment for the establishment of a Joint Racing Industry and Government Committee with a focus on the development and sustainability of racing in the ACT.
- The Committee has met on five occasions since February 2018, and discussed a range of issues including ACT Racehorse Trainers Workers Compensation, the introduction of Point of Consumption Tax, Industry Funding Arrangements, and potential land development opportunities at Thoroughbred Park.
- At the Committee meeting of 15 August 2018, the Justice and Community Safety Directorate (JACS) was briefed on the impact increased prize money in NSW country races is having on the Canberra industry.
- I met with the CRC on Tuesday, 7 August 2018 to discuss a range of issues pertinent to the Club.
- JACS is involved in ongoing discussions with the CRC, and I have asked for regular updates on this matter.
- I am pleased to hear that the negotiations with Racing NSW have resulted in Canberra trained horses once again being able to take part in the Highway Handicap Races for country trained horses.
- The ACT Government is committed to the ongoing development and sustainability of the thoroughbred racing industry in the ACT. These discussions have been occurring via the Joint Industry and Government Committee and I understand this important conversation is continuing.

Cleared as complete and accurate:	12/11/2018	
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Lead Directorate:	Justice and Community Safety	

- I note that the CRC has commissioned a masterplan to consider future development options for its site and will be considering this in the near future before it looks to engage with Government.

### Key Information

- The MoU between the ACT Government and the CRC and Canberra Harness Racing Club provides for funding to the CRC of approximately \$6.4 million (plus annual CPI – 0.5 per cent adjustment) until 2020-2021.
- The *Betting Operations Tax Act 2018* will take effect from 1 January 2019
  - All wagering operators with relevant revenues above a tax free threshold of \$150,000 per annum will be liable to pay the tax, at a rate of 15 per cent of net wagering revenue (player loss) for bets placed in the ACT.
- The *Canberra Times* (31 October 2018) has reported that Ian Mackay is the new chairman of the Canberra Racing Club. Mr Mackay is the chief executive of the Canberra Southern Cross Club. Stephen Heppenstall is the new vice chairman, and Les Boag is the new treasurer.
- Peter Stubbs has retired from his position as chief executive, chief financial officer Andrew Clark is acting in the role.

### Background Information

#### Funding

- The CRC has sought further funding to cover increases to prize money. The CRC was advised by Treasury at the Joint Racing Industry and Government Committee on 19 July 2018 that the Government is not proposing to provide additional funding to the CRC from the tax at this time, though it would consider any alternate funding model which the CRC puts forward.
- The CRC has now provided JACS and Treasury with an interim report on an interjurisdictional study which sets out the funding which other racing clubs around Australia receive from POC taxes.

Sch 2 s 2.2 (a)(xi), (xvi)

Cleared as complete and accurate:	12/11/2018	
Cleared by:	Deputy Director-General	Ext:76244
Information Officer name:	Daniel Ng	Ext. 70674
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Lead Directorate:	Justice and Community Safety	

Sch 2 s 2.2 (a)(xi), (xvi)

Cleared as complete and accurate:	12/11/2018	
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Sch 2 s 2.2 (a)(xi), (xvi)

Eligibility for NSW races

- On 24 July 2018, the CRC wrote to the Attorney-General to provide an update on a number of issues relevant to the Canberra thoroughbred racing industry.
- In 2017 Racing NSW ruled Canberra trained horses were ineligible to compete in weekly highway handicap race meetings though a ruling that classified Canberra trained horses as provincial rather than country trained horses.
- Previously Canberra based trainers were allowed to compete as country NSW trainers.
- On 18 July 2018, Racing NSW announced increases in prize money for metropolitan, provincial and country NSW thoroughbred horse races, including increasing the prize money for the Country Highway Handicap from \$60,000 to \$75,000 and from \$20,000 to \$22,000 for country races. In addition, Racing NSW announced the introduction of the Kosciusko race, to be held in October with prize money of \$1.3 million.
- Due to this classification, Canberra trained horses are ineligible to compete in the Country Highway Handicap or Kosciusko races. This significantly reduces value of prize money they are able to compete for.
- The CRC introduced the Federal races in December 2017, with prize money of up to \$50,000 as a means to compete with the Country Highway Handicap. Eligibility to compete is restricted to Canberra trained horses and NSW Country trained horses with ballot preference given to horses with Canberra as the training location on the Stable return.
- The CRC has advised JACS that the decision to exclude Canberra trainers and the increase in prize money available for NSW trained horses has resulted in a number of prominent Canberra trainers considering whether to relocate their training facilities to NSW in order to access higher prize money.
- On 27 July 2018 three prominent Canberra trainers met with Mr Peter V'landys, CEO of Racing NSW to discuss this issue.
- Mr Peter Stubbs, CEO, CRC, provided an update to JACS on this issue on 31 July 2018 and 1 August 2018.
- The CRC consider it vital to its ongoing viability that Thoroughbred Park-based trainers not move interstate. They have advised there may be flow on effects for employment in the Territory.

Cleared as complete and accurate:	12/11/2018	
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Lead Directorate:	Justice and Community Safety	

- The CRC Board met on 31 July 2018 to discuss the terms of a commercial offer that could be put to Racing NSW to allow for Canberra trained horses to compete as country NSW trainers.

Sch 2 s 2.2 (a)(xi)

- On 13 August 2018, *The Sydney Morning Herald* reported that Canberra trainers are again eligible to compete in the Highway Handicaps from 1 September 2018. While NSW horses benchmarked above 50 (a rating scale for the performance of race horses) will get first preference in the Highway Handicaps, the races have not filled recently so Canberra horses are unlikely to miss out.
- Canberra trainers will not be eligible for the Kosciuszko race this year (\$1.3million race for country trained horses) as betting has already commenced.
- At the 15 August 2018 Joint Racing Industry Government Committee meeting, the CRC confirmed the arrangements reported in the press, noting that Racing NSW did not seek a financial incentive, however they have asked that NSW trained horses be eligible for the Federal races. Further negotiations about the status of Canberra trained horses for the 2019 Country Championships and Provincial Championships are continuing.

#### Thoroughbred Park masterplan

- On 23 September 2018, *The Canberra Times* reported that the CRC would be considering a Masterplan developed by the developer Lockbridge at a meeting on 25 September 2018 relating to potential alternate land uses at Thoroughbred Park.
- The CRC has reportedly agreed 'in principle' to a development masterplan that looks at opportunities to redevelop the site in Lyneham. The CRC Board has sought further detail in the masterplan from the consultant, Lockbridge, for its consideration at its next meeting on 30 October 2018.

#### Point of consumption tax

- The Betting Operations Tax Bill 2018 passed the Assembly on 18 September 2018, and the tax will commence operation on 1 January 2019.
- The Territory's model for the tax is broadly consistent with the South Australian model.
  - The tax will be set at a rate of 15 per cent of the net wagering revenue received by betting operators for bets placed in the ACT, or bets made online by ACT residents.
  - The scheme will also incorporate a \$150,000 tax free threshold for operators.

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Cleared by: Deputy Director-General Ext:76244  
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Safety



- A Point of Consumption wagering tax is being introduced to help level the playing field for all betting operators, regardless of the jurisdiction in which they are licensed. The introduction of this tax will bring the ACT into line with other Australian jurisdictions as follows:
  - South Australia's Betting Operations Tax commenced on 1 July 2017.
  - Western Australia and Queensland's Point of Consumption wagering tax schemes will commence 1 January 2019, and will be harmonised with the South Australian model.
  - Victoria's Point of Consumption wagering tax will commence on 1 January 2019, but will incorporate a lower tax rate (8 per cent of net wagering revenue) and a higher tax free threshold (\$1 million).
- Tabcorp ACT is the current holder of the ACT totalisator licence. Consistent with all other betting operators providing their services to ACT residents, Tabcorp ACT will be liable to pay the Point Of Consumption wagering tax.
- At the time of the granting of the totalisator licence in 2014, the Territory and Tabcorp agreed an Industry and Community Support Deed (the deed). The deed requires Tabcorp to make significant financial contributions to the ACT racing industry, community organisations and the Problem Gambling Assistance Fund.
  - The deed also includes a number of clauses outlining circumstances in which compensation may be payable by either party, should certain events occur.
- The introduction of the ACT Point of Consumption wagering tax may trigger a requirement for the Territory to pay compensation, given the financial impact on Tabcorp ACT from being liable to pay the tax.
  - The Territory is in discussions with Tabcorp ACT to determine an agreed way forward on this matter.
- Mr Mark Parton MLA attempted to move an amendment which provided a mechanism for an unspecified proportion of the total point of consumption tax paid each financial year to be paid to the racing clubs. Mr Parton's amendment was ruled out-of-order as it has an appropriation effect.

Cleared as complete and accurate:	12/11/2018	
Cleared by:	Deputy Director-General	Ext:76244
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Lead Directorate:	Justice and Community Safety	

TRIM ref: 2018/000083-034

**Portfolio:** Attorney-General**ISSUE: COMMUNITY CLUB GRANTS****Talking points:**

- The Government is dedicated to supporting small and medium clubs to diversify their revenue streams away from gaming machines, through viable and long-term measures to help clubs move their operations out of gaming.
- The Government has implemented a range of measures to assist small and medium clubs, including to help them to diversify their income streams. These include, from 2017-18:
  - a. introducing a small and medium club gaming tax rebate to allow smaller clubs to keep 50 per cent of their gaming taxes on up to \$4 million of gross gaming machine revenue to re-invest into their organisation
  - b. the option to make quarterly (rather than monthly) gaming machine tax and Problem Gambling Assistance Fund (PGAF) payments
  - c. the availability of a \$10,000 community club grant for the purpose of diversification towards alternative income streams.
- In August 2017, the Legislative Assembly passed amendments to the *Gaming Machine Act 2004* which implemented the tax rebate and more flexible gaming tax payment arrangements. These changes apply in relation to gaming tax payable from 1 July 2017.
- The 2017-18 Budget includes \$200,000 for Community Club Grants (the Grant). As part of its *Supporting Local Community Clubs Policy*, the ACT Government invited small and medium clubs and club groups (defined as having Gross Gaming Machine Revenue [GGMR] less than \$4m in 2016-17) to apply for a \$10,000 grant to help them to diversify their income streams away from gaming revenue.

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Lead Directorate:	Justice and Community Safety	

## QUESTION TIME BRIEF

- Letters were sent to 17 clubs that were deemed eligible from 2016-17 GGMR data provided by Access Canberra, inviting them to apply for grants before the grant closing date of 31 October 2017.
- Fourteen grant applications were received. The Justice and Community Safety Directorate (JACS) entered into Deeds of Grants and provided funds to the fourteen clubs on 22 December 2017.
- A panel from the ACT Government assessed the applications for the grant and determined that 14 clubs met the eligibility criteria for the Grant. Uses proposed for the grant have included: new, and refurbishments to kitchens, function areas, and entertainment spaces such as dance floors; and consultancy fees for alternative land use applications.
- Deeds require each club to provide evidence of expenditure with a final report confirming the use of the funds for the agreed purpose, including receipts and invoices, and information on any related matters. These reporting provisions will help the Government evaluate the use of the grants and acquit any funds not spent on eligible purposes.
- A list of Community Club Grant recipients and stated purpose is available within the table at [Appendix A](#).

