



**ACT**  
Government

Justice and Community Safety

## Open Access release outcome decision – Partial access granted

**Document Category:** Ministerial Briefs

**Title of document:** Attorney General – Quarter 3 2018 briefs

**Description of the information:** Question Time and Oversight Briefs provided to the Attorney General between 1 July to 30 September 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:*

- (xi) *prejudice trade secrets, business affairs or research of an agency or person.*

On balance, I consider the ministerial briefs to be in the public interest to release, with minor redactions to information that may prejudice the business affairs of other parties if disclosed.

### 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.

## Open Access Decision – Quarter 3 2018 – Attorney General

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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  
4 October 2023



**ACT**  
Government

Justice and Community Safety

## OPEN ACCESS Q3 2018 SCHEDULE PORTFOLIO: ATTORNEY-GENERAL

No.	Folio	Description	Date	Status	Reason for non-release or deferral
<b>Sitting Week 31 July -2 August 2018</b>					
1	1-2	Question Time and Oversight Brief Index 31 July to 2 August and 14-16 and 21-23 August	August	Full release	
2	3-5	AG Budget Initiatives	August	Full release	
3	6-9	National Security Issues including Facial Biometrics	August	Full release	
4	10-12	Outlaw Motor Cycle Gangs – Taskforce Nemesis	August	Full release	
5	13-15	Serious and Organised Crime Response	August	Full release	
6	16-20	Casino Announcement	August	Full release	
7	21-23	Gambling and Racing Matters	August	Full release	
8	24-28	Govt Response to Stevens Report and Community Club Contributions	August	Full release	
9	29-31	Child Abuse Royal Commission	August	Full release	
10	32-33	Redress	August	Full release	
11	34-37	Family Violence Policy	August	Full release	
12	38-41	Bail Laws	August	Full release	
13	42-47	DPP Resourcing	August	Full release	
14	48-52	Resourcing of Magistrates and Coroners Court	August	Full release	
15	53-54	Coroner’s Court Reform	August	Full release	
16	55-56	Judicial appointment process	August	Full release	
17	57-63	Residential Tenancies	August	Full release	
18	64-71	Greyhound Funding and Transition to end Industry	August	Full release	
19	72-76	Gaming Machine Harm Reduction Measures	August	Full release	
20	77	Crimes (Consent) Amendment Bill 2018	August	Full release	
21	78	Drug and Alcohol Court	August	Full release	
22	79	Liquor Reforms	August	Full release	
23	80	Community Club Grants	August	Full release	
24	81	Community Legal Centres	August	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
25	82	Commonwealth Funding (DV Women's safety)	August	Full release	
26	83	Moss Review	August	Full release	
27	84	ACT Policing Crime Statistics	August	Full release	
28	85	Eastman Update	August	Full release	
29	86-87	New Court Facilities	August	Full release	
<b>Sitting Weeks 14-16 August 2018 and 21-23 August</b>					
30	88-89	Question Time and Oversight Brief Index 14-16 and 21-23 August	August	Full release	
31	90-92	AG Budget Initiatives	August	Full release	
32	93-96	National Security Issues including Facial Biometrics	August	Full release	
33	97-99	Outlaw Motor Cycle Gangs – Taskforce Nemesis	August	Full release	
34	100-102	Serious and Organised Crime Response	August	Full release	
35	103-107	Casino Announcement	August	Full release	
36	108-110	Gambling and Racing Matters	August	Full release	
37	111-118	Govt Response to Stevens Report and Community Club Contributions	August	Full release	
38	119-121	Child Abuse Royal Commission	August	Full release	
39	122-123	Redress	August	Full release	
40	124-127	Family Violence Policy	August	Full release	
41	128-131	Bail Laws	August	Full release	
42	132-137	DPP Resourcing	August	Full release	
43	138-143	Resourcing of Magistrates and Coroners Court	August	Full release	
44	144-145	Coroner's Court Reform	August	Full release	
45	146-147	Judicial appointment process	August	Full release	
46	148-154	Residential Tenancies	August	Full release	
47	155-162	Greyhound Funding and Transition to end Industry	August	Full release	
48	163-167	Gaming Machine Harm Reduction Measures	August	Full release	
49	168-171	PPP Law Courts Progress	August	Partial release	Schedule 2, 2.2(a)(xi)
50	172-174	Thoroughbred Racing Issues	August	Partial release	Schedule 2, 2.2(a)(xi)
51	175	Crimes (Consent) Amendment Bill 2018	August	Full release	
52	176	Drug and Alcohol Court	August	Full release	

No.	Folio	Description	Date	Status	Reason for non-release or deferral
53	177-178	Liquor Reforms	August	Full release	
54	179	Community Club Grants	August	Full release	
55	180	Community Legal Centres	August	Full release	
56	181	Commonwealth Funding (DV Women's safety)	August	Full release	
57	182	Moss Review	August	Full release	
58	183	ACT Policing Crime Statistics	August	Full release	
59	184	Eastman Update	August	Full release	
60	185-186	New Court Facilities	August	Full release	

**ATTORNEY-GENERAL**  
**QUESTION TIME and OVERSIGHT BRIEF INDEX**  
**31 July to 2 August and**  
**14-16 and 21-23 August**

Question Time Briefs (updated for each Assembly Sitting Period)	
1.	AG Budget initiatives
2.	National Security Issues (including Facial Biometrics, and privacy protections)
3.	Outlaw Motor Cycle Gangs – Taskforce Nemesis (Operational)
4.	Serious and Organised Crime Response (Policy)
5.	Casino Announcement
5.1	Aquis Entertainment unsolicited bid (ED QTB)*
6.	Belconnen Raiders Club (AC QTB)
7.	Govt Response to Stevens Report and Community Club Contributions
8.	Child Abuse Royal Commission
9.	Redress
10.	Family Violence Policy
11.	Bail Laws
12.	DPP Resourcing
13.	Resourcing of Magistrates and Coroners Court
14.	Coroner’s Court Reform
15.	Judicial appointment process
16.	Residential Tenancies
17.	Greyhound Funding and Transition to end Industry (Reg Services & TCCS QTB)
18.	Gaming Machine Harm Reduction Measures
	<i>Oversight Brief Index on next page</i>

Oversight Brief (updated weekly)	
	<p><b>Hot Issues</b></p> <ol style="list-style-type: none"><li>1. Crimes (Consent) Amendment Bill 2018</li><li>2. Drug and Alcohol Court</li></ol> <p><b>Ongoing Issues</b></p> <ol style="list-style-type: none"><li>3. Liquor Reforms</li><li>4. Community Club Grants</li><li>5. Community Legal Centres</li><li>6. Commonwealth Funding (DV Women's safety)</li><li>7. Moss Review</li><li>8. ACT Policing Crime Statistics</li><li>9. Eastman Update</li><li>10. New Court Facilities</li></ol>

\*In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) as the current record owner. Refer to the CMTEDD website ([www.cmtedd.act.gov.au](http://www.cmtedd.act.gov.au)) for further information on the release of this brief under Open Access.

\*2018\*000083-028

**Portfolio:** Attorney-General**ISSUE: 2018-19 Budget Summary – Minister for Police and Emergency Services****Talking points:**

The 2018-19 Budget invests **\$32.1 million** to keep the ACT safe by continued investment in a strong and secure justice system, including:

- **\$5.4 million** over four years to appoint an additional magistrate to maintain a timely and effective justice system including:
  - **\$3.1 million** for ACT Courts and Tribunal for full time eighth magistrate and support staff; and
  - **\$2.3 million** for Legal Aid and the Director of Public Prosecutions to respond to additional workload in the Magistrates Court.
- **\$7.3 million** over four years for more staff and resources for the Director of Public Prosecutions to respond to a growing city and more complex criminal trials.
- **\$1.9 million** over four years to appoint a full-time forensic pathologist to support the Coroner.
- **\$625,000** in 2018-19 to continue the scoping and design work on the Government election commitment to deliver a dedicated Drug and Alcohol court for the ACT.
- **\$1.1 million** over four years to modernise the Supreme Court Jury Management System.
- **\$187,000** in 2018-19 from the Confiscated Assets Trust to develop Canberra as a Restorative City through events and workshops.
- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response.

Cleared as complete and accurate: 23/07/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Richard Glenn  
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Lead Directorate: Justice and Community Safety

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## QUESTION TIME BRIEF

- **\$1.7 million** over four years to continue and expand CBR NightCrew to assist people affected by alcohol and or drugs in Civic nightlife precinct, partially offset by:
  - **\$954,000** million over four years jointly funded by various agencies (\$854,000 by JACS, Access Canberra, ACT Health and ACT Policing and \$100,000 by the City Renewal Authority).
- **\$640,000** over four years to establish a Senior Rights Services at Legal Aid to provide targeted legal services to older Canberrans who are experiencing, or are vulnerable to, elder abuse.

The funding also provides for:

- **\$70,000** in 2018-19 from the ACT Civil and Administrative Tribunal (ACAT) Trust for a quantity surveyor to examine the ACAT's future accommodation needs
- One-off funding of **\$6.1 million in 2018-19** for the retrial of Mr David Eastman for the murder of Mr Colin Winchester. This funding will provide:
  - **\$2.159 million** to fund judicial resources and the cost associated with managing the database in relation to the Eastman matter and subsequent proceedings, jury costs and other relevant expenses;
  - **\$2.2 million** resources for the Director of Public Prosecutions;
  - **\$0.695 million** resources for ACT Policing; and
  - **\$1.025 million** for Legal Aid to provide ongoing representation for Mr Eastman in relation to his retrial.

In addition, **\$5.5 million** over five years from 2017-18 is provided in the 2017-18 2<sup>nd</sup> Appropriation. This includes:

- **\$2.6 million** over five years to increase the capacity of the ACT Government Solicitor to support the implementation of the ACT Digital Strategy and the provision of legal advice to directorates on employment law and workplace rights.
- **\$970,000** over 18 months for more resources for the Office of the Director of Public Prosecutions to address organised crime.
- **\$547,000** over 18 months to continue the implementation of criminal law reform recommendations arising from the Royal Commission into Institutional Responses to Child Sexual Abuse.

Cleared as complete and accurate: 23/07/2018  
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Lead Directorate: Justice and Community Safety

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- **\$1.1 million** in 2017-18 to develop a model of care, procedures, design and finalising costs for the Drug and Alcohol Court.
- **\$293,000** in 2017-18 for the implementation of the Commonwealth Redress Scheme for Survivors of Child Sexual Abuse in Institutions, which will commence on 1 July 2018.

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## Background

The ACT's budget announcements will include initiatives relating to:

- More support for families and inclusion – Improving ACT Coronial Services;
- More support for families and inclusion – More resources for the Director of Public Prosecutions;
- More support for families and inclusion – Additional Magistrate;
- More support for families and inclusion – Retrial of Mr David Eastman;
- More support for families and inclusion – ACT Civil and Administrative Tribunal Accommodation – early planning;
- More support for families and inclusion – Drug and Alcohol Court;
- More support for families and inclusion – Implementing the National Redress Scheme for Institutional Child and Sexual Abuse;
- More support for families and inclusion – Canberra as a restorative city;
- More support for families and inclusion – Expanding CBR Night Crew;
- Better Government – New Jury Management System;
- More support for families and inclusion – Preventing and responding to elder abuse;
- Better support when it matters – Director of Public Prosecutions – Additional resources to confiscate criminals' assets;
- Better support when it matters – Criminal law reforms;
- Better support when it matters – Stronger resourcing for the Government Solicitor's Office;
- Better support when it matters – Drug and Alcohol Court establishment; and
- Better support when it matters – Redress for survivors of child sexual abuse in institutions.

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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.
- I was pleased to participate in the special Counter Terrorism Council of Australian Governments (COAG) meeting in Canberra in October of last year. A nationally consistent approach to preventing and responding to terrorist threats underpins Australia's national security in a complex and evolving threat environment.
- The special Counter Terrorism COAG was an important leaders meeting with the Prime Minister to consider a package of legislative and practical measures to further strengthen a nationally consistent approach to counter the threat of terrorism, and to help keep Australia safe.

Cleared as complete and accurate:	16/07/2018	
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## QUESTION TIME BRIEF

- 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 to implement the special Counter Terrorism COAG agreements.
- 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).

### 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.*

Cleared as complete and accurate:	16/07/2018	
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Lead Directorate:	Justice and Community Safety	

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## QUESTION TIME BRIEF

- 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*.
- 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 has been referred to the Senate Standing Committee for Legal and Constitutional Affairs.

### 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.

Cleared as complete and accurate: 16/07/2018  
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## QUESTION TIME BRIEF

- 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 ten tranches of legislation through Parliament since August 2014. COAG has agreed to a range of legislative measures including:
  - The Security of Critical Infrastructure Act 2018 which provides for the management of the national security risks of espionage, sabotage and coercion arising from foreign involvement in Australia's critical infrastructure
  - 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: 16/07/2018  
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Lead Directorate: Justice and Community Safety

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## QUESTION TIME BRIEF

TRIM Ref: 2018/000086-001

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

### ISSUE: OMCG INCIDENTS AND TASKFORCE NEMESIS

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 target criminal gang members to disrupt, detect and deter 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.
- As at 18 July 2018, there are four known Criminal Gangs (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.

Cleared as complete and accurate: 20/07/2018  
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Information Officer name: Tamsyn Harvey  
Contact Officer name: ACT Policing  
Lead Directorate: Justice and Community Safety



## QUESTION TIME BRIEF

- 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:
  - Executed 70 search warrants across the ACT
  - Seized 13 firearms
  - Seized \$61,750 in currency
  - Charged 34 offences

### Most recent criminal gang activity

- On 11 June 2018, a Molotov cocktail was thrown through a window and a firearm was discharged at a Ngunnawal residence. No one was injured in the incident. On 20 June 2018, the same residence was subject to an aggravated burglary, in which offenders forced in the front door of the residence and set fire to the property. As these matters remains subject to ongoing investigation, it would be inappropriate to comment further.
- On 28 June 2018, four offenders attended two residential properties in Calwell. A firearm was discharged at both incidents, and three vehicles were set alight at one of the residences. An adult male received medical treatment for a related injury to his hand. As these matters remain subject to ongoing investigation, it would be inappropriate to comment further.
- On 6 July 2018, a physical altercation broke out between six men on Anketell Street, Greenway. The men are believed to be criminal gang members and the altercation is understood to be a result of ongoing tensions between criminal gangs. As this matter remains subject to ongoing investigation, it would be inappropriate to comment further.

Cleared as complete and accurate: 20/07/2018  
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Information Officer name: Tamsyn Harvey  
Contact Officer name: ACT Policing  
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: 20/07/2018  
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Information Officer name: Tamsyn Harvey  
Contact Officer name: ACT Policing  
Lead Directorate: Justice and Community  
Safety

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  
Cleared by: Deputy Executive Director  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Chantel Potter  
Lead Directorate: Justice and Community Safety

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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.

### *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).

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

Cleared as complete and accurate:	20/06/2018
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Lead Directorate:	Justice and Community Safety

### 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.

Cleared as complete and accurate: 20/06/2018  
Cleared by: Deputy Executive Director  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Chantel Potter  
Lead Directorate: Justice and Community Safety

TRIM Ref: MIN:2018/000083-025

**Portfolio:** Attorney-General**ISSUE: CASINO****Talking points:**Provision of Key Information by Aquis

- On 13 April 2018 the Head of Service Ms Kathy Leigh wrote to Aquis Entertainment Chairman, Mr Tony Fung, the current licensee of Casino Canberra. The correspondence advised Aquis Entertainment that the company had until 14 May 2018 to progress the unsolicited bid that was first announced in 2015.
- The letter outlined that the Territory had been waiting since mid-2017 for key financial information to confirm the viability and capacity of Aquis Entertainment to undertake the proposed redevelopment, and that if the requested information was not received by 14 May 2018, the Territory would have no option but to assume Aquis Entertainment no longer wished to proceed with the proposal.
- The Government subsequently announced on 14 May 2018 that Aquis has been granted an extension of time to provide the requested information. Dialogue between the parties is continuing.

Staging of Casino Legislation (not a 'piecemeal' approach)

- A framework of interlinked Acts and Regulations regulates gaming in the Territory. Each Act or Regulation has its place in addressing particular matters and at any given time, there are a range of issues under consideration in the policy development cycle, some of which will require legislative changes to implement.
- When introducing the Casino (Electronic Gaming) Bill 2017, the Government foreshadowed that more legislative and regulatory changes were underway.