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**Key Information**

- Appendix A: Community Club Grant recipients and identified purpose for use of the grant

	<b>Applicant</b>	<b>Purpose</b>	<b>Amount (\$)</b>
1.	Austrian-Australian Club	Restoration of dance floor in club auditorium.	10,000
2.	Belconnen Magpies Sports Club	Consultancy fees for planning and development advice to explore alternate land use at Kippax site.	10,000
3.	Belconnen Soccer Club	Consultancy costs towards development of a childcare centre at Mackellar site.	10,000
4.	Canberra Bowling Club	Replace carpet and install a dance floor in function space.	10,000
5.	Canberra Club	Replace old kitchen equipment with updated appliances.	10,000
6.	Canberra Highland Society and Burns Club	Consultancy fees for planning and development advice to explore alternate land use.	10,000
7.	Canberra North Bowling Club and Rugby Union Club	Installation of a grease trap in the club's kitchen.	10,000
8.	Croatia Deakin Soccer Club	Update the furniture in the club's function room.	10,000
9.	Harmonie German Club	Contribute towards refurbishment of club's auditorium (bathrooms and fixtures and fittings).	10,000
10.	Italo Australian Club	A new large marquee for outdoor functions; new kitchen equipment; additional beverage delivery system; and lit signage.	10,000

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11.	Murrumbidgee Country Club	Consultancy fees to progress development of residential land on surplus club land; our kitchen refurbishment; or new outdoor furniture.	10,000
12.	National Press Club	Development of additional private function and dining facilities.	10,000
13.	Spanish Club	A new custom made marquee for outdoor events and construction of a new six lane petanque court.	10,000
14.	Canberra Irish Club	Consultation fees to investigate redevelopment of site improve food area; Upgrade equipment for live music performances; upgrade bar fridges; or purchase of new Point of Sale equipment.	10,000

### Background Information

- A club group is defined as two or more related licensees, where each licensee is related to at least one other licensee in the group. To help clubs determine whether they are part of a club group, the *Gaming Machine Amendment Act 2017* sets out the circumstances where a relationship between clubs results in them being considered as part of a club group. Club groups were be eligible to apply for one Grant of \$10,000.
- The three clubs that were eligible for a grant but did not apply may be frustrated that they have missed out on this potential support. These clubs are: The Belconnen Bowling Club; the Canberra Racing Club; and the Yowani Country Club.
- Activities that contribute towards diversifying a club's revenue streams away from electronic gaming towards alternative income streams will be eligible for the Grant. Examples of activities that would be supported include:
  - consultancy fees for planning and development advice, including advice on possible alternative land uses;
  - financial advice on diversification options;
  - investment in new or improved:
    - food and beverage offerings (e.g. establishing a new cafe, purchasing a new oven);
    - fixtures and fittings in non-gaming areas (e.g. improving function room facilities);
    - non-gaming services or facilities (e.g. entertainment options); or
  - other advice, activities, facilities or equipment where the club can demonstrate a clear connection to diversification away from gaming machine revenue towards a viable alternative income stream.

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- Grant funds cannot be used for:
  - any gambling-related activity, such as improvements to gaming areas, gaming equipment or gaming facilities;
  - the purchase of stock, consumables or payment of ongoing club operating costs (including payroll, utilities etc); or
  - payment of government fees, charges, taxes or fines.
- Recipient clubs were required to provide expenditure reports or to remit to the ACT. Government any grant funds not spent by 30 June 2018.
- Expenditure reports were due on 31 July 2018. JACS has received 10 expenditure reports and is following up on the outstanding four. The reports will contribute to the evaluation of the program.

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TRIM Ref: 2018/000083-001

**Portfolio:** Attorney-General**ISSUE: DPP RESOURCING****Talking points:**

*Immediate resourcing following the NOUS Strategic Review in 2018-18 Budget review*

- The Government is committed to supporting the vital work of the Director of Public Prosecutions (DPP).
- This commitment can be seen in the increases in funding immediately following the NOUS Group Strategic Review of the DPP and in recent announcements of baseline funding increases coming into effect over the mid to long term.
- The Government announced in the 2018-19 Budget that an additional \$6.922 million funding will be provided over four years for additional prosecutorial and paralegal staff.
- This funding will be provided progressively with an additional six FTE from 2018-19.
- In 2021-22 there will be a total of 12 additional FTE for the DPP.
- This staffing increase will be supplemented by a one off capital injection of \$350,000 for expanded accommodation.
- The 2017-18 Budget also allocated three full time prosecutors for the Eastman matter in the 2017-18 year and one ongoing prosecutor to increase the capacity of the DPP.
- The 2017-18 Budget Review provided resource allocations for four full time additional staff in 2017-18 and 2018-19 to support the work of the Confiscation of Criminal Assets scheme.
- This built on funding of \$1.363 million over four years from 2016-17 Budget through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence.
- This follows an announcement that the DPP will be provided with \$987,000 over four years for additional staff to support the increased capacity of the Magistrates Court.

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Safety

- I am confident that the appointment of an eighth magistrate, the additional funding for Legal Aid and the DPP, the re-appointment of special magistrates, and recent amendments to justice legislation across the statute book aimed at building efficiency will improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about separate administration and direct appropriation for the DPP*

- NOUS consulting recommended the DPP should be directly appropriated rather than as part of the Justice and Community Safety Directorate (JACS).
- The Government's approach to date has been to use the administrative resources of JACS to offer economies of scale to smaller, independent agencies. Services like human resources and finance are provided by a centralised team in JACS to other agencies, including the Human Rights Commission and the ACT Emergency Services Agency.
- The Government is considering the NOUS recommendation and will work with the DPP to ensure that our model of appropriation and funding is as efficient as possible, and appropriate to the DPP's working environment.

*If asked about the upcoming selection process for appointment of the DPP -*

- On 4 July 2018, I extended the appointment of the current ACT Director of Public Prosecutions, Mr Jon White SC, until 31 December 2018.
- This extension will allow time for my directorate to lead an open and transparent merit selection process.
- I also asked JACS to engage the services of an executive recruitment firm to ensure the ACT receives a wide array of applications from competitive and suitable applicants, both from within the ACT and across Australia.
- Advertisements seeking expressions of interest for the position were published in the press on Friday, 27 July 2018. Applications closed on 19 August 2018 and the selection process is being finalised.

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*If asked about the impact of new Supreme Court Practice Direction 2 of 2018:  
Criminal Case Conferencing on DPP resourcing*

- The ACT Supreme Court has introduced a formal case conferencing mechanism for criminal matters committed for trial.
- The case conference will involve defence and prosecution counsel attending a two hour conference convened by a judge to work through issues in dispute in the trial, the charges, the evidence, and the way evidence will be presented in the trial.
- The case conferences have the potential to assist both parties to resolve matters early and supports a more efficient trial procedure, which will have positive benefits to victims, accused persons, and the court.
- It will apply to all matters committed for trial from 20 August 2018. The first round of conferences occurred from 29 October 2018 to 5 November 2018 with a further fortnight of conferences scheduled for February 2019
- I understand that the scheme will be reviewed after a six month trial.
- The Director of Public Prosecutions has expressed concerns about the impact the scheme will have on the resourcing of his office. Specifically, that the case conferencing will mean that senior prosecutors will be required to spend additional hours at court participating in the case conference as well as additional time preparing for the conference.
- While I acknowledge these concerns, I support the objectives of the scheme and any efforts to facilitate the efficient, transparent, and fair resolution of criminal matters.

**Key Information**

- In the 2017-18 Budget, the Government provided additional funding (1 FTE ongoing) to increase the capacity of the DPP to better support prosecutions in the Territory. It also provided funding for costs associated with the retrial of Mr David Eastman and other related proceedings. Funding was provided for an additional three positions in the DPP, external counsel costs, witness expenses and other administrative costs.
- Mr Eastman's re-trial has commenced. It is expected to run for four – six months. The trial has now been running for three months and is expected to run for a further two months.

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## QUESTION TIME BRIEF

- The DPP has undertaken significant preparation for the pre-trial and trial.
- The Government also provided four full time additional staff (in 2017-18 and 2018-19 only) to support the work of the Confiscation of Criminal Assets scheme as part of the 2017-18 Budget Review.
- That funding will assist the DPP to keep pace with demand and respond to the needs of the court, police, other investigative agencies and the criminal justice sector more broadly.

*If asked for specifics about the 2018-19 baseline business case*

- Base level funding: \$6.922 million over four years plus \$350,000 one off capital injection for accommodation
- Full Time equivalent (FTE) additions
  - One Prosecutor Grade 4; two Prosecutors Grade 3; one Paralegal Grade 4; two Paralegals Grade 3 ongoing from 2018-19
  - One Prosecutor Grade 5; one Administrative Officer Grade 5 ongoing from 2019-20
  - Two Executive (Crown Prosecutors) ongoing from 2020-21
  - One Prosecutor Grade 4; one Paralegal Grade 3 ongoing from 2021-22
- The NOUS review recommended a 30 per cent increase in grade 3, 4 and 5 prosecutors within 12 months. Nous' basis for concluding that FTE positions for prosecutors will need to increase by 30 per cent at a minimum, is unclear.
- The additional baseline FTE in 2021-22 will represent an increase of new prosecutors plus new executives of 17.4 per cent on 2016 -2017 FTE levels (according to Agency Profile Table, DPP Annual Report 2016-17, p 49).
- Additional FTE from 2018-19 through the out-years is shown below:

<b>Position Level</b>	<b>2018-19 FTE</b>	<b>2019-20 FTE</b>	<b>2020-21 FTE</b>	<b>2021-22 Total extra FTE</b>
Executive / Crown Prosecutor			2	2
Prosecutor Gr 5		1	1	1
Prosecutor Gr 4	1	1	1	2
Prosecutor Gr 3	2	2	2	2
Para Legal Gr 4	1	1	1	1
Para Legal Gr 3	2	2	2	3
Admin Officer Gr 5		1	1	1
<b>Total</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>12</b>

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2017-18 Budget:

- Recurrent: (\$3.028 million over four years):
  - three additional resources and other operational costs relating to retrial of Mr David Eastman and related proceedings (\$2.257 million) in 2017-18 only
  - one Prosecutor Grade 4 over four years (\$0.771 million).
- Full-time equivalent (FTE):
  - one Prosecutor Grade 1 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 3 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 in 2017-18 only (Eastman matter)
  - one Prosecutor Grade 4 over four years.

DPP Review:

- The Nous Group delivered its report on the DPP Strategic Review on 9 August 2017.
- The Report notes the DPP efficiently performs a wider range of functions relative to its equivalents in other jurisdictions. Nous believes growing pressures, both in culture and practice, will likely threaten the DPP's capacity to meet its workload in the near future.
- Noting demand projections, the Report makes five broad recommendations:
  - provide increased funding to the DPP immediately and in the mid to long-term
  - apply a unified resourcing justice strategy to the ACT justice system as a whole
  - directly appropriate funding to the DPP, rather than via the JACS appropriation
  - allow paralegals to appear in simple applications in the Magistrates Court
  - develop a more efficient platform to share information between courts, law enforcement, corrective services and the DPP.

**Background Information**DPP Strategic Review

- Nous Group noted in its report that cultural pressures include growing numbers of complex and time-consuming cases (i.e. sexual assaults, appeals, confiscation of asset referrals), introduction of new pre-trial evidence and procedures and changing community expectations (i.e. employing special approaches for vulnerable witnesses).
- Structural pressures include the recent introduction of a fifth ACT Supreme Court Judge, additional financial staff for organised crime investigations by the Australian Federal Police and expansion of the Supreme Court, which will reduce trial listing periods to five weeks (down from an average of nine weeks) and provide two additional courtrooms for jury trials.

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Safety

- On 16 October 2017, the DPP published its 2016-17 annual report. The Director's overview broadly outlined the Review's findings, including the cultural and structural pressures facing the ODPP. The DPP called for additional senior prosecutors to meet the trends of increasing workload on complex criminal matters. The DPP also emphasised his concern that the new Supreme Court facility will significantly increase the number of jury trials, and that the DPP will be unable to meet this growth without a corresponding increase in funding.
- *The Canberra Times* reported on the DPP's comments in the Annual Report on 17 October 2017.