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- The *Casino (Electronic Gaming) Act 2017* allows the casino to start the process of buying gaming machine authorisations from other venues subject to certain requirements, and contribute to reducing the overall number of electronic gaming machine authorisations in the ACT.
- The *Casino and Other Gaming Legislation Amendment Act 2018* provides further details about the specific requirements for matters to be addressed by, and information to be given by the casino in a Social Impact Assessment (SIA). An SIA is required under the *Casino (Electronic Gaming) Act 2017* before any authorisations can be acquired.
- There are a number of administrative, operational and technical matters that will be addressed through future provisions. These include taxation provisions; specific rules and control procedures for operating gaming machines; approval processes; and certification and technical standards for gaming machines and Fully Automated Table Games (FATG) terminals, the centralised monitoring system and the pre-commitment system.
- The suite of harm minimisation measures applicable to casino electronic gaming will be informed by the Social Impact Assessment process and the community feedback received as part of that process.
- Some provisions are not required until the casino has successfully completed a redevelopment stage and is seeking to bring casino gaming machines and FATG terminals into operation.
- The Government is ensuring the community benefits from any increased gambling products being introduced at the casino. Any future application to operate gaming machines at the casino would be contingent on a substantial investment in the precinct and associated community benefit.
- Casino gambling is a highly regulated activity for harm minimisation, consumer protection and industry integrity reasons and I make no apology for an approach that has the right legislation in place at the right time.

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### Reduction to 4,000 Authorisations

- Under amendments introduced by the *Casino (Electronic Gaming) Act 2017*, any authorisations held by the casino are counted within the overall maximum number of authorisations in the Territory.
- Before acquiring any authorisations, the casino must undertake a Social Impact Assessment involving community consultation, and be issued with the appropriate authorisation certificates by the Gambling and Racing Commission.
- Once these regulatory processes are completed, the casino could acquire up to 390 authorisations from existing gaming machine licensees, for a total of up to 200 casino gaming machines and 60 FATG terminals (after 1-in-3 of the authorisations is forfeited to the Territory).
- Under the legislation, 50 per cent of the authorisations must be acquired from small or medium clubs/club groups, or hotels.
- The Government will reduce the maximum number of authorisations in the Territory to 4,000 by May 2020. Depending on the timing of the acquisitions, forfeiture associated with the casino acquiring authorisations may or may not contribute to the reduction to 4,000 authorisations.
- The Government commissioned an independent expert, Mr Neville Stevens AO, to undertake the Club Industry Diversification Support Analysis during April and May 2018. The Government is now considering Mr Stevens' report, which will inform decisions about the pathway to reach 4,000 authorisations.
- The *Casino and Other Gaming Legislation Act 2018* delays the commencement of Phase 2 of the trading scheme (which was scheduled to start by 31 August 2018 and required compulsory surrender of authorisations to reach a ratio of 15 authorisations per 1,000 ACT adults). Delaying the start of these provisions until 31 August 2019 will allow time for the pathway to achieve 4,000 authorisations to be finalised and for necessary legislative amendments to be introduced and considered by the Assembly.

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## Key Information

- In August 2015 Aquis Entertainment submitted a Stage 1 proposal to Government for the redevelopment of Canberra Casino and the surrounding precinct.
- In June 2017 Aquis was advised that the Government had given in-principle support for the proposal to progress to Stage 3 of the Investment Proposal Guidelines process, subject to the provision of certain information including financial information.
- The *Casino (Electronic Gaming) Act 2017* was passed on 2 November 2017 and commenced on its default commencement date of 13 May 2018. Under the Act, casino gaming machines are restricted to a maximum bet limit of \$2 and are subject to mandatory pre-commitment. All casino gaming machines and FATG terminals must be connected to a central monitoring system. The Act provides that a Social Impact Assessment is required as part of an application for an authorisation certificate for casino gaming machines or casino FATG terminals.
- The *Casino and Other Gaming Legislation Act 2018* was passed on 5 June 2018 and commenced on 15 June 2018. The Act:
  - provides for the establishment of a Casino Advisory Panel, when required, to make a recommendation to the Attorney-General on key decisions about the ownership or leasing of the casino, the grant or transfer of the casino licence, and the conversion of restricted authorisations to allow the operation of casino gaming machines or casino Fully Automated Table Game (FATG) terminals.
    - A Panel will provide increased transparency and independence in relation to the regulation of casino gaming in the Territory.
    - A Panel will consist of people with significant experience in relevant areas such as governance, law, integrity and probity assessments, finance, risk, urban design and property development.
    - The independent Panel's advice will be in addition to technical advice provided by the ACT Gambling and Racing Commission and the ACT Planning and Land Authority.
    - The Panel's report will be tabled in the Legislative Assembly.
  - provides for the introduction, through the making of a regulation, of the requirements and information that must be provided in a social impact assessment (SIA) for the casino. The casino SIA must include details of the proposed redevelopment of the casino and its precinct.
  - provides that gaming machines operated within 200 metres of the boundary of the casino by a gaming machine licensee that is related to the casino licensee will be subject to the same harm minimisation

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measures as casino gaming machines – including \$2 maximum bet limits, mandatory pre-commitment and the requirement to be connected to a central monitoring system.

- amends the *Gaming Machine (Reform) Amendment Act 2015* to delay the commencement of Phase 2 of the gaming machine trading scheme until 31 August 2019 to allow time for a revised approach to be finalised to achieve the Parliamentary Agreement commitment to reducing the number of gaming authorisations to 4,000 by 2020.

### Background Information

- Following the correspondence from the Head of Service of 13 June 2017, Government officials communicated with Aquis Entertainment in the form of a meeting between Deputy Director-General Enterprise Canberra Kareena Arthy and Aquis Entertainment Chief Executive Officer Jessica Mellor on 17 July 2017, and further letters from the Head of Service to Aquis Entertainment Chairman Tony Fung on 30 June 2017 and 16 January 2018.
- On 16 April 2018 Aquis provided the following statement to the ASX: ‘Aquis lodged the detailed business case for the project in June 2016 and did not receive advice from the Government for some 17 months.’ 17 months is the period from June 2016 to November 2017 (when the *Casino (Electronic Gaming) Act 2017* was passed). However, there had been ongoing communication with Aquis during this time as outlined above, and the legislation itself was tabled in the Assembly on 24 August 2017.

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**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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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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- 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:**

- 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.
- I am currently working towards implementing the Government commitment to reduce the number of gaming machine authorisations. Based on current numbers, it is expected that approximately 947 authorisations will need to be surrendered to reach 4,000.
- As I have previously stated, Mr Neville Stevens AO was engaged by the Government to conduct an analysis of the Club industry. His 'Club Industry Diversification Support Analysis' report has been received by the Government and I am in the process of considering his analysis.
- The report makes a number of findings and recommendations about how best to support clubs to voluntarily surrender their authorisations and to diversify their businesses to reduce reliance on gaming revenue. I will be announcing the Government's response to his findings in August.
- An Options Paper was release by the Justice and Community Safety Directorate (JACS) on 18 July 2018 to facilitate discussion. 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.
- JACS is keen to hear from stakeholders on what is good about this scheme, what could be improved and what the best structure of the scheme would be to maximise the benefit it provides to the community.. I would encourage all stakeholders to engage in the review.

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- The Government is yet to make their mind up on this matter. The feedback received by JACS in the course of the review will be considered by Government to determine the future of the community contributions scheme.

### Reduction of gaming machines in the ACT to 4,000 by 1 July 2020

- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020.
- Canberrans were encouraged to have their say on the ACT Government's YourSay website on options to achieve this maximum limit.
- The Government has held a number of meetings with club representatives on the most appropriate model and timeframes to achieve this reduction, and is currently considering the pathway to reach 4,000 authorisations.
- The ACT Government engaged Mr Neville Stevens AO, as an independent expert, to analyse potential options to support club industry diversification. Mr Stevens' engagement was announced 3 April 2018.
- The terms of reference for Mr Stevens' analysis make it clear that compulsory surrender of authorisations will commence from 1 April 2019, to reach a maximum of 4,000 by 1 May 2020.
- Over April and May 2018 Mr Stevens consulted with the club industry on options for incentives for clubs to surrender authorisations and support clubs in reducing their reliance on gaming machines revenue, while improving the services, facilities and benefits clubs provide to the community.
- Mr Stevens has submitted his report which will inform Government decision-making about supporting clubs to diversify their revenue streams as the number of gaming machine authorisations in the ACT reduces to 4,000 by 2020. I thank Mr Stevens for his assistance in this important matter.

### Community Contributions Review

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- The Parliamentary Agreement includes a commitment to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme. Appendix 2.6c of the Parliamentary Agreement also includes a commitment to establish an independent charitable fund to distribute nominated community funds to charitable and community causes levied on venues operating electronic gaming machines in the ACT.
- Consultation has commenced on 18 July 2018 with the release of an Options Paper. A range of options are provided for discussion including consideration of the current scheme, where clubs have discretion on the direction of funding or whether a portion of community contributions funding should be directed to a central fund, external of Government, for distribution to community purposes.
- The Options paper asks industry and community groups to consider and comment on the:
  - scheme objectives and the best structure for the community contributions scheme
  - impact of in-kind and monetary contributions and whether a cap is required
  - distribution of community contributions including categories and how to share the benefits of the scheme fairly
  - transparency around beneficiaries of contributions and how to improve governance arrangements.
- As part of the review, the Government is considering relevant reports and models for these types of schemes which operate in other jurisdictions, to identify any opportunities to maximise the benefits to the community from the scheme. The review is also considering issues such as the appropriate distribution of community contributions for the purpose of gambling harm reduction and other community purposes, as well as the transparency of these arrangements.