Previous budget increases:

- In the 2016-17 ACT Budget, the DPP received funding of \$1.363 million over four years through the Safer Families funding package to strengthen criminal justice responses to alleged perpetrators of family violence (three FTE in 2016-17 and 2017-18, 2.5 ongoing).
- The 2016-17 Budget provided \$2.325 million for a specific team in the DPP (3 FTE) to represent the office to progress the retrial of Mr David Eastman for the murder of Mr Colin Winchester and other related proceedings.

This funding follows previous years' supplementation to the DPP totalling \$1.7 million from 2012-13 to 2015-16 for the Eastman matter.

- In the 2014-15 Budget, the Government provided \$1.158 million over four years to establish a Work Safety Prosecutions Unit supported by 2 FTE, as well as \$0.027 million in one-off capital funding for fit-out and fixtures to accommodate the new unit.

WorkSafe Prosecutions

- The Industrial Court Magistrate, Chief Magistrate Lorraine Walker, criticised the prosecutions of several work safety matters. On 6 December 2016 and 14 July 2017, *The Canberra Times* reported comments made by the Chief Magistrate that were strongly critical of the DPP handling of workplace health and safety matters. She also expressed concern that resources in the DPP are generally not being provided for industrial court matters.
- On 8 November 2017, during annual report hearings the DPP answered a question about what could be done to increase the chances of success in industrial prosecutions. The DPP noted the question was difficult to answer concisely. He explained that industrial deaths are difficult to investigate and require a criminal standard of investigation from a very early stage. He also noted the need for 'unimpeachably high quality' expert reports.
- The DPP suggested that deaths on Canberra construction work sites be treated as criminal investigations. *The Canberra Times* reported on the DPP's comments on the same day.

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TRIM: 2018/000083-015

**Portfolio:** Attorney-General**ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS****Talking points:***Eighth Magistrate*

- On 9 April 2018, I announced that the 2018-19 Budget would provide an additional \$3.1 million over four years in funding to support the appointment of an eighth full time resident Magistrate.
- I was pleased to announce the appointment of Ms Louise Taylor as the eighth magistrate on 10 August 2018. Ms Taylor commenced work on 10 September 2018 and her ceremonial sitting was held on 17 September 2018.
- Ms Taylor has over 15 years of experience as a lawyer in the ACT, including specialist experience as a prosecutor in criminal law. This has included experience in the offices of both the Commonwealth and ACT Directors of Public Prosecutions, and has involved oversight of the ACT's Family Violence Intervention Program.
- As the Deputy CEO of Legal Aid ACT since 2014, Ms Taylor has had direct management of the Legal Aid Commission's litigation practice, specifically in the areas of family and criminal law.
- Ms Taylor's appointment reflects the ACT Government's commitment to provide the ACT Magistrates Court with the resources it needs to meet increasing demand.
- In addition to resourcing the new Magistrate position, Legal Aid ACT will receive an additional \$1.3 million and the Director of Public Prosecutions (DPP) will be provided with \$987,000 for additional staff to support the increased capacity of the Magistrates Court.
- An eighth Magistrate means our courts can build on their excellent work from recent years, and also provide the resources it needs to meet increasing demand.

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- The appointment of an additional Magistrate, additional funding for Legal Aid ACT and the DPP along with recent amendments to justice legislation across the statute book will help improve the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.

*If asked about the recruitment of the 8<sup>th</sup> Magistrate*

- This process was conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.
- Nominations were sought from the local legal profession, including the Law Society of the ACT and the ACT Bar Association, community legal centres, and also from my counterparts interstate.
- With her wide-ranging experience in criminal prosecution and defence, particularly in the ACT context, as well as her contribution to the ACT community in volunteer roles, I am confident that Ms Taylor will make a significant contribution to enhancing access to justice outcomes at the ACT Magistrates Court

*If asked about the Chief Magistrate's views*

- I acknowledge the Chief Magistrate's view that further resources are needed for the Magistrates Court.
- As Attorney-General, I will continue to consider resourcing of the justice system as a whole, and to make sure that each component is working effectively to support an effective justice system in the ACT.

*Special Magistrates*

- The Government has also re-appointed two Special Magistrates to continue sitting within the Court as required until the end of 2018, working at a little over half an FTE each.
- Special Magistrates provide the Court with flexibility and adaptability in its listing practices and allow it to cope with unexpected absences.
- The eighth Magistrate combined with the re-appointment of the special Magistrates expands the Magistrates Court capacity from its current levels.

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### Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- This is partly offset by rollover from the current fee for service budget for a part time pathologist, and by revenue for non-complex autopsy work done on a contract, fee for service basis by the ACT Forensic Medical Centre for the Queanbeyan and Goulburn Coroners.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.

### Magistrate terms and conditions

- The Government introduced a bill to support Magistrates by making the terms and conditions of their office more inclusive. The Bill passed on 20 September 2018. The amendments will increase the retirement age of Magistrates from 65 to 70, and will also introduce a mechanism for Magistrates to be appointed or to work part-time.
- These changes will provide greater flexibility for the Court to manage its business, while supporting Magistrates who wish to transition to retirement or temporarily reduce their working hours to accommodate family or carer responsibilities for example.
- These reforms will commence within the next 6 months, when arrangements to support the changes in the Bill have been put in place.

### Magistrates Court Initiatives

- I particularly want to thank the Magistrates, Court staff and Supporting Prosecution and Legal Aid Practitioners for their patience and professionalism in providing the Canberra community with outstanding service.
- I acknowledge it has been a challenging period with the Court redevelopment, registry process overhaul and implementation of the Integrated Case Management System.

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- I acknowledge that these important initiatives have placed additional pressure on the work of Court staff and Practitioners.
- I am confident that these initiatives will deliver support for the Bench and staff to undertake their vital work while increasing the efficiency of the Court as a whole.
- The sustained investment by the ACT Government in this transformational work demonstrates our commitment to deliver an accessible, fair and efficient justice system.
- The Government is committed to working with the Chief Magistrate, Chief Justice and Courts and Tribunal administration staff to leverage efficient block and over-listing practices.

### Dedicated Coroner

- It is important to recognise that decisions about organisation of the Magistrates and Coroner's Court, and how resources are allocated for coronial hearings are ultimately a matter for the Chief Magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time ('Chief Magistrate says eighth magistrate 'not enough', Canberra Times, 10 April 2018).
- The Government is conscious of the benefits that could come from building specialist coronial expertise among the Magistrates who all hold an active coronial case load.
- Benefits would include increased public awareness of the role and public significance of the coronial jurisdiction and improved co-ordination and collaboration across government in resolving inquiries and inquests and implementing recommendations.
- I am pleased that a number of procedural and policy changes across the Magistrates and Coroner's jurisdiction have seen efficiency improvements.

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- For example, in the Coroner's jurisdiction more post-mortems are being conducted by CT-scan external examination, more matters are being finalised in-chambers without hearing, delegation of fire inquiry work to the Deputy Coroner continues to be efficient, and the Legal Manager is routinely providing in-house Counsel Assisting services where appropriate, rather than briefing external Counsel.
- The availability of a resident full time forensic pathologist will also support more timely post-mortem and autopsy investigations which will mean that the deceased will be able to be released to their loved ones sooner, and the Coroner will be better supported in investigating the manner and cause of death.
- The *Courts and Other Justice Legislation Amendment Act 2018* (the Act), commenced on 26 April 2018 and made amendments which support non-invasive finalisation of cases by making processes for conduct of ancillary examinations, establishing coronial investigation scenes and provision of medical records more flexible.
- That Act also made changes to streamline jury processes and enforcement of ACT Civil and Administrative Tribunal orders in the Magistrates Court.

**Key Information**

- The criminal jurisdiction of the Magistrates Court has struggled to meet demand with a 15 per cent increase in lodgements leading to a 23 percent increase in pending matters and 15 per cent increase in cases pending for more than 12 months (excluding failure to vote charges resulting from the 2016 ACT election).
- There was a very slight increase in coronial cases lodged to 299 from 292 in 2015/16, but the Government's suite of legislative reforms in 2014 continues to mean this is much lower than the more than 1100 cases lodged in 2013/14 and 2012/13.
- The workload of the Coroner's Court can fluctuate depending on the circumstances of particular cases. For example the Court received two uncommon notices relating to deaths in the Jervis Bay and Australian Antarctic Territories that it will deal with by agreement with the Commonwealth Government.
- Just as workload can fluctuate, some complex or sensitive cases take longer to hear and resolve. In 2016-17 the median number of days to finalise a case was 94, up from 75, which exceeded the target of 85 days. This was in part due to a number of long and complex coronial matters being finalised.

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## Background Information

- You have asked the Justice and Community Safety Directorate to prepare terms of reference for a review of Supreme Court and Magistrates court efficiency. A business case is being developed for one off funding for the 12 month review for consideration in the 2019-20 budget.
- A recruitment process for a replacement for Magistrate Fryar (who has indicated she will retire on 8 March 2019) will commence soon. Another special magistrate may be identified and appointed as part of that recruitment process.
- The Chief Coroner considers that the appointment of an additional full-time Magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- Having an additional Coroner would improve efficiency and timeliness, coordination and oversight of those matters, and would contribute to the development of specific coronial expertise.
- You have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- The Justice and Community Safety Directorate recently met with family representatives in relation to a number of complex cases where the timeliness of the Coronial process, transparency of case progress and communication with families could have been better.
- There are a range of supports and networks across government for those affected by the sudden and unexpected death of a loved one, including the ACT Coronial Counselling Service which is available to bereaved families, friends and community members. The service is provided by ACT Health and Relationships Australia and is designed to provide free support and counselling to anyone affected by a death being investigated by the ACT Coroners Court.

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TRIM Ref: 2018/000083-012

**Portfolio:** Attorney-General

**ISSUE: REFORMS TO THE OPERATION OF THE CORONERS COURT**

**Talking points:**

Budget Announcement

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised effectively.
- The 2018-19 Budget provides \$1.9 million for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.
- The Government is confident this new capability will support the timely provision of manner and cause of death information to expedite the release of the deceased to their family and findings by the Coroner.
- The 2018-19 Budget also provides \$3.1 million in funding over the next four years to appoint an eighth full time resident magistrate.
- I am pleased that the Chief Magistrate has indicated that she will consider utilising the additional judicial resource to dedicate one magistrate to coronial work part time.

Improvements to support families

- The Government is examining options for supporting the operation of the Coroner's court through administrative and legislative reforms.
- The Government is also continuing to consider reforms to better deliver the justice needs of families, affected people and the community through the coronial process.
- As part of this consideration, the Government is working with families to make sure that any reforms to coronial processes support the needs of people affected by a death.

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- In October 2017, I met with families of three young men whose deaths have been subject of extensively delayed coronial inquests.
- This group of family representatives has been advocating for reforms to the coronial process including changes to address lengthy delays throughout all stages of the coronial inquest, and to improve communications with family members about the progress of inquests, Government responses and actions taken to address recommendations.
- After hearing the experiences of these family members I have asked the Justice and Community Safety Directorate to explore options to improve the support provided to the operations of the Coroner's Court, in particular, to better focus on and meet the needs of families affected by a death subject to an inquiry.
- Officers from the Justice and Community Safety Directorate met with the families to discuss potential legislative reforms on 21 March 2018.
- One of the recommendations of the Law Reform Advisory Council report on its inquiry into Canberra as a restorative city, is that restorative practices should be trialled within the coronial system.
- I anticipate that the process of consulting with stakeholders to consider and develop possible reforms, including legislative amendments about the application of restorative practices to the coronial system will begin in the coming months.