### Background Information

#### Parliamentary Agreement

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Parliamentary Agreement Commitment 9 is to reduce harm from gaming in the ACT by the following measures:

- 9.1 Reduce the number of electronic gaming licenses in the ACT to 4000 by 1 July 2020
- 9.2 Explore further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines
- 9.3 Increase the Problem Gambling Assistance Fund levy from 0.6 per cent of gross gaming machine revenue to 0.75 per cent, and direct additional funds into addressing problem gambling
- 9.4 Review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

### Consultation on reducing gaming machine authorisations

- On 29 June 2017, the Executive Director of Legislation, Policy and Programs, from the Justice and Community Safety Directorates (JACS), emailed club licensees about the Government's commitment to reducing the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020. Input was invited on views about the appropriate model and timeframes to achieve the target of 4,000 gaming machine authorisations. This was requested by 19 July 2017. The directorate received eight written submissions and met with several clubs; ACT Rugby Union Club, the Burns Club, Raiders Group, Eastlake Football Club and Ainslie Football Club, as well as Canberra Community Clubs.
- Community feedback on the options paper Implementing the Government Commitment to Reduce Gaming Machine Authorisations opened on 17 August 2017 and closed on 18 September 2017.
- JACS received six written submissions from clubs and one from the Canberra Gambling Reform Alliance.
- Your Office and JACS staff met with representatives of the club industry in December 2017 and January 2018 to discuss potential options for an incentive package for clubs. Meetings were held with Canberra Community Clubs (CCC), ClubsACT, Canberra Southern Cross Club Group, Magpies Sports Club Group and the Belconnen Labor Club Group.
- The Government agreed to Terms of Reference for the analysis undertaken by Mr Neville Stevens AO as an independent expert to provide a Club Industry Diversification Support Analysis.
- Mr Stevens met with Canberra Community Clubs, ClubsACT, United Voice and 23 club and club groups.

### Background – Not for public release:

- The report has now been received and makes a range of recommendations, including cash and non-cash incentives for early voluntary surrender of gaming machine authorisations. The report also recommends the establishment of a Diversification Support Fund, increasing capabilities of club boards through the introduction of mandatory training requirements and

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collaborative administrative support from government agencies to assist clubs in navigating planning approval requirements.

- Cabinet is due to consider the Report on 20 August. You provided advice to JACS Executives that the Government will release the Report publically along with an announcement of the incentive package as soon as possible after this date.

#### Community Contributions

- 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.
- Contributions are made to support community sports and recreational programs, reduce with the effects of gambling harm, develop community infrastructure and support not-for-profit groups and charities.
- A number of research papers were used to inform options paper. These are:
  - The Community Contributions Scheme Impact Analysis, Price Waterhouse and Cooper (September 2017)
  - Benefits and costs associated with licensed clubs operating poker machines in the ACT, Livingstone, C., Francis, L. and Johnson, M. (2017)
  - ACT Clubs' Community Contributions, ACT Auditor General (2018)
- Based on the Government's commitment and the findings of the above reports the options discussed for stakeholders consideration include the introduction of:
  - Option 1 – centrally administered fund for all community contributions; or
  - Option 2A – A centrally administered fund for a portion of community contributions, retaining the current scheme at the current prescribed percentage of 8 per cent of Net Gaming Machine Revenue (NGMR).
  - Option 2B – A centrally administered fund for a portion of community contributions, retaining the current scheme with a new but lower, prescribed percentage of contributions.
- On 4 July 2018 you released a media statement advising stakeholders of the impending consultation surround a review of the community contributions scheme.

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## QUESTION TIME BRIEF

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.
- On 22 March 2018, I opened a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission’s criminal justice recommendations.

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- That consultation process closed on 4 May 2018, and the ACT Government is currently considering the responses to the consultation.
- 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. It is publicly available at <https://www.act.gov.au/childabuseroyalcommission>. All states and territories are currently releasing their responses to the Royal Commission's recommendations.
- A consultation process in relation to criminal justice reforms arising from the Royal Commission was opened on 22 March 2018 and closed on 4 May 2018. The consultation process 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 will be progressed later in 2018 and 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

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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.

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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.

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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.

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TRIM Ref: 2018/000083-018

**Portfolio:** Attorney-General

**ISSUE: FAMILY VIOLENCE POLICY**

**Talking points:**

- Family violence is a serious issue that the Government remains absolutely committed to addressing. All Canberrans have the right to feel safe, and to be safe.
- The experience of domestic and family violence causes enduring damage to individuals and to society as a whole.
- The financial cost of family violence in our community is measured in the billions of dollars.
- The ACT Government views acts of family violence as intolerable and is actively working to make changes to protect the safety of all members of our community.

What is the Government doing to prevent family violence?

- Domestic and family violence is a difficult and complex problem which has no simple solutions.
- To prevent domestic and family violence we need to change the way Australians think and act in their homes. This means the whole community needs to be engaged in the job of changing attitudes and social norms.
- It was in recognition of this complexity that the ACT Government refocused its efforts to combat domestic and family violence in 2016. The commitment was to a comprehensive and long term reform agenda. The Safer Families package was the largest action to address family violence in Canberra's history.
- The investment in Safer Families is continuing. In the 2017-18 Budget the commitment has grown to \$23.5 million over four years.

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## QUESTION TIME BRIEF

- The reform program involves a new model for integration across Government, the community sector and the community. The work is being led by the first full-time Coordinator General for Family Safety, who commenced in October 2016.
- On 11 May 2018 the Government launched the Family Safety Hub, which will be a catalyst for change within the existing ACT service system. The Hub was developed through a co-design process led by the Coordinator General for Family Safety. It will bring together people with expertise to help find and test new solutions before allowing them to be scaled-up and merged into the broader justice and service systems. The Hub's first focus is on how to build better early intervention support for pregnant women and new parents.

### Death Review

- The Government has committed to introducing a family violence death review scheme for the ACT.
- This commitment was in response to the first and only ACT Death Review in 2016, which analysed 14 family violence deaths in the ACT between 2000 and 2012.
- A death review scheme will analyse information relating to family violence deaths in the ACT and make recommendations for system wide improvements to services to prevent similar deaths occurring in the future.
- Death reviews will help to improve family violence responses by examining the ways in which our systems and services performed when they were most challenged.
- The Justice and Community Safety Directorate (JACS) will consult with key stakeholders with a view to introducing legislation to implement a death review scheme in 2019-20.
- Comprehensive stakeholder engagement will be important to ensure establishment of a death review process that is consistent with best practice principles and appropriate for the ACT context.

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

- The ACT Death Review, published in May 2016, provided 28 recommendations for action, including the recommendation that the ACT establish a legislative scheme to enable future family violence death reviews.
- In June 2016, the Government published the ACT Government Response to Family Violence, which included a commitment to ‘legislate for the Attorney-General to order a future family violence death review and provide powers for those undertaking such a review’.
- An ACT death review model will require funding. Costing for a death review model is yet to be determined. Legislation, Policy and Programs (LPP) will prepare a detailed costing for the 2019-20 budget process.
- LPP is preparing to consult key family violence stakeholders on two draft death review models, in anticipation for implementation in 2019-20.
- All jurisdictions, except Tasmania and the ACT, have a family violence death review function.

Sentencing of Graham Dillon

- On 4 June 2018 Graham Dillon was sentenced to 41 years in jail, including 36 years for the murder of his 9-year-old son, Bradyn. Bradyn was killed on 15 February 2016 following months of abuse by Dillon. On the day of his death, Bradyn was beaten by Dillon, causing fresh brain injuries and causing older brain injuries to re-bleed. Bradyn died in hospital.
- In response to this tragedy, a week after Bradyn’s death, the ACT Government launched a review into system level responses to family violence in the ACT, also known as the Glanfield Inquiry. The Glanfield Inquiry considered the interactions between ACT Government Directorates, agencies and service providers to identify areas where the Government can improve support for families experiencing violence. A report was published in April 2016 and all 31 recommendations were accepted by the ACT Government.
- One of the key areas of reform identified by the Glanfield Inquiry is about information sharing between family violence agencies to ensure women and children receive the assistance they need. An ACT family violence death review scheme would address this issue as it will aim to facilitate better information sharing in the family violence context.
- The ACT Children and Young People Death Review Committee (the Committee) reviews information about the deaths of children and young people to help prevent similar deaths from happening in the future. This would include review of Bradyn’s death. An ACT family violence death review scheme would have a similar function to the Committee, and LPP will consult with the Committee in developing a family violence death review model.