### **Background Information**

- The Chief Coroner considers that the appointment of an additional full-time magistrate would go some way towards providing her with the flexibility to use judicial resources for coronial matters as appropriate.
- You have directed the Justice and Community Safety Directorate prepare a business case for a Coroner's Court Family Liaison Officer who will provided a dedicated and consistent point of contact for families involved in the coronial system.

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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-004

**Portfolio:** Attorney-General**ISSUE: DRUG AND ALCOHOL COURT****Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- The DAC and associated support programs aim to reduce the criminogenic risks of drug and alcohol dependence within a therapeutic framework that promotes and sustains recovery.
- The effectiveness of DACs in achieving long-term behavioural change in offenders is supported by a substantial body of research. Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes
- A DAC requires a range of services both in the court context and to provide treatment, supervision and support in the community. As such this is a complex program of work and requires the planning phase to be very carefully considered.
- Alcohol and other drug treatment services in particular need to be planned to ensure appropriate therapeutic treatment pathways are clearly identified for DAC participants. The Government has held consultation workshops with the alcohol and other drug service sector to support this planning process.
- The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services and a high level of judicial intervention.
- The Supreme Court has developed proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns. These proposals are under consideration by Government.

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Lead Directorate:	Justice and Community Safety	

- The government is working to finalise an appropriate model for the Territory's DAC, including drafting legislation and developing policies and operating procedures for the DAC.

### **Funding allocated for the development of the Drug and Alcohol Court**

- Across the 2017-2018 and 2018-2019 financial years, a total of \$2.151m has been appropriated to support the development of the Drug and Alcohol Court (DAC).
- The 2017-2018 Budget allocated \$477,000 over five months for the model and design costing of the DAC.
- The 2017-2018 mid-year appropriation allocated \$1.049m for another six months (January to June 2018) to continue the development of the DAC.
- The 2018-2019 Budget allocated a further \$625,000 for ongoing development work for six months.
- As a result of the allocation of this funding, JACS has commenced drafting the criminal justice policies and operating procedures for the DAC, ACT Health has commenced the process to engage a consultant to evaluate the cost and the impact the DAC will have on the ACT alcohol and other drug sector, and JACS has also completed work on the first stage of the Criminal Justice Cost Model.

### **Background Information**

- The Parliamentary Agreement for the 9th Assembly committed to establishing a Drug and Alcohol Court and associated support programs as part of a goal to reduce recidivism by 25 percent by 2025.
- The ACT Courts and Tribunal (ACTCT) Corporate Plan 2017-2020 indicates that exploring the potential for a DAC in the Territory is a priority for 2017-2018.
- To date, four business cases have been developed to seek funding for the development of the DAC. Including, a 2017-2018 business case; a 2017-2018 mid-year appropriation business case; a 2018-2019 business case; and a 2018-2019 mid-year appropriation business case currently being progressed through the 2018-2019 mid-year budget appropriation process.

Following the government's decision not to fund the operational business case for the DAC in the 2018-2019 budget, JACS Legislation Policy and Programs completed work on the first stage of the Criminal Justice Cost Model.

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## QUESTION TIME BRIEF

The model costs the individual components of the current ACT criminal justice system from the point of apprehension to post-sentence; it includes data up until 2016-2017, and projects costs to 2025-2026.

The cost benefit analysis includes detailed ACT criminal justice data developed as part of the Criminal Justice Cost Model project and it includes publicly available data for other parts of the human services system.

The cost benefit analysis estimates that the DAC will achieve a positive return on investment in the first full year of operation. Over 10 years it is estimated that the return on investment will be a return of \$3.14 for every dollar invested.

The cost modelling provides a conservative estimate of the return on investment that could be achieved if the DAC effectively targets the high-risk high-needs cohort of participants who would meet the basic eligibility criteria recommended by the ACT Supreme Court.

The DAC and the cost modelling were presented to the Human Services and Social Inclusion Subcommittee of Cabinet for consideration on 28 September 2018.

Cleared as complete and accurate:	08/11/2018	
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TRIM Ref: 2018/000094-001

**Portfolio:** Attorney-General**ISSUE: ACT Law Courts Public Private Partnership (PPP) - Progress****Talking points:**

- Stage 1 has been completed, with the Courts moving into the new building on the weekend of 13-14 October 2018. A smoking ceremony was held prior to courts commencing operations on 15 October 2018.
- Works on Stage 2 (the refurbishment of the existing Supreme Court) commenced on 15 October 2018. The latest completion programme issued by Juris and Laing O'Rourke indicates Stage 2 completion in the third quarter of 2019.
- Payments to Juris commenced after Stage 1 completion and, as the end date of the contract is fixed, the 25-year operational phase of the Public Private Partnership (PPP) contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time.
- These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two buildings.
- Stage 1 features six courtrooms (including five jury courtrooms), chambers, a library, a new public entry serving both courts and contemporary jury facilities. It also provides a dedicated remote witness zone with seven new video conference suites and waiting areas, for the comfort, privacy and safety of those giving evidence. New technology is a major feature of the new courts, with all court rooms equipped with state of the art systems.
- Stage 2 will deliver the remaining two non-jury courtrooms, mediation suites, hearing rooms and spaces for justice support groups.

Cleared as complete and accurate: 26/11/2018  
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- The facility as a whole will achieve a 5-star green star rating, and has natural light throughout the complex – including in the new courtrooms.

### **Key Information**

#### The ACT Law Courts Project

- Stage 1 reached Technical Completion on 25 September 2018. Commercial Acceptance was achieved 8 October 2018.
- Under the PPP contract Stage 1 was due to be completed by 24 November 2017 and Stage 2 by 28 August 2018.
- The Territory entered into contract with Juris Partnership (Juris) in December 2015 to design, build, finance and maintain the ACT Law Courts under a PPP arrangement (the Project). The Project represents a capital investment in the ACT Law Courts of over \$160 million.
- The Juris Partnership consortium includes Laing O'Rourke Australia Construction Pty Ltd, Macquarie Capital Group Limited and Programmed Facility Management Pty Ltd.
- The Project is being delivered in two main stages. Stage 1 includes a new four-story building fronting Vernon Circle, refurbishment and reconfiguration works in the existing Magistrates Court building and a new entrance foyer linking the two existing buildings. Stage 2 completes the project with the refurbishment of the existing Supreme Court building. Stage 1 delivered six courtrooms (including five jury courtrooms) and Stage 2 will deliver the remaining two non-jury courtrooms.

#### Progress of the Project (delays)

- Stage 1 of the construction phase was subject to significant delays. As at Commercial Acceptance the duration of the delay will be ten and a half months.
- The latest completion program issued by Juris and Laing O'Rourke indicates that Stage 2 completion would be expected in Q3 2019.

Sch 2 s 2.2 (a)(xi)

#### Operational consequences of the delay

- During the construction phase for the new facilities the Court has retained use of the same number of courtrooms (both jury and non-jury) as were available prior to commencement of the Project. The Court has been kept fully apprised of the delay and has taken this into account when listing matters in 2018.
- During this period, the Court used the Queanbeyan courthouse to provide additional jury trial capacity when required.
- The Court has also used the Military Court at Fyshwick as a result of the pressure on courtrooms arising from the delay.
- The delays have not had a direct detrimental effect on the capacity and functioning of the Court.

#### Financial consequence of the delay

- Under the PPP contract arrangements, except for certain exceptional circumstances, Juris assumes full risk for the time it takes to complete the works. Accordingly, the contractor is not entitled to any additional payments due to completion being later than the dates set out in the contract.
- Payments to Juris do not commence until completion of Stage 1 has been achieved and, as the end date of the contract is fixed, the 25-year operational phase of the PPP contract is truncated to the same extent as the delay to completion. This results in a saving to the Territory compared to the payments that would have been made had the project been completed on time. These savings are greater than the project management and other costs that the Territory will incur as a direct result of the prolonged period of construction.
- The cost (and value-for-money) of the project to the Territory is measured as a Net Present Cost (NPC) of the future payments to be made to Juris over the term of the contract. At the date of entering into the contract, the NPC was calculated at \$250.4 million as set out in the published Contract Summary.
- Due to the delays in construction the NPC of the future payments due to be made by the Territory will reduce compared to the amount initially expected. The extent of this reduction will not be calculated until after both Stages have been completed.

**Background Information**

- Stage 1 completion (September 2018) provided the new facility in a condition that is fit for purpose for the Court functions, but still has some works remaining to be completed. Examples of works that may be incomplete are:
  - completion of the cladding to the ‘hood’ structures to the Vernon Circle façade;
  - completion of landscaping (planting) to the Vernon Circle frontage; and
  - installation of commissioned artwork.
- Based on the currently projected dates for Stage 1 and Stage 2 completion, the avoided Monthly Service Payments (MSPs) through 2017-18 and 2018-19 (compared to what would have been payable if the contract dates were achieved) amounts to circa \$16.9 million. After accounting for delay-related increases to capital and recurrent costs it is expected that approximately \$10m of this saving would be returned to the Budget.
- The Territory has served two Major Default Notices (MDN) on Juris relating to the failure to complete Stage 1 in November 2017. The remedy period to rectify the MDN (i.e. to achieve completion) was extended once and was due to expire on 7 December 2018. If completion was not achieved by this date the Territory was entitled to terminate the contract, however it is unlikely that termination would have been the best option for the Territory.

**Attachments**

Attachment	Title
Attachment A	Ministerial Statement – Courts Project Delay
Attachment B	JACS Media Questions – Supreme Court Heritage – Final Version
Attachment C	1740 QON – LEE – AG – Heritage Values of Court Rooms

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TRIM Ref: 2018/000083-010

**Portfolio:** Attorney-General**ISSUE: BAIL LAWS****Talking points:**Purpose of bail laws

- Bail allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law. The ACT *Bail Act 1992* (Bail Act) is designed to: balance competing rights, interests and expectations; ensure accused people attend court; and manage the risks that might arise while a person is on bail.

Decisions to grant bail

- Deciding to grant bail requires an assessment of risk which is taken into consideration under our bail laws including through: presumptions against bail for certain offences; conditions of bail that can be imposed; and the role of ACT Policing (ACTP) in ensuring that offenders comply with their bail conditions.
- There is no data available about the number of instances where a person offends on bail, but the ACT Government is satisfied on the basis of available information that the mechanisms currently in place to determine the issue of bail and management of people on bail are satisfactory.
- The ACT Government commenced a two year trial Bail Support Program in December 2017 to contribute to the Government's commitment to reduce recidivism. The Program is designed to support Aboriginal and Torres Strait Islander people released on bail and is operated from within the Aboriginal Legal Service. Of the 50 participants (as at November 2018) 10 have reoffended and 21 have breached conditions of bail

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## Review of bail laws

### *Section 44 of the Bail Act*

- The *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* introduced an own-motion bail review power for the Director of Public Prosecutions (DPP).
- This provides the DPP with a right to apply to the Supreme Court for a review of a bail decision made by the Magistrates Court, where the accused has been charged with a domestic violence offence or serious offence, if the prosecutor considers that exceptional circumstances exist and that it is in the public interest to make the application. The reform provides for an accused to be detained for up to 48 hours pending the Supreme Court review.
- Since section 44 commenced operation on 1 May 2017, the DPP has given oral notice of a proposed application twice and on both occasions did not ultimately proceed to make an application to the Supreme Court. The accused persons were held in custody for periods of less than two hours by ACT Corrective Services (ACTCS) prior to being released on bail.
- The operation of section 44 is to be reviewed after two years of operation (May 2019).

### *Section 9F of the Bail Act*

- At the conclusion of a recent inquest, Coroner Cook recommended the ACT Government review section 9F of the Bail Act which creates a presumption against police bail for a person charged with a family violence offence. Coroner Cook expressed concerns that the presumption against bail might never be able to be displaced in practice.
- Consideration will be given to whether any amendments are required to section 9F. The ACT Government is committed to ensuring that the criminal justice system works to protect complainants and victims from harm to the fullest extent possible. This imperative is held together with the need for custody to be a measure of last resort in achieving this protection.

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## **Background Information**

### Presumptions under the Bail Act

- Under the Bail Act there is a general presumption in favour of the grant of bail and entitlement to be at liberty. However, there are limitations on this entitlement. For example, for murder and certain serious drug offences, there is a presumption against bail and a court must not grant bail to the person unless satisfied that special or exceptional circumstances exist favouring the grant of bail.

### Statement of incompatibility: section 9C of the Bail Act

- The declaration of incompatibility with human rights made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) relating to section 9C of the Bail Act (presumption against bail for certain offences) has not resulted in legislative amendment.
- In the final Government response (tabled 1 May 2012) community views were requested on options for amendments to the Bail Act. Due to the diverse views received during consultation the ACT Government elected not to pursue any of the three options originally proposed

### Section 56A of the Bail Act – Arrest without warrant for failure to comply with bail conditions.

- ACTP have recently been criticised in the ACT Magistrates Court (June 2018) for failing to exercise their discretion not to arrest a person for breaching a bail condition (reporting late to the police station) under section 56A of the Bail Act.
- The ACT Supreme Court ruled in the case of *Andrews and Thomson* [2018 ACTSC 199] on 30 July 2018 that section 56A did not permit police officers to enter premises to effect an arrest for breach of bail conditions. This decision and whether legislative amendments should be pursued are currently under consideration.

### Requirement in section 17 of the Bail Act for a person in custody to be brought before a court for consideration of bail within 48 hours

- Recently the Chief Magistrate convened a meeting of stakeholders, including ACTP, DPP, Legal Aid, Bar Association and Law Society and ACTCS to discuss practical approaches to ensure that section 17 is complied with. The Chief Magistrate discussed options with other magistrates and advised that the Saturday bail court will continue to commence at 9am (usually finishing around two hours later) but that there will be provision made for reconvening of the court later on Saturdays if this is necessary to ensure compliance with the requirements of the Bail Act.

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TRIM Ref: 2018/000083-035

**Portfolio:** Attorney-General**ISSUE: EASTMAN TRIAL UPDATE****Talking points:**

- The retrial of Mr David Harold Eastman demonstrated that the ACT judicial system is functioning independently and appropriately. The system has upheld the defendant's right to a fair trial.
- Our justice system depends on an open and transparent trial, and this has occurred.
- The Government has shown absolute commitment to due process in support of the inquiry and subsequent legal processes.
- The re-trial of Mr Eastman was completed on 22 November 2018 with the jury returning a verdict of not guilty.
- Mr Eastman has been acquitted by a jury after a lengthy and complex trial.
- I thank the jury for its service on this matter.
- The interests of justice have been served and it is not appropriate to comment on either the outcome or the antecedents of the trial.
- The murder of Colin Winchester has had a profound impact on our community. Our thoughts are with the Winchester family.

*If asked -*

*Was this a waste of taxpayer money?*

- The Government is committed to supporting our justice system to conduct fair trials. That support includes financial resources and legislation. We have an obligation to provide our community with transparent, accessible, and timely court services. As a Government we have and will continue to invest the necessary resources to meet that obligation.

Cleared as complete and accurate:	23/11/2018	
Cleared by:	Deputy Executive Director	Ext: 70674
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- We cannot provide figures relating to the Eastman matter between financial years 1992-93 to 2001-02. It is expected that costs incurred over this time were generally met within existing resources.
- Additional funding of \$1.5 million was provided during the period 2001-02 to 2004-05 for Eastman matters. Not all expenses during this period have been identified with others costs generally met within existing resources.
- From 2004-05 to 2012-13, costs relating to Eastman matters were generally met within existing resources.
- Total additional funding provided for the Eastman matter since 2012-13 is approximately \$29m.
- In 2017-18, the cost associated with the retrial of Mr David Eastman, including pre-trial and other related proceedings was approximately \$4.1m.
- The 2018-19 Budget provided \$6.4m for the costs of the retrial, which included rollover funding from 2017-18. From July 2018 to the end of October 2018, the actual expenditure was approximately \$2.4m.
- These amounts relate to the additional funding provided, not the expenditure, for the Eastman matter.
- The ACT Government has provided funding for the ACT Courts and Tribunal, Legal Aid, the Director of Public Prosecutions and ACT Policing for the retrial of Mr David Eastman.

### Why was Eastman retried when there were so many doubts?

- Everyone affected by a crime – victims, family members, the person accused, and the whole community is entitled to a fair trial.
- The Government’s role in this process is to support the justice system to afford fair trials. Decisions about whether to prosecute, appeal, or take any other legal action in relation to crime are properly within the remit of the Director of the Public Prosecutions.

### What about compensation for Mr Eastman?

- At this juncture, it would not be appropriate to discuss the question of any compensation to Mr Eastman as he has legal proceedings on foot arising from the circumstances of the original trial.

Cleared as complete and accurate: 23/11/2018  
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Lead Directorate: Justice and Community  
Safety



Will the Government hold an inquiry into ACT Policing's investigation of the Eastman matter?

- Our justice system depends on an open and transparent trial, and this has occurred. This has been a lengthy and complex trial, and I thank the jury for their service on this matter.
- The government acknowledges the jury's decision and will not make further comment at this time.

**Key Information**

- The trial commenced with 16 jurors and then continued with 14 jurors, 2 jurors having been discharged for health and other reasons. Two jurors were removed by ballot before the jury retired on Wednesday 14 July 2018.

**Background Information**

If asked - What funding has been provided in the 2018-19 budget?

- In 2018-19, the total funding for the Eastman matter is \$6.079 million.
  - \$2.2m to the Director of Public Prosecutions
  - \$2.159m to the ACT Courts and Tribunal
  - \$1.025m to Legal Aid Commission
  - \$695,000 to the ACT Policing.

If asked - What funding was provided in the 2017-18 budget?

- In 2017-18, the total funding for the Eastman matter was \$7.360 million, including funding for the courts and Legal Aid.
- In addition, funding of \$2.257 million was also provided to the Office of the Director of Public Prosecutions (DPP).

Cleared as complete and accurate:	23/11/2018	
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Lead Directorate:	Justice and Community Safety	

TRIM Reference MIN:2018/000085-001

**Portfolio/s:** Attorney-General**ISSUE: COURTS COAT OF ARMS****Talking points:**

- The Government worked with the judiciary on the design of the new Courts building and will continue to do so.
- There are currently no plans to install a Coat of Arms at the new combined entry to the ACT Law Courts or behind the bench in the courtrooms or hearing rooms in the new building.
- The wording “Law Courts of the Australian Capital Territory” is placed over the entry.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This was agreed to as an appropriate heritage consideration.
- While courts tradition, inherited from Britain, sees lawyers and court officials bow to the Coat of Arms when entering a court room, this practice is an acknowledgment that justice extends from the monarch. In the absence of a Coat of Arms, bowing toward the bench acknowledges the authority of the Crown.
- Some members of the profession have expressed concern that they will now be asked to bow to the bench not the Coat of Arms.
- The existing Coat of Arms used in the ACT is not, in fact, for the Territory as a whole but only for the City of Canberra, and was commissioned in 1928 in response to the Department of Defence practice of naval ships being named after cities needing to display that city’s coat of arms.

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Contact Officer name:	Melissa Tierney	Ext: 53196
Lead Directorate:	Justice and Community Safety	

**Key Information**

- The design for the new facility was originally intended to include a large Territory Coat of Arms prominently displayed at the public entrance to the building. In addition, as is the convention, a Coat of Arms was also to be installed behind the bench in each new courtroom.
- The Chief Justice preference is the building not be badged (either externally or internally) with the Canberra Coat of Arms. There are a number of reasons for this, including that the Coat of Arms was granted to the City of Canberra only, and is arguably therefore inappropriate for use by the courts as it does not represent all people of the ACT.
- There is an existing Commonwealth Coat of Arms which will be restored and remain in place at the former entrance to the Supreme Court building. This existing Coat of Arms will remain only as a key piece of the heritage fabric of the building.

**Background Information**

- The Courts Project Team has been approached on a number of occasions by a group seeking to have the Coat of Arms changed as, in their opinion, it is not representative of the ACT, only the City of Canberra. On these occasions, the advice has been that changing of the Coat of Arms is a matter for Government, but that we would keep them updated on progress on the project.

Cleared as complete and accurate:	10/10/2018	
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## QUESTION TIME BRIEF

TRIM Ref: 2018/000089-001

**Portfolios:** Chief Minister

Police & Emergency Services

Attorney-General

**ISSUE: NATIONAL SECURITY ISSUES (INCLUDING CROWDED PLACE SAFETY AND BIOMETRICS)**

### TALKING POINTS

#### Counter Terrorism - General (Chief Minister)

- The ACT is a successful and harmonious multicultural society. This is one of our greatest strengths against acts of terrorism and violent extremism occurring in Canberra.
- Our identity is defined by an overriding commitment to our nation, its democratic values and the rule of law, not by race, religion or ethnic background.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- We cannot eliminate entirely the risk of terrorism any more than we can eliminate the risk of any serious crime. But we will do all we can to keep our community safe from those who seek to do us harm.
- Terrorism is a national issue, and we work closely with our interstate partners on the national security challenges that Australia faces.
- These national security challenges continue to evolve, so we need to keep our legislation and capabilities under constant review to meet these emerging issues.
- The ACT Government is committed to ensuring the safety and security of our community, and continues to work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism and violent extremism.

Cleared as complete and accurate:	19/11/2018	
Cleared by:	Executive Director	Ext: 78628
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Contact Officer name:	Andrew Butters	Ext: 70317
Lead Directorate:	Justice and Community Safety	

- The ACT continues to support community leaders and activities that help promote the vibrant, inclusive and culturally diverse nature of the ACT community while maintaining the rule of law and protecting human rights.
- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening, call Triple-Zero (000).

### **Terrorist Attack in Melbourne (Chief Minister)**

- The terrorist attack in Melbourne on 9 November 2018 has shocked Australians. The deepest sympathies of all Canberrans are with victims and families affected by this terrible incident.
- ACT Policing continues to do all it can to keep Canberrans safe as they go about their business in public places. Our law enforcement, security and intelligence agencies continue to work closely together to keep people safe.
- While the national terrorism public alert level remains at PROBABLE, there is no specific or credible threat to the ACT. The ACT Government in conjunction with ACT Policing continually reviews its security arrangements within the current risk environment.
- Reporting concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400. If an incident occurs that is life threatening, call triple-zero.

Cleared as complete and accurate:	19/11/2018	
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**Safety in Public Places (MPES)**

- The safety of Canberrans as they go about their business in public places remains a key focus for the government.
- While the national terrorism public alert level remains at PROBABLE, there is no specific or credible threat to the ACT. The ACT Government in conjunction with ACT Policing continually reviews its security arrangements within the current risk environment.
- In 2017, the Commonwealth Government launched *Australian's Strategy for Protecting Crowded Places from Terrorism*. The strategy provides a consistent, national approach to protecting crowded places which can be applied flexibly to suit local circumstances.
- The ACT Government continues to work in partnership with ACT Policing and other law enforcement and intelligence agencies to implement the Strategy and provide for the safety of resident and visitors who enjoy Canberra's public places.
- In the 2018-19 budget, the ACT Government allocated over \$1.5 million in funding towards improving the security of public places through CCTV enhancements, security risk assessments and additional resources for ACT Policing to implement the strategy.
- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.