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## Family Violence Policy

- On 6 June 2016, the ACT Government announced the Safer Families package which included \$21.42 million in funding and highlighted four key priority actions for the ACT Government, including:
  - appointing the first, full-time Coordinator-General for Family Safety to lead change and provide accountability across the service system;
  - implementing a collaborative and integrated approach to services through a dedicated Family Safety Hub;
  - authorising information sharing and collaborative practices via a new legislative framework; and
  - developing a skilled and educated workforce, especially frontline staff, to respond to the needs of adults and children experiencing family violence.

## Family Safety Hub

- The Family Safety Hub was a key commitment in the ACT Government's Response to Domestic and Family Violence. The Coordinator General for Family Safety has spent the last 12 months co-designing the final hub design with input from government, community services and front-line workers, experts and victims of domestic and family violence.
- The Family Safety Hub is funded at \$5.96 million over four years through the Safer Families Levy which sees each household contribute \$30 per year through their rates.

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TRIM Ref: 2018/000083-010

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

- The Government is committed to ensuring that the Territory's bail laws operate effectively and appropriately within the criminal justice framework.
- Bail is a long established practice in the criminal law which allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law.
- The *Bail Act 1992* (Bail Act) operates to both protect the community and uphold the administration of justice, recognising the operation of the presumption of innocence and an accused person's human rights under the *Human Rights Act 2004*. It takes account of a variety of competing rights, interests and expectations.
- The purposes of the Bail Act include ensuring that accused persons appear at Court, and managing the risks that might arise while an accused person is on bail.

Decisions to grant bail

- The ACT Government is committed to reform in the ACT criminal justice system to ensure that the legislation protects the most vulnerable, reflects community expectations, and provides a strong deterrent to criminal behaviour.
- There is always a risk that an alleged offender will reoffend, but this risk is taken into consideration under our bail laws, including through presumptions against bail for certain offences and conditions of bail which can be imposed, and the role of ACT Policing in ensuring that offenders comply with their bail conditions.
- While there is no statistical evidence available about the number of instances where a person offends on bail, the ACT Government is satisfied on the basis of available information that the mechanisms

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currently in place to determine the issue of bail and management of people on bail are satisfactory.

- The ACT Government commenced a trial Bail Support Program in 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.

### Review of bail laws

#### *Section 44 of the Bail Act*

- The most substantive recent reform to the Bail Act was the *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* which 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.

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- 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.

### **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.
- There are restrictions on the powers of police officers, magistrates and judges to grant bail in certain circumstances.
- For certain specified offences, the presumption in favour of bail is stated not to operate, creating what is sometimes referred to as a 'neutral presumption'. For these offences, the court must simply consider the criteria for granting bail, such as the likelihood of the person appearing in court in relation to the offence, the likelihood of the person committing further offences while on bail, harassing or endangering the safety or welfare of members of the public, interfering with evidence and witnesses or otherwise obstructing the course of justice, and the interests of the person.
- 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. This reflects that the protection and welfare of the community is to be one of the paramount considerations in relation to a bail decision.

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

- At the ceremonial sitting to mark her Honour Justice Penfold's retirement on 23 March 2018, the President of the Bar Association raised the declaration of incompatibility made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) that section 9C of the Bail Act (presumption against bail for certain offences) was not consistent with section 18(5) of the *Human Rights Act 2004* (which provides that 'Anyone who is awaiting trial must not be detained in custody as a general rule').
- The Government tabled the final government response to the declaration in the Legislative Assembly on 1 May 2012. In this response, the Government restated its commitment to bail laws that properly balance the presumption of innocence on the one hand and the right of the community to be safe and for justice to be done on the other. The final response also proposed options for minor and important amendments to the Bail Act. In tabling the final government response, the Government requested community views on the options proposed. Due to the diverse views received during consultation on the final Government response to the 2010 declaration of incompatibility in Islam, the ACT Government elected not to pursue any of the three options originally proposed.

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### *Coronial inquest into the death of Andrew Nolan Christie*

- In January 2018, Coroner Cook published his reasons for determining the manner of death of Mr Andrew Nolan Christie.
- In the days immediately prior to his death, Mr Christie was arrested for a family violence offence and refused police bail. Due to the timing of his arrest on a Saturday afternoon, he was transferred from police custody at the ACT Watchhouse to the Alexander Maconochie Centre (AMC) under the authority of section 30 of the *Corrections Management Act 2007*, which provides that an adult cannot be detained in a police cell for more than 36 hours. The transfers occur in order to provide services and accommodation beyond that which is possible for a person detained for lengthy periods in police cells.

### Police discretion in dealing with failures to comply with bail conditions (recent [media](#))

- On 8 June 2018, ACT Policing dealt with a failure to ensure timely compliance with bail conditions by arresting the accused person without a warrant. Section 56A of the *Bail Act 1992* applies if a person has been granted bail and a police officer believes on reasonable grounds that the person has failed to comply with one of the conditions of bail. In the case reported in the *Canberra Times*, the accused person reported to the Woden Police Station 39 minutes later than required by her conditions. The Magistrate presiding over the bail hearing the next day requested the prosecutor to remind ACT Policing it had discretionary powers that meant it did not have to jail people and alluded to the possibility of the accused having grounds for a false imprisonment claim.

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# QUESTION TIME BRIEF

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 will be open for a period of three weeks and will close 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.

### 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 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:

Position Level	2018-19 FTE	2019-20 FTE	2020-21 FTE	2021-22 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>

### 2017-18 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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- 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.
- In addition, 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.
- 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*

- Following the Government providing \$3.1million over four years for the appointment of an eighth magistrate, the Justice and Community Safety Directorate is currently undertaking recruitment processes for a new Magistrate.
- This process is being conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.
- Nominations have been 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.

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## QUESTION TIME BRIEF

- I hope to announce the successful candidate in the second half of the year.

### *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.

### *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.

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### Magistrate terms and conditions

- The Government will introduce a bill to support Magistrates by making the terms and conditions of their office more inclusive. The Government 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.
- 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.

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### 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.
- 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), which was passed in the Assembly in the March sittings, will 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.

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- 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.
- 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.

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

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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: 19/07/2018  
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## QUESTION TIME BRIEF

- 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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## QUESTION TIME BRIEF

TRIM Ref: MIN:2018/000083-020

**Portfolio:** Attorney-General

### ISSUE: JUDICIAL APPOINTMENTS PROCESS

#### Talking points:

- I am aware that the Bar Association has called for greater consultation with the local legal profession in the making of judicial appointments.
- The ACT Government recognises the importance of, and adheres to, a transparent process for selecting judicial officers.
- The process and criteria for selecting a new judge are set out in the *Supreme Court (Resident Judges Appointment Requirements) Determination 2015 (No 1)* which is available online.
- The ACT's legislative framework ensures a transparent, merit-based selection process for judges. The Government advertises judicial positions publicly and evaluates applications according to clear selection criteria.
- The ACT Government recognises the importance of views of the local legal profession, and seeks nominations from the ACT Law Society and the ACT Bar Association each time a judicial selection process is conducted.
- Evaluation of applicants is conducted independently and the Government is required to choose appointments based on the published selection criteria.
- The Government values the input of the local profession and will continue to engage with them in the context of the statutory framework.

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

- The Justice and Community Safety Directorate is currently undertaking recruitment of a new magistrate following the Government providing \$3.1million over four years for the appointment of an eighth magistrate.
- This process is being conducted in accordance with the requirements of the Magistrates Court (Magistrates Appointment Requirements) Determination 2009.

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## QUESTION TIME BRIEF

- Nominations have been sought from the local legal profession, including the Law Society and Bar Association, and community legal centres, and also from my counterparts interstate.
- I understand that the Government may be in a position to announce the successful candidate in the second half of this year.

### Key Information

- Selection processes and criteria for Judges, Magistrates and Special Magistrates, and Presidential Members of the ACT Civil and Administrative Tribunal are all set out online.
- Selection criteria for the judiciary include intellectual capacity, personal qualities, an ability to understand and deal fairly, efficiency and authority, communication, leadership and management skills.
- Before any appointment to the Supreme Court is recommended the Attorney-General must consult the current Chief Justice about possible appointees (other than for the Chief Justice).
- For temporary appointments or re-appointments there are more flexible provisions which support the continuity of services provided to the ACT community, but the experience, skills and qualifications of candidates are paramount considerations.