**Facial Biometric Matching Capability (Chief Minister)**

- At the October 2017 Counter Terrorism Council of Australian Governments (COAG) meeting, I agreed to the broad terms of a national agreement that will revolutionise the way identity verification is undertaken across the country.
- As a human rights jurisdiction, the ACT has established a bilateral schedule to the national agreement to ensure ACT participation in a way that is consistent with the ACT's human rights and privacy laws, while supporting national security needs.
- Detailed negotiations are now underway to determine the exact terms that will apply to use of the capability. The ACT is actively participating in these negotiations.
- Limitations placed on how ACT data can be used will not limit the ability of other jurisdictions to participate with one another in the capability.

Cleared as complete and accurate:	19/11/2018	
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Contact Officer name:	Andrew Butters	Ext: 70317
Lead Directorate:	Justice and Community Safety	

- The ACT will continue to explore additional participation for ACT in the range of services offered by the capability, pending further privacy and human rights scrutiny.

**If asked about recent reports that the Australian Criminal Intelligence Commission has decided to discontinue its Biometric Identification Services project.**

- This project is unrelated to the National Driver Licence Facial Recognition Solution, and the decision does not impact on the Intergovernmental Agreement signed in October 2017.

**Defence support to National Counter-Terrorism arrangements (Chief Minister)**

- In 2016, the Commonwealth Government initiated a review of Defence support to national counter-terrorism arrangements in response to the changing nature of the terrorist threat.
- State and Territory police remain, and will continue to remain, the primary responders to any terrorist attack.
- While Defence's primary role in counter-terrorism is offshore, Defence possesses specialist capabilities that could support state and territory governments in responding to an attack.
- The Commonwealth Government in close consultation with all States and Territories has worked to develop options for practical counter-terrorism engagement and cooperation between the Australian Defence Force (ADF) and State and Territory police.
- Additionally, in 2017 the Commonwealth Government announced proposed amendments to Part IIIAAA of the *Defence Act 1903* (the Defence Act).
- Part IIIAAA provides the framework for authorising the ADF to use force to resolve a domestic violence incident, including terrorism, in support of States and Territories.
- The Commonwealth Government has introduced the Defence Amendment (Call Out of the Australian Defence Force) Bill 2018 to amend Part IIIAAA of the Defence Act. The Bill will seek to simplify the authorisation process for callout, and enhance the ability of states and territories to request Commonwealth assistance, through the ADF, in responding to domestic violence incidents including terrorism.

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- In particular the Bill will:
  - make it easier for states and territories to request ADF support where necessary to assist in the event of a violent or terrorist incident
  - allow the Government to pre-authorise the ADF to respond to threats on land, at sea and in the air
  - simplify, expand and clarify the ADF's powers to search, seize, and control movement during a violent or terrorist incident
  - enhance the ability of the ADF to respond to incidents occurring in more than one jurisdiction.

**If asked about reports that the amendments to the Defence Act will allow the call out of Defence to deal with strike action or protests.**

- The current call out provisions within the Defence Act contain a prohibition against the Defence Force stopping or restricting any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons or serious damage to property.
- This prohibition against stopping or restricting protest, dissent, assembly or industrial action is retained in the proposed amendments to the Defence Act, just in a different format to assist in the readability of the call out provisions.

## **TALKING POINTS**

### **Key Information**

- Australia's National Terrorism Threat level remains at **PROBABLE**.
- Credible intelligence, assessed by national security agencies indicates that individuals or groups have developed both the intent and capability to conduct a terrorist attack in Australia.
- Since the national terrorism threat level was raised on 12 September 2014, there have been seven attacks and 15 major CT disruption operations in response to potential attack planning in Australia.
- There are currently no known specific or credible threats to the ACT.

### **Background Information**

- The Australian Government has taken twelve tranches of legislation through Parliament since August 2014 to strengthen Australia's counter-terrorism arrangements.

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## QUESTION TIME BRIEF

- COAG has agreed to a range of legislative measures including:
  - enhancing the existing Commonwealth pre-charge detention regime under Part 1C of the *Crimes Act 1914*
  - legislation implementing the presumption against bail and parole for people who have demonstrated support for, or have links to terrorist activity, will be underpinned by nationally consistent principles
  - a new Commonwealth offence that will allow law enforcement agencies to intervene when an individual is in possession of instructional terrorist material, with appropriate safeguards
  - a new Commonwealth terrorism hoax offence. This will ensure that the potentially broad nature of terrorism hoaxes is criminalised in all jurisdictions.
  - A National Security COAG Meeting will be held on 12 December 2018.

Cleared as complete and accurate:	19/11/2018	
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TRIM Ref: 2018/000083-024

**Portfolio:** Attorney-General & Police and Emergency Services**ISSUE: SERIOUS AND ORGANISED CRIME RESPONSE**

Outlaw Motorcycle Gangs (OMCGs) are involved in criminal activities across Australia such as drug production and trafficking, vehicle rebirthing, firearms offences, money laundering, extortion and serious assaults.

**TALKING POINTS**

- The ACT Government is strongly committed to responding to the criminal activities of OMCGs in order to ensure Canberra is a safe and secure community.
- ACT Policing has established an OMCG Taskforce – Taskforce Nemesis – to focus on operational and investigative responses to OMCG activity.
- The Taskforce is supported by a suite of criminal laws developed by the ACT Government over a number of years, and continued investment to ensure that ACT Policing has the resources it needs to combat criminal gangs in the ACT.
- Over the past 12 months a number of steps have been taken by the ACT Government to help law enforcement effectively target organised crime, including the introduction of crime scene powers, fortification laws and offences related to drive by shooting.

*Anti-consorting laws*

- The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.
- The Government does not support the introduction of consorting laws at this time.
- Any future consideration of consorting laws would need to be informed by strong evidence establishing the requirement for, and effectiveness of, such laws.
- Laws of this nature would also need to allay unresolved Government and community concerns about conflict with human rights and criminal law principles.
- Law reform decisions are made by the Government taking into account need and evidence about their effectiveness as well as the views of our stakeholders and the broader community.

Cleared as complete and accurate:	19/11/2018
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- It should be noted that jurisdictions with consorting laws continue to face problems linked to the criminal activities of OMCGs.

### Fortification removal laws

- Fortifications are structures designed to stop or hinder uninvited entry to premises.
- The *Crimes (Fortification Removal) Amendment Bill 2017* was passed in February 2018.
- The Bill provides the Chief Police Officer with the power to apply to the Magistrates Court for an order that the occupier of the premises remove fortifications on the premises. The Bill also prohibits the establishment of fortifications on certain premises.
- These laws will help make the ACT a hostile environment for criminal gangs to prevent the establishment of fortified premises such as OMCG club houses.
- The *Crimes (Fortification Removal) Amendment Act 2017* commenced on 1 September 2018.

### Crime scene powers and drive-by shootings

- The *Crimes (Police Powers and Firearms Offence) Amendment Act 2017* commenced on 8 December 2017.
- The Act introduced statutory crime scene powers to allow police officers to preserve evidence in a timely manner at crime scenes in both public and private places while taking the least restrictive approach to limiting a person's right to privacy.
- The Act also created a new offence of 'drive by shooting' which deals with people shooting at a building, including a home, whether from a car or otherwise. The offence is punishable by a maximum of 10 years imprisonment.
- These new laws have been used by ACT Policing to support its work to combat criminal groups in the ACT.

### Unexplained wealth

- The Commonwealth Unexplained Wealth Legislation Amendment Bill 2018 passed Parliament on 19 September 2018.

Cleared as complete and accurate: 19/11/2018  
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- The Bill effectively introduces an unexplained wealth scheme in the ACT by extending Commonwealth unexplained wealth orders to ACT offences.
- Unexplained wealth laws provide a valuable tool to law enforcement to confiscate assets where a person linked to criminal activity cannot reasonably demonstrate that these assets have been lawfully obtained. These mechanisms complement traditional law enforcement responses.
- The Commonwealth scheme has been developed through consultation with states and territories over the past four years. The ACT has been part of these discussions, remaining vigilant in its commitment to work as part of the ongoing national effort to disrupt, disable and dismantle the activities of organised crime.
- The ACT Government has been working with the Commonwealth to finalise an Inter-governmental Agreement (IGA) that will allow the ACT to benefit from key aspects of the scheme including preferable treatment under new equitable sharing arrangements.
- On 20 November 2018, the Government agreed to the Attorney-General signing the IGA on behalf of the ACT.

## **Background**

At the most recent meeting of the Council of Attorneys-General (CAG) held on 8 June 2018, participants agreed that organised crime is a serious and pervasive threat to the community. In recognition of this, participants agreed to have regard to the statement of guiding principles when developing legislative responses to combat organised crime. The principles will be considered in further detail at the first CAG meeting in 2019.

As at 6 November 2018, ACT Policing has identified four OMCGs that operate in the ACT (the Rebels, the Nomads, the Comancheros and the Finks) with a total number of members associated with the ACT chapters of these Criminal Gangs estimated at approximately 60 people.

The ACT Government remains strongly committed to embracing practical legislative measures to address serious and organised crime in order to keep Canberra a safe and secure community.

### Anti-Consorting Laws

Consorting laws make it an offence to associate with a person after being issued with a warning to refrain from associating with that person.

All jurisdictions except the ACT have consorting law schemes. Consorting law schemes differ in each jurisdiction. Some legislative schemes have been found to be invalid by the High Court. The Victorian model is the only model that requires law enforcement to demonstrate a link between the association of two people and the commission of a criminal offence. Obtaining evidence to support this belief may be challenging in an operational context.

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The Human Rights Commission advised that without a suspected link to identifiable criminal activity, it is unlikely that consorting laws will be cured of their inherent incompatibility with the *Human Rights Act 2004*.

The ACT has not supported the introduction of consorting laws to date due to the lack of evidence for their effectiveness and the significant human rights implications.

*Recent media*

- On 28 August 2018 [media](#) reported on an image of the Nomads OMCG on Mount Ainslie, which lead to renewed calls for anti-consorting laws from Mr Hanson.
- On 15 November 2018 the [media](#) published an article reporting on the Annual Report hearing conducted on 14 November 2018 in the Police and Emergency Services (JACS) portfolio. The report makes reference to the ACT Opposition party indicating Mr Hanson will attempt to introduce anti-consorting laws for a second time in either late 2018 or early 2019.

Cleared as complete and accurate: 19/11/2018  
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TRIM Ref: 2018/000089-004

**Portfolio:** Attorney-General**ISSUE: ACT GOVERNMENT CLOSED CIRCUIT TELEVISION CYBER RISKS****Talking points:**

- Cyber security remains a top priority for the ACT Government. A dedicated team of ICT security specialists work to protect ACT Government information and the security and integrity of its ICT systems and networks.
- The ACT Government has worked closely with Australian Cyber Security Centre to understand the risks of this equipment and how they can be mitigated.
- The ACT Government has identified several ACT Government buildings that operate closed circuit television (CCTV) equipment manufactured by the two companies.
- The ACT Government has finalised and issued instructions to all operators of the equipment on how to effectively mitigate potential cyber risks through the use of this equipment.

If asked about specific instruction.

- It would be inappropriate to discuss specific security arrangements. Questions about Shared Services ICT Security are best referred to the Minister for Government Services and Procurement.

If asked about the Public Safety CCTV Network or any aspect of its operation.