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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.
- Further, 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.
- I expect to introduce amendments addressing these issues later this year.
- The working groups are made up of key stakeholders including advocacy groups, people living in occupancy agreement accommodation and providers of occupancy agreement accommodation.
- Further, the government is actively considering all recommendations in the review of the Residential Tenancies Act along with the residential tenancy reforms announced in Victoria in October 2017.

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### Victorian reforms - Keeping pets in rental properties

- I am aware the Victorian Government has announced plans to amend the Victorian Residential Tenancies Act to make it easier for tenants to keep pets in rental properties.
- I understand that tenants in Victoria will be given the right to keep pets if they obtain the landlord's written consent, and that landlords will not be able to unreasonably refuse. I look forward to seeing this legislation when it is introduced.
- In the ACT, it is up to individual landlords to decide whether a tenant may have pets in a rental property. The standard residential tenancy terms do not refer to keeping pets in rental properties. However, on 29 April 2009 the ACT Civil and Administrative Tribunal (ACAT) issued a Practice Direction stating that due to the right of exclusive possession, tenants have an implied right to keep pets unless otherwise stated in the lease. It is therefore the obligation of Landlords to put in a specific clause to prohibit pets, or restrict the type and number of pets.

### Victorian reforms – other proposals

- The Victorian Government proposes to cap bonds at one month's rent where the rent is twice the current median weekly rent.
- In the ACT, the Residential Tenancies Act already provides that a landlord may only require or accept a maximum bond of four weeks' rent in all circumstances.
- The Victorian Government has announced proposed changes to the bond release process, including a 14 day automatic bond release process if there is no dispute.
- In the ACT, amendments were made to the bond release process in 2016 following the review of the *Residential Tenancies Act 1997*. These amendments modified the mechanism for releasing the bond money to allow an early opportunity to resolve any dispute before an application is made for release of the bond.

There is a positive obligation on the landlord to give the tenant an application for payment of the bond money out of the trust account within three working days after the termination of the residential

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tenancy. If the landlord wishes to make a deduction from the bond, the landlord must include in the form the reason for the deduction.

- The ACT Government is monitoring developments in other Australian jurisdictions, including Victoria. While Victorian residential tenancy law does not currently expressly prohibit rental bidding, the Victorian Government has stated it will introduce legislative amendments to restrict the practice.
- Other reforms proposed by the Victorian Government include abolishing ‘no specified reason’ notices to vacate, making it easier for tenants to make minor modifications to a property and creating a landlord and real estate agent blacklist. The Justice and Community Safety Directorate (JACS) will consider these reforms as part of the second tranche of the review of the Residential Tenancies Act.

### **Key Information**

#### Issues raised by Caroline Le Couteur MLA

- In a media release dated Thursday 10 May 2018, Caroline Le Couteur MLA of the ACT Greens expressed concern that the second tranche recommendations in the 2016 review of the *Residential Tenancies Act 1997* had not yet been implemented.
- Ms Le Couteur referred to the following recommendations from the report:
  - reducing the maximum rent payable in advance to two weeks, instead of the current four weeks, consistent with NSW;
  - allowing tenants to give 14 days notice to leave a rental property if they have been offered social housing;
  - giving tenants the power to terminate a lease if the terms are inconsistent with the RTA;
  - placing greater focus on sustainability and energy efficiency;
  - implementing minimum standards for safety and security.

#### Victorian proposals

Victoria announced a number of reforms to residential tenancies law in October 2017. Legislation has not yet been introduced.

The proposals include:

- residential properties Victoria will be given the right to keep pets if they obtain the landlord’s written consent, and that landlords will not be able to unreasonably refuse
- cap bonds at one month’s rent where the rent is twice the current median weekly rent
- abolishing ‘no specified reason’ notices to vacate

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- making it easier for tenants to make minor modifications to a property
- creating a landlord and real estate agent blacklist.

### **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.

### Occupancy Agreements

- Occupancy agreements cover a wide variety of different living arrangements for either short or long term accommodation, including boarding houses, student accommodation and manufactured home parks.
- The review of the Residential Tenancies Act in 2016 found that issues with occupancy agreements were complex and affect a diverse range of stakeholders.
- These issues included: a lack of awareness for parties to an occupancy agreement about their rights and responsibilities; collection of bonds which are not required to be lodged with the Office of Rental Bonds; termination of the occupancy and eviction from premises;

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application of occupancy agreements to community housing residents; and a grantor's rights of entry to occupied areas.

- Given the complexity, the 2016 review of the Residential Tenancies Act recommended the Government consider establishing a working group to consider the issues relating to occupancy agreements and develop recommendations.

The working group would be asked to consider the development of standard occupancy terms, with particular emphasis on providing occupants with protections similar to those enjoyed by tenants as far as possible while retaining flexibility.

- On 19 July 2017, JACS hosted an occupancy agreements discussion forum with independent facilitator Design Managers Australia.
- During the forum, key stakeholders identified important issues relating to occupancy agreements. Forum attendees included grantors and occupants of different kinds of occupancy accommodation, advocacy groups and representatives of associations for students and occupants of residential parks. Based on the discussions in the forum JACS established working groups focussing on different types of occupancy accommodation.
- The following working groups will provide advice and help develop recommendations for Government:
  - a caravan park and manufactured homes group that will look at short term solutions that can assist residents and also consider whether caravan parks should be regulated separately
  - a student group that will look at issues facing students in both on and off campus accommodation as long as the agreement could be characterised as an occupancy agreement and
  - a boarding house and crisis accommodation group that will look at whether a standard agreement term is needed, how to work with the ACT and Commonwealth obligations for the providers in this group, and whether further regulation is needed.
- The working groups for caravan parks and manufactured homes and for boarding house and crisis accommodation last met in June 2018. The student accommodation group last met in March 2018.

### Conditional termination and possession orders (CTPOs)

- The report on the review of the Residential Tenancies Act recommended that consideration be given to amending the CTPO provisions.
- CTPOs can be ordered by ACAT in situations where the tenant has failed to pay rent. Instead of making a termination and possession order to terminate the tenancy, ACAT may make a CTPO to give the tenant a further opportunity to address rental arrears. If the tenant fails to comply with the CTPO, the tenancy automatically terminates at a stated time after any rent becomes payable and is not paid.
- Automatic termination occurs even in circumstances where rent was paid late for reasons outside the control of the tenant, such as Centrelink processing delays.
- Automatic termination occurs even if the lessor does not want the tenancy to end.
- During the review, key stakeholders expressed concern about the automatic termination and its impact on vulnerable social housing tenants.

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- The Government passed amendments to the Residential Tenancies Act on 5 June 2018 to resolve these issues (the Residential Tenancies Amendment Act 2018). These amendments:
  - replace the CTPO provisions with a new concept of a payment order
  - provide that there is no self-executing component of the new payment order provisions so that a breached order will not automatically end a tenancy
  - give the lessor the right to apply for a termination and possession order and a warrant for eviction within 60 days if a breach of a payment order occurs
  - provide that if the lessor does not pursue a breach of a payment order within 60 days of the breach occurring, the tenancy continues and the debt remains with the tenancy, with this rule applying to further breaches of the payment order, and
  - automatically deem CTPOs in force immediately before the commencement day to be payment orders.

### Commercial Guarantees

- The Residential Tenancies Act allows a lessor to accept a guarantee or indemnity instead of a bond
- This is a promise to pay the lessor for damages that occur during a tenancy. The guarantee or indemnity is only enforceable to the maximum amount a bond would have been.
- The Residential Tenancies Act was amended in 2017 to improve consumer protections for tenants and lessors who enter into a commercial guarantee or indemnity contract.
- A Lessor can only accept a commercial guarantee if the standard guarantee contract is registered.
- The provider of commercial guarantee must apply to the Commissioner for Fair Trading for registration. The registration process is prescribed by regulation. The regulation prescribing this process commenced on 7 May 2018.
- Commencement of the provisions relating to registration were delayed to allow the Government time to consider the implications of commercial guarantee products, including consumer protection issues. These provisions commenced operation on 7 May 2018.
- The *Residential Tenancies Amendment Act 2018* introduced the following amendments to the commercial guarantee provisions:
  - The Bill extends the delay on the use of commercial guarantees as an alternative to a rental bond to give the Government further opportunity to consider the legal policy implications and conduct further stakeholder consultation
  - The Bill proposes amendments to the Act to provide that a person may only apply to the Commissioner for Fair Trading to register a standard guarantee contract for a commercial guarantee on or after a day declared by the Minister.
  - Any applications for registration of a standard guarantee contract made before this time that have not been decided by the Commissioner or have been refused by the

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Commissioner are deemed not to have been made. If any contracts have been registered before this date, the registration is deemed to have ended.