- Refer to the question to the Minister for Police and Emergency Services.

**Background Information**

- On 12 September 2018, ABC News ran a [story](#) that CCTV equipment manufactured by Chinese companies Hikvision and Dahua had been banned in the US due to concerns they were creating a 'surveillance network' among federal agencies. ABC highlighted that these equipment was also in use by the Australian Government.
- On 14 September, The Canberra Times lodged the following query with the office of the Minister for Police and Emergency Services:

*Is the ACT government auditing its security cameras in the wake of this story? Are we going to replace the cameras if we have them? Or is it not that big of a deal.*

The response from the office of the Minister for Police and Emergency Services was:

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*The ACT Government does not use equipment manufactured by the two companies as part of the ACT's Public Safety CCTV Network.*

*The ACT Government has, however, identified a small number of instances where CCTV equipment manufactured by the two identified companies is in use. The ACT Government is assessing the need for further action based on information provided by equipment vendors and advice from the Australian Government.*

Sch 2 s 2.2 (a)(iii)

- On 6 November 2018, the Security and Emergency Management Branch issued an instruction to all ACT Government of Hikvision and Dahua equipment on how to manage potential cyber security risks, mainly through preventing the unfiltered access of the equipment to the internet.
- No Hikvision or Dahua CCTV equipment used by the ACT Government is proposed to be replaced.

Cleared as complete and accurate:	10/11/2018	
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TRIM Ref: 2018/000083-016

**Portfolio:** Attorney-General**ISSUE: CHILD ABUSE ROYAL COMMISSION – CRIMINAL JUSTICE REFORMS****Talking points:**

- Child abuse is unacceptable and ensuring the safety of children in our community is a top priority for the ACT Government.
- On 15 June, I presented the ACT Government's formal response to the approximately 300 recommendations of the Royal Commission that relate to State and Territory governments.
- Our response shows our clear, unambiguous commitment to protecting children, and righting wrongs.
- It demonstrates our intention to change the status quo, to effect cultural change within organisations, and to ensure the failures of the past are not permitted to continue.
- The response to the Royal Commission's 85 criminal justice recommendations shows our strong commitment to improving the ACT criminal justice system's response to child sexual abuse, through both legislative and non-legislative reforms.
- This response was informed by significant consultation and work we have already done on the criminal justice recommendations.
- For example, in February this year we made amendments to the existing ACT offences of grooming and maintaining a sexual relationship with a child, as well as sentencing reforms for child sex offenders, in response to the Royal Commission's recommendations.
- We have also long been a leader in adopting survivor-focused criminal laws, and already have in place a number of measures recommended by the Royal Commission.
- This includes, for example, measures to support vulnerable witnesses to give evidence in a way which protects against re-traumatising them.
- Between 22 March and 4 May 2018, I conducted a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission's recommendations. These views are being taken into account in the Government's reform process.

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- The major reforms the Government sought feedback on concern new legislation for failing to report offences, failing to protect at-risk children, the way victims and witnesses provide their evidence, and changes to trial and sentencing procedures for child sexual abuse offences.

*Royal Commission Criminal Justice Legislation Amendment Bill 2018*

- The Royal Commission Criminal Justice Legislation Amendment Bill 2018, introduced in October 2018 will implement eight additional Royal Commission recommendations, as well as other proposals made by stakeholders through the course of consultation on the Royal Commission reports.
- The Bill will help to support the protection of children from sexual abuse, and ensure that those who sexually abuse children are held accountable for their actions

*Reporting of sexual abuse – implications for religious confession*

- The Royal Commission’s recommendations around abuse disclosed in the context of religious confessions form an important part of the Report and the Government has accepted them in principle.
- The question of how to treat religious confession is currently part of a national conversation.
- The ACT Government has commissioned Her Honour Justice Julie Dodds-Streeton to provide an analysis report on the implementation of recommendations relating to the reporting of child sexual assault, which have implications for the confessional seal.
- Her Honour’s report will provide advice on how best to implement the relevant recommendations in a manner that is consistent across different reporting obligations, and takes account of constitutional law considerations and human rights obligations.
- Consultation is currently underway with key stakeholders, including representatives of churches, agencies and organisations responsible for the reporting of child abuse and organisations representing survivors and victims, to inform this report.

Cleared as complete and accurate:	06/11/2018	
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*Intermediary scheme*

- The Government accepted in-principle the Royal Commission's recommendations that an intermediary scheme should be established to help prosecution witnesses with a communication difficulty in a child sexual abuse prosecution.
- Work is proceeding within Government to provide advice on an appropriate model for an ACT intermediary scheme, following the Intermediary Forum hosted by the Victims of Crime Commissioner in October. This provided a valuable insight from NSW and Victoria where schemes have been piloted in the last few years.
- The Government will continue to work with stakeholders and the ACT community as we progress the implementation of the ACT Government's response to recommendations for criminal justice reforms.

**Key Information**Royal Commission Criminal Justice Legislation Amendment Bill 2018 (the Bill)

- The Bill was introduced on 25 October 2018, and will:
  - create a new offence in the Crimes Act 1900 of failure by a person in authority, in a relevant institution, to protect a child from the risk that a sexual offence will be committed against the child;
  - create a procedural mechanism for charging offences as a 'course of conduct' for child sexual abuse;
  - amend the sentencing provisions in the Crimes (Sentencing) Act 2005 so that sentences for child sexual abuse must be sentenced according to current sentencing practice rather than the sentencing practice at the time of the offending, while retaining the principle that a sentence must not exceed the maximum that applied at the time of the offence; and
  - amend the Evidence (Miscellaneous Provisions) Act 1991 to:
    - include principles for dealing with child witnesses;
    - harmonise the structure and definitions within chapter 4, which contains the Special Measures available to witnesses in proceedings; and
    - extend the availability of certain measures to more categories of witnesses, including witnesses with disability, family members of, and people in a special relationship with, particular vulnerable witnesses and for all child witnesses.
    - make consequential amendments to other legislation as a result of the changes to the Evidence (Miscellaneous Provisions) Act.

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## Criminal Justice Reforms

- The Government's full response to the Royal Commission's recommendations was released on 15 June 2018.
- A consultation process about the criminal justice reforms was supported by a series of factsheets and information available on the ACT Government's YourSay website and the Justice and Community Safety Directorate website.
- The Justice and Community Safety Directorate has been consulting directly with a range of key stakeholders in the justice system and more broadly to inform the Government's approach to legislative reform in this space. This includes consultation with the Sexual Assault Reform Program (SARP) Reference Group.
- In addition to the legislative reforms in the Bill introduced in October 2018, further reforms are proposed to be progressed in 2019 to implement other recommendations made by the Royal Commission.
- Implementing the recommendations relating to creating a failure to report offence and the extension of this to religious confessions has been a contentious topic in the ACT since legislation was introduced to expand the ACT's Reportable Conduct Scheme to religious confessions. Justice Dodd-Streeton's report is due in January 2019 and will be available to inform the treatment of religious confessions for the purpose of reporting of child sexual assault across the reportable conduct and mandatory reporting schemes, as well as the recommended introduction of a new failure to report abuse offence.

Cleared as complete and accurate:	06/11/2018	
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TRIM Ref: 2018/000083-017

**Portfolio:** Attorney-General**ISSUE: COMMONWEALTH REDRESS SCHEME FOR SURVIVORS OF INSTITUTIONAL SEXUAL ABUSE****Talking points:**

- The ACT Government acknowledges the nature and impact of the abuse suffered by victims of child sex sexual abuse. Many survivors of child sexual abuse suffer long lasting and severe injuries that can affect them for the rest of their lives.
- The ACT Government is working closely with the Commonwealth and other jurisdictions to implement the Redress scheme in a manner that ensures that meets the needs of survivors.
- The Scheme started on 1 July 2018 and will run for 10 years.
- The Scheme will offer access to psychological counselling, a direct personal response from the responsible institution and a monetary payment of up to \$150,000.
- All jurisdictions have announced they will join the Redress scheme.
- In addition, a number of non-government institutions have announced their participation in the Scheme. The Commonwealth has indicated this achieves coverage of over 90 percent of anticipated claimants.
- Survivors will be able to access legal and community support services to assist through the redress application process.
- The Commonwealth has established a dedicated telephone helpline (1800 737 377) and website ([www.nationalredress.gov.au](http://www.nationalredress.gov.au)) to provide information for survivors and their families about the Scheme.
- Based on actuarial estimations using population data, the experience of previous schemes and Royal Commission private hearings it is estimated that there will be 225 applications with ACT Government liability out of an estimated total of 830 across the ACT over the 10 years of the scheme. The Commonwealth will be responsible for claims pre self-government (11 May 1989) and non-government institutions will be liable for the balance.

Cleared as complete and accurate:	22/11/2018	
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- Modelling undertaken by the Commonwealth government when designing the scheme estimated that the average payment of Redress would be \$76,350.
- The Commonwealth has started to receive applications. As yet the ACT Government has not received a request for information in relation to any applications.
- However, the ACT has been preparing for the commencement of the scheme for some time, and is continuing to work with the Commonwealth Department of Social Services - the Scheme Operator - to ensure that applications in relation to ACT Government institutions are responded to effectively.
- This includes work being undertaken by the Justice and Community Safety Directorate, together with other ACT directorates to manage several aspects of the scheme, including identifying the relevant information required in order to respond to applications made by survivors.
- Victim Support ACT will be coordinating the provision of counselling services where counselling support is a component of redress in relation to abuse which occurred in ACT government institutions.

The Restorative Justice Unit is supporting the provision of direct personal responses from representatives of ACT government institutions.

### **Key Information**

The Redress Scheme commenced 1 July 2018.

The Redress Scheme includes psychological counselling, a direct personal response and payments for up to \$150,000.

#### *Who is eligible for redress?*

A person is eligible if:

- the person, when they apply, is an Australian citizen
- was sexually abused as a child
- the abuse occurred before the start of the scheme
- one or more of the institutions participating in the scheme was responsible for the abuse.

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### *How the application process works*

The Scheme is being administered by the Commonwealth through the Department of Social Services, which receives applications from those seeking redress. In this context the DSS is Scheme Operator under the legislation establishing the Scheme.

DSS then requests information from the institution or institutions the applicant has identified in their application as those in which the abuse occurred.

Institutions have a timeframe in which to respond with relevant information (from their records) to assist the Scheme Operator to assess the application and make a decision about whether to make an award of redress and, if so, what monetary amount to award.

The test for whether to approve an application for redress is whether there is a reasonable likelihood that the person meets the eligibility criteria – ie that they were sexually abused as a child and one of more of the participating institutions is responsible for the abuse.

If it is assessed that this test is met the application for redress must be approved and the amount of a redress payment determined, as well as the psychological and counselling component of redress for the person.

Independent assessors are being appointed by the scheme operator to make these assessments. Jurisdictions, including the ACT, have had an opportunity to nominate people who could be suitable for appointment as an independent assessor.

### *Application of the scheme to people in gaol or who have convictions*

A person cannot apply for redress if they are in gaol, unless the Scheme Operator determines there are exceptional circumstances justifying the application.

A person who is sentenced to imprisonment for 5 years or longer is not entitled to redress unless the scheme operator is satisfied that providing redress would not bring the scheme into disrepute or adversely affect public confidence in or support for the scheme.

In considering whether there are exceptional circumstances justifying an application from a person in gaol or whether an application from a person sentenced to more than 5 years imprisonment would bring the scheme into disrepute, the Scheme operator will seek views from the Attorneys-General of the jurisdictions where the person is, relevantly, in gaol, was sentenced to imprisonment and where the abuse is stated to have occurred.