- Any guarantees entered into before the legislation commences will continue to be in force.

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## QUESTION TIME BRIEF

Portfolio/s Regulatory Services  
Transport & City Services

**ISSUE: GREYHOUND RACING**

**Talking points:**

*Racing ban and transition support*

- 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.
- This government's priority is the welfare of greyhounds, which are put at unacceptable risk through racing, and the people who have been affected by the end of racing in the ACT.
- That's why the Government established the Greyhound Industry Transition Taskforce, and why the Taskforce 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 support the process of ending greyhound racing and trialling in the ACT. The ACT Government announced the availability of over \$1m in transition support when we announced the decision to prohibit racing and trialling, over a year ago.
- Applications for transition support, and support to rehome ex-racing greyhounds, closed on 30 June 2018.

Cleared as complete and accurate: 19/07/2018  
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Lead Directorate: Chief Minister, Treasury and Economic Development

## QUESTION TIME BRIEF

- The Greyhound Industry Transition Taskforce received applications from a range of people, businesses and re-homing organisations for support.
- To protect the confidentiality of the individuals involved, I am unable to discuss these applications in detail.
- The Taskforce, with assistance from Woden Community Service, is now in the process of considering all applications that were lodged and making arrangements to disburse funds for eligible applicants.
- Free counselling will 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.

### *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.

### *Collaborative approach to compliance*

- The Transport Canberra and City Services (TCCS) Directorate, in collaboration with Access Canberra, is responsible for ensuring that any illegal conduct at the premises of the Canberra Greyhound Racing Club in Symonston is investigated and appropriate action taken.
- Upon commencement of the ban, TCCS and Access Canberra implemented a comprehensive approach to engage, educate and enforce the legislation. This has included an initial intensive compliance program lasting for two weeks from the date of the ban commencing, with compliance activities ongoing since then.
- Access Canberra and TCCS provided a range of written information to industry participants, including key contacts for people who wished to seek further information. Information on the racing ban and the ACT's new regulatory framework for racing greyhounds is available at [www.act.gov.au/greyhound](http://www.act.gov.au/greyhound).

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## QUESTION TIME BRIEF

- TCCS and Access Canberra engaged closely with industry participants, with inspectors from both agencies attending an information session at the Canberra Greyhound Racing Club on 2 May 2018 to explain the new legislation and answer questions. A further information session was held on 13 June 2018.
- Between 30 April 2018 and 13 May 2018, TCCS and Access Canberra conducted a total of **23** inspections of the Greyhound Racing Club as part of the initial intensive compliance program.
- During these inspections no racing, trialling or illegal betting activities were identified at the premises.
- Inspectors from both agencies have continued to conduct inspections of the venue and have at times attended Wednesday evening training sessions held at the venue with no issues being identified.

### *Breeding, training and registration*

- As indicated previously, it is still lawful for ACT residents to breed, train and own racing greyhounds here, subject to a range of measures designed to better protect ACT greyhounds who will continue to race interstate.
- More regular racing registration renewals, new licensing requirements on owners, trainers and breeders and a mandatory Code of Practice for people who have day-to-day control of greyhounds registered for racing, are now in place to improve our oversight of these practices in the ACT.
- This framework is designed to give us a better line of sight on the entire lifetime of greyhounds here in the ACT. For example, registering new litters within seven days now means that every young greyhound is to be accounted for, whether or not it is later registered as a racing dog.

### *Code of practice*

- The *Code of Practice for the Keeping and Breeding of Racing Greyhounds* commenced on 30 April 2018.

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## QUESTION TIME BRIEF

- Over a dozen stakeholders (including the Animal Welfare Advisory Committee, the RSPCA, the Canberra Greyhound Racing Club, the Australian Veterinary Association, greyhound welfare organisations and interstate racing authorities) provided feedback during consultation on the Code.
- All feedback was carefully considered in the Code's development. The ACT Government will continue to monitor the implementation of the Code, and the development of similar codes in other jurisdictions. Ongoing conversations with the industry will be part of this monitoring process.
- An ongoing review of greyhound breeding and training practices over the next two years will also help the Government assess whether any further intervention is warranted. This includes a review of the Code within twelve months of operation.

### *Fees for racing greyhounds in the ACT*

- The ACT Government has been clear that ACT residents will be able to continue to own, breed and train greyhounds for racing elsewhere only on the basis that it is at no cost to the broader ACT community.
- The fees that have been determined for registering a racing greyhound and obtaining a racing greyhound controller licence reflect this decision. They account for the anticipated costs of monitoring the welfare of greyhounds who are involved in racing, including tracking of greyhounds, regular inspections of premises and any necessary compliance activity.
- Engagement with keepers of ACT-based racing greyhounds has identified high levels of compliance with key welfare-related conditions such as kennelling facilities. A review of fees is being undertaken to ensure that fees accurately reflect the cost of service and do not unduly impact on the ability of otherwise compliant keepers to continue to train racing greyhounds in ACT. Opportunities to align with the new NSW Greyhound Welfare and Integrity Commission are also being explored.
- The ACT registration and licensing fees for racing greyhounds are distinct from the licencing required by greyhound racing controlling bodies. People who wish to race their ACT based dogs outside the Territory still

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Economic Development



need to comply with the requirements of the relevant controlling body (such as the NSW Greyhound Welfare and Integrity Commission).

- Opportunities to streamline processes between NSW and ACT, and ensure the highest standard of welfare for racing greyhounds are being considered.
- The NSW Greyhound Welfare and Integrity Commission commenced on 1 July 2018 as an independent regulator of the greyhound racing industry in NSW, and was a key recommendation of the Greyhound Industry Reform Panel set up in NSW.
- Anyone with questions about registration, licensing and compliance and the Code of Practice, are encouraged to contact Domestic Animal Services via Access Canberra on 13 22 81 to discuss their individual circumstances.

#### *The role of Woden Community Service*

- Mr Redmond, the CEO of Woden Community Service (WCS), is not a member of the ACT Government's Greyhound Industry Transition Taskforce. The Taskforce is made up of senior executives from across ACT Government.
- WCS has provided support to members of the ACT community for 49 years.
- Given the range of services that WCS is able to offer (including counselling, personal support and linkage with a wide range of Canberra's community services) together with their long and respected history in supporting the people of Canberra, the Taskforce engaged their services to assist those Canberra residents who are affected by the end of greyhound racing in the Territory.

#### *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.

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- 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% of the greyhounds that raced in the ACT in 2016 were based in NSW.
- The Durkin Report estimated that at the time there were approximately 70 Canberra residents who were active participants (i.e. owners, breeders and trainers) in greyhound racing in the ACT. Approximately 52 racing greyhounds were both owned by ACT residents and based here.
- 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).
- Given the length of time involved in the transition to implement the ban on greyhound racing, trialling and betting, the ACT Government is proposing a strong regulatory response to any individual or association that is found to be knowingly engaging in conduct that constitutes an offence in this regard.
- Access Canberra and the Transport Canberra and City Services Directorate established a joint agency initiative to provide appropriate inspection activity and

Cleared as complete and accurate: 19/07/2018  
Cleared by: Director X 50468  
Contact Officer Name: Belinda Barnard X 77525  
Stephen Alegria X 79833  
Andrew Nowlan X 52534  
Lead Directorate: Chief Minister, Treasury and  
Economic Development

ensure that any response to unlawful conduct is timely and dealt with by the appropriate agency.

- The Code of Practice and fee instruments were notified on 30 April 2018. Consistent with the Government's concern for people affected by the legislative changes, the focus of compliance activities has been on engaging and educating in the first instance. Nonetheless, in accordance with established regulatory approaches, wilful or recidivist non-compliance will be dealt with in a rigorous manner.

### **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 an 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.

### Durkin Report

- 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.

### NSW position on greyhound racing

- The NSW Government announced a ban of greyhound racing to take effect from 1 July 2017 but reversed the decision on 11 October 2016. This followed an earlier inquiry by the Honourable Michael McHugh AC QC into the greyhound industry in NSW which exposed wide-spread live baiting practices and animal cruelty
- The NSW Government will spend \$41 million over the next five years to implement the recommendations of its Greyhound Industry Reform Panel. Of this, \$11 million is allocated towards the establishment of an integrity commission with the remainder to improve animal welfare standards. The Greyhound Welfare Integrity Commission commenced operation on 1 July 2018. A statutory review of the new legislation will take place after three years.

### Legal challenges - Canberra Greyhound Racing Club

- The CGRC has two legal challenges against the ACT Government on foot.
- On 23 February 2018, the ACT Supreme Court handed down its decision in a matter brought by the Canberra Greyhound Racing Club (CGRC) against the ACT Planning and Land Authority (ACTPLA) regarding the lease over the greyhound track at Symonston. The Court found that

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Lead Directorate:	Chief Minister, Treasury and Economic Development	

## QUESTION TIME BRIEF

ACTPLA should have made a decision in regard to CGRC's application for a renewal of its current lease (due to expire in 2027) and that it was unreasonable to delay making a decision because of the possibility of legislative change that would ban greyhound racing. However, the Court found that ACTPLA should not now be ordered to make a decision regarding the lease because legislation has now been passed that will ban racing from 30 April 2018. The Court found that to require ACTPLA to act with regard to the lease renewal would be futile given the impending ban on the industry, and that their existing lease, which expires in 2027, provided CGRC all the certainty and protection that it needed to conduct its affairs until the ban commences.

- The CGRC has filed an appeal in this matter, and the appeal will be heard on 15 November 2018. The CGRC were also successful in obtaining an award of costs against the ACT in this matter until 29 November 2017 (the date on which the laws banning greyhound racing were passed in the Assembly). From that date, each party is to bear their own costs.
- On 2 November 2017, the CGRC also filed an application in the Federal Court seeking damages in relation to an alleged breach of the CGRC lease; a declaration that laws relating to ACTTAB and the control of race field information are invalid; a declaration that the instruments made under those laws are also or alternatively invalid; and a declaration that the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* is invalid. A hearing date has not yet been set.

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# QUESTION TIME BRIEF

TRIM Ref: 2018/000083-002

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

- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- I was concerned to hear about the outcomes of the recent Tribunal decision in relation to Professor Laurie Brown's experience.
- Now that the 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.
- Clubs who fail to take steps to protect their patrons should face penalties that reflect the significance of the harm they cause.
- 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.
- Prior to this case being decided, the Government was well underway in a program of work to explore and implement a broad range of options to ensure that the Territory's gambling harm minimisation rules are robust and fit for purpose.
- In 2017, the Government implemented a number of additional harm minimisation measures, including the introduction of legislation that restricts EFTPOS cash withdrawals in clubs to \$200 per transaction, with all stages of the transaction requiring human interaction with a trained staff member.
- During the second half of 2017, I engaged directly with a wide range of stakeholders in a series of roundtables to explore how harm reduction measures may be effectively developed in the Territory. Stakeholders spoken with included representatives of clubs, workers in clubs, and individuals with lived experience of gambling harm, community organisations, academic experts and regulators.

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

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## QUESTION TIME BRIEF

- The group discussed how to develop a better evidence base to minimise the potential of gambling harm, as well as a broad range of options that could be explored to improve harm minimisation, including the sharing of best practice between venues, improved staff training and self-exclusion procedures.
- Building on what I have learnt through this engagement, and taking into account the outcomes of Professor Laurie Brown's complaint, later this year I will bring forward amendments to the *Gambling and Racing Control (Code of Practice) Regulation 2002* that strengthen the protection the Code offers to people experiencing harm from gambling. At a minimum this will address self-exclusion and staff training measures.

### Investigation by the Gambling and Racing Commission into Patron Complaint

- Following an allegation that the Raiders Belconnen Club failed to comply with the *Gambling and Racing Control (Code of Practice) Regulation 2002*, which is itself a breach of the *Gaming Machine Act 2004*, this matter was investigated by the Gambling and Racing Commission. The Commission took disciplinary action against the Club imposing a fine of \$120,000, finding that the club did not record signs that a patron had a gambling problem, as required under the Code of Practice.
- The Club lodged an appeal against the decision to the ACT Civil and Administrative Tribunal that was referred for a mediation hearing. The outcome of this was, by consent of the parties (that is the Raiders and the Commission), a \$60,000 financial contribution by the Raiders to a charity which supports those affected by gambling harm and the remission of the Commission's decision back to the Commission for reconsideration.
- The Commission has subsequently confirmed that it was appropriate to take disciplinary action and it considers that the outcome of the consent orders made by the Tribunal achieves the intention of the Commission's initial action – to prove that the Raiders had not complied with the club's obligations.
- Given the outcome in this matter, I will be seeking the views of the Commission and others about the capacity of the *Gambling and Racing Control (Code of Practice) Regulation 2002* to deal with breaches of the obligations of clubs.

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This will be done as part of a thorough review of the Regulations, and changes identified as needed to strengthen the Regulations will be made by the end of the year.

- The Government will also continue to work with gaming machine licensees and the club sector to develop a range of strategies and measures to reduce harm caused by the playing of gaming machines.

*Please Note: Access Canberra has provided a separate QTB on the status of this matter.*

### Mandatory Pre-commitment and Bet Limits

- The Government has committed to exploring harm reduction measures, including mandatory pre-commitment systems and bet limits for gaming machines. These policy options are being explored alongside a number of other harm reduction strategies as part of a program of continuous improvement to the territory's gaming regulations.
- The Government will continue to work to ensure we have a robust suite of harm reduction measures in place.
- Mandatory pre-commitment and betting limits for gaming machines would require changes to the software on each machine, or in some instances a substantial upgrade or new machine. Additionally, the creation of a Central Monitoring System (a database for all gaming machine usage in the ACT) would be required to register these pre-commitments so that it can be maintained across all licensees in the Territory.
- Extensive community and industry consultation will be undertaken on any proposed reforms.

### Casino Electronic Gaming

- The *Casino (Electronic Gaming) Act 2017* was passed by the Assembly on 2 November 2017, and ensures the Territory has the most robust harm minimisation measures in the country, with respect to electronic gaming machines in the casino. The Act requires that any gaming machines the casino operates must be able to connect to an approved mandatory pre-commitment system.
- The Act also includes a maximum bet limit of \$2 a spin, or lower amount set by regulation. Community and expert input was taken into account in setting this limit.

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- To maintain the intent of the harm minimisation measures in the Casino (Electronic Gaming) Act, on 5 June 2018 the Legislative Assembly passed the Casino and Other Gaming Legislation Amendment Act 2018 that provides that any gaming machines operated within 200 metres of the boundary of the casino, by a gaming machine licensee that is related to the casino licensee, will be subject to the same harm minimisation measures as casino gaming machines.

### Problem Gambling Assistance Levy

- The Government has already delivered on its commitment to increase the Problem Gambling Assistance Levy from 0.6 per cent to 0.75 per cent of gross gaming revenue, which will provide an additional \$300,000 per year to help reduce harm from gambling. This commenced in July 2017.
- Examples of the sorts of programs funded through the Problem Gambling Assistance Levy include:
  - The ACT Gambling Counselling and Support Service
  - Development of and training for a self-exclusion register in the ACT
  - A longitudinal study of those who have received treatment for gambling harm
  - Online problem gambling counselling and support.

### **Key Information**

#### 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).
- This compares to 0.8 per cent in New South Wales, 0.5 per cent in Queensland, 0.6 per cent in South Australia and 1.0 per cent in Victoria.
- 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.

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## QUESTION TIME BRIEF

- 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.

### Background Information

#### Parliamentary Agreement

Parliamentary Agreement Commitment 9 is to reduce harm from gaming in the ACT by the following measures:

- 9.1 Reduce the number of electronic gaming licenses in the ACT to 4000 by 1 July 2020
- 9.2 Explore further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines
- 9.3 Increase the Problem Gambling Assistance Fund levy from 0.6 per cent of gross gaming machine revenue to 0.75 per cent, and direct additional funds into addressing problem gambling
- 9.4 Review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

The *Supporting Local Community Clubs Policy* includes a commitment to “*Conduct a review of Clubs’ harm minimisation strategy to examine if current approaches are appropriate and effective*”.

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## Ongoing Issues

### 1. Crimes (Consent) Amendment Bill

- 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.
- We are strongly committed to addressing criminal law reforms raised by the Royal Commission into Institutional Responses to Child Sexual Abuse recommendations.
- The definition of consent proposed by the Greens is a departure from the current common law position.
- Given the recommendations of the Royal Commission, it is important that reforms to fundamental concepts underpinning ACT sexual offences are carefully considered and not dealt with in isolation from broader sexual offence reforms.
- The Government will consider the findings of the Justice and Community Safety Standing Committee, to which Ms Le Couteur's Bill has been referred, in determining any changes to the definition of consent