The ACT has advised that in these cases, the ACT will support the position that the person's application should be accepted. This is on the basis that there should be no discrimination against victims or survivors of institutional child sexual abuse, having regard to their status as prisoners or people who have been sentenced to a period of imprisonment. It recognises that the life path of some victims and survivors, including offending, will often be linked to the person's experience of abuse and the impact of this on their life.

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*Participating institutions*

The most recent advice from the Commonwealth is that nine non-Government institutions have joined the Scheme, including the YMCA, Scouts and the Salvation Army. A further 17 non-Government institutions have publicly announced that they will join the scheme, including the Anglican Church, the Catholic Church, the Uniting Church, the Lutheran Church, Barnardos and a number of grammar schools.

The Commonwealth is continuing to work with other organisations which have been named in applications.

*Claims to date*

The most recent information from the Scheme Operator (25 October) is that approximately 1700 claims have been received of which approximately one quarter have been assessed.

While no applications have been referred to the ACT Government to date, for the provision of information, it should be noted that any applications relating to abuse which occurred pre-self-government are being responded to by the Commonwealth. JACS has requested information from the Commonwealth on the number of such applications, to provide a more complete picture of claims relating to ACT Government agencies.

As at late October a small number (less than 10 payments) had been made.

**Funding for ACT redress**

In the 2018-19 Budget, the Government allocated \$13.9 million for the first four years of the National Redress Scheme, it is estimated that it will cost approximately \$30 million over the life of the Scheme.

Cleared as complete and accurate:	22/11/2018	
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TRIM Ref: 2018/000083-019

**Portfolio:** Attorney-General**ISSUE: RESIDENTIAL TENANCIES****Talking points:**Residential Tenancies Amendment Bill 2018 (No 2)

- The Residential Tenancies Amendment Bill 2018 (No 2) (the Bill) was introduced in the October 2018 sittings.
- The Bill will amend the *Residential Tenancies Act 1997* to improve protections for tenants and respond to stakeholder concerns.
- The Bill proposes the following amendments:
  - making it easier for tenants to keep pets in rental properties
  - making it easier for tenants to make modifications in rental properties
  - refining the domestic violence and personal protection order provisions to assist the ACT Civil and Administrative Tribunal (ACAT) to address practical issues that have arisen with current drafting
  - allowing tenants to vacate with no penalty during a fixed term when notice of a 'no cause' termination has been given
  - providing that a tenant does not need to pay a 'break lease' fee if the lessor finds a replacement tenant, subject to reasonable costs and
  - requiring lessors to apply to ACAT for any rental increase in excess of a prescribed amount.

## Applications to ACAT for rental increases above threshold

- The Bill specifies that lessors must apply to ACAT for a rental increase above the rental consumer price index plus ten per cent.

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- The CPI figure used is the rental component of the housing group of the Consumer Price Index for Canberra produced by the Australian Bureau of Statistics each quarter.
- The lessor will not have to seek ACAT approval if the tenant has agreed to the rental increase.
- When considering these applications about rental increases ACAT must consider:
  - the rental rate before the proposed increase;
  - the amount and timing of previous increases
  - the lessor's outgoings or costs for the premises;
  - services the lessor provides to the tenant;
  - the value of fixtures and goods supplied by the lessor as part of the tenancy;
  - the state of repair of the premises;
  - rental rates for comparable premises;
  - the value of any work performed or improvements carried out by the tenant with the lessor's consent;
  - any other matter the ACAT considers relevant.
- Given that the ACAT is required to consider 'outgoings and costs for the premises,' it is expected that the Tribunal will take into account land tax rates which apply to the property when determining whether a rental rate increase is excessive.

#### Withdrawal of rental properties

- Stakeholders have expressed concerns that the requirement for ACAT approval will contribute to withdrawal of rental properties, as it comes on top of ongoing increases in rates (under the Government's tax reform program) and previous increases in land tax.
- Under current market conditions, the ACT remains an attractive place to invest, with rental returns that compare favourably with other capital cities.
- The outlook for investment in the ACT property market remains positive, with the lowest vacancy rate in Australia.

Cleared as complete and accurate:	00/10/2018	
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- Construction activity and supply of new multiunit dwellings are at historically high levels.
- Planning for future developments is also strong, indicating that the market remains optimistic about future demand.
- Investors take into account a range of factors when making investment decisions, including broader economic conditions, rental yields and capital gains reflected in investment returns.
- This is also significantly influenced by the Federal Government's taxation policies such as treatment of negative gearing and capital gains tax. ACT Government policies, fees and charges are only one factor in the overall investment decision.

### Housing Strategy

- Ensuring that our residential tenancies legislation supports vulnerable people to be secure in their homes is a key Government priority.
- The Government released a new Housing Strategy for the ACT on 29 October. Its focus will be on assisting those who need help most.
- Improving the operation of the Residential Tenancies Act forms part of this work.

### **Background Information**

#### Rental CPI

- The rental component of CPI is based on actual rents paid by tenants occupying a property as their residence.
- As the same sample of dwellings is used each quarter, it will include both rental increases for existing tenants and rents paid by new tenants. The landlord's costs, including taxes, are not 'factored in' – the only factor is the rent that a landlord is receiving for a particular dwelling for at a particular point in time.

#### 8.4 HOUSING GROUP INDEX STRUCTURE

Group, sub-group, expenditure class	Item examples	Outlets/source of price collection
HOUSING		
Rents		
Rents	Rentals actually paid to private or government landlords, including housing authorities, by tenants or subtenants occupying unfurnished or furnished premises as their main residence	Real estate agents, State housing authorities, Centrelink, Department of Defence (in Darwin)

- The rental sub-group covers payments made by households as rent for both privately owned and government-owned dwellings. Rental payments for holiday homes are excluded as these are classified under Domestic holiday travel and accommodation in the Recreation and culture group. Prices for a sample of rented dwellings within

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each capital city are collected every quarter, with the sample stratified according to location, dwelling type and size of dwelling based on the most recent Census of Population and Housing.

Rental payments for privately owned dwellings in the metropolitan areas of each capital city are obtained from real estate agents under a matched sample approach, i.e. prices are collected for the same sample of private rental dwellings every quarter.

Government rents charged to pensioners and other welfare recipients are set as a proportion of income. As these incomes are known, rents for government-owned properties are derived from information provided by the state and territory housing authorities. Consequently, price movements can be readily estimated. Occasionally, the proportion used to set rents for government-owned dwellings changes. Again this is public knowledge and is readily available for use in estimating price movements.<sup>1</sup>

#### Review of the Residential Tenancies Act

- The report on the review of the Residential Tenancies Act was tabled in the June 2016 Legislative Assembly sittings.
- The report included first and second tranche recommendations.
- The Residential Tenancies Legislation Amendment Act 2016 gave effect to the first tranche recommendations, including:
  - requirements for smoke alarms
  - changes to bond release provisions
  - mechanisms allowing a person experiencing personal or domestic violence to apply to ACAT for changes to their tenancy arrangements.
- Second tranche recommendations include giving further consideration to the following issues:
  - conditional termination and possession orders
  - occupancy agreements
  - share house tenancies and subletting
  - early termination of a fixed term lease by a tenant who has accepted accommodation in social housing premises or aged care
  - reducing the maximum rent payable in advance to two weeks
  - ACAT issuing notices about additional inconsistent terms
  - tenant termination of a lease containing unlawful inconsistent terms

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<sup>1</sup> Source: ABS Cat. No. 6461.0 - Consumer Price Index: Concepts, Sources and Methods, 2017

## QUESTION TIME BRIEF

- removing or modifying the requirement for a ‘detriment to the lessor’s interest in the premises’ when terminating a lease on the grounds that a tenant has used the premises for illegal purposes
- minimum standards for reasonable security.

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TRIM Ref: 2018/000083-036

**Portfolio:** Attorney-General**ISSUE: CRIMES (CONSENT) AMENDMENT BILL 2018****Talking points:**

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not just for victims and survivors but also for the entire community.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws through introduction of the *Crimes (Consent) Amendment Bill 2018* (the Bill), which was introduced in the Legislative Assembly by Ms Caroline Le Couteur MLA in early April 2018.
- Broadly speaking, the Bill seeks to introduce a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Bill was referred by the Assembly to the Justice and Community Safety Standing Committee for inquiry. The Committee presented its Report to the Assembly on 31 October 2018.
- The Government is currently preparing its response to the Committee's Report, including through consultation with the Sexual Assault Reform Program Reference Group, which consists of representatives from key organisations responsible for responding to sexual assault in the ACT, and with consideration of the NSW Law Reform Commission's current review of sexual consent provisions in NSW legislation, which is yet to be presented.

**Key Information**

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, the Crimes Act includes a list of circumstances which 'negate' consent.

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- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of ‘free and voluntary agreement’.
- It is relevant that any proposed changes to sexual consent provisions are considered in connection with the large body of work being undertaken by Government to implement the *Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse*.

#### Law reform commission recommendations

- The 2010 Australian Law Reform Commission’s *Final Report Family Violence – A National Legal Response* recommends that ACT sexual offence provisions should ‘include a statutory definition of consent based on the concept of free and voluntary agreement’ (recommendation 25-4).
- The NSW Law Reform Commission is currently reviewing sexual consent provisions in NSW legislation. Public submissions are being accepted until 1 February 2019.

#### **Background Information**

- On 11 April 2018, Ms Le Couteur introduced the *Crimes (Consent) Amendment Bill 2018* in the Legislative Assembly. The Bill seeks to amend the *Crimes Act 1900* (Crimes Act) to insert a new statutory definition of consent for certain sexual offences and distribution of intimate images, and to exclude the operation of specified child sex offences to some young people.
- On 8 May 2018, the Assembly referred the Bill to the Standing Committee on Justice and Community Safety for inquiry and report. The Committee presented its report to the Assembly on 31 October 2018 with ten recommendations, including that:
  - the Bill as introduced into the Legislative Assembly on 11 April 2018 not be proceeded with in its current form (Recommendation 1);
  - the ACT not consider or enact legislative change to introduce a definition of affirmative consent until the report from the current NSW Law Reform Commission inquiry in relation to sexual offences is presented (Recommendation 2); and
  - a definition of consent based on a concept of free and voluntary agreement, and affirmative and communicative consent be considered for enactment into ACT law (Recommendation 4).
- A Government Response is required to be tabled in the Assembly within four months of release of the Report – this being 1 March 2019.
- The Justice and Community Safety Directorate is undertaking work to implement the 2017 Criminal Justice recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, which will be relevant to considering how the Government will respond to the Standing Committee’s inquiry and report on the Bill.

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## Summary of the Bill

- The Bill proposes to insert a new statutory definition of consent into the Crimes Act. In summary, the definition would provide that consent means: a person gives free and voluntary agreement and the other person knows or is satisfied on reasonable grounds that the agreement was freely and voluntarily given. The Revised Explanatory Statement states that the policy goal of the new definition is to 'clarify the law of consent and provide better outcomes for victims and the community'.
- The Bill also creates an exception to offences of using a child for the production of child exploitation material, possessing child exploitation material, and grooming and depraving young people. The exception would dis-apply those sections to a defendant where, at the time of the alleged offence, the complainant was at least 10 years old, the defendant was not more than 2 years older or younger, and the complainant 'consented to the act constituting the offence'.
- The Revised Explanatory Statement for the Bill states that insertion of the exception aims to ensure that young people consensually sharing sexual material between each other are not at risk of prosecution. It suggests the amendments would promote consistency with the age of consent in other provisions in the Act, including section 55 (sexual intercourse with a young person), section 61 (acts of indecency with a young person) and section 72D (distribution of intimate image of a young person).

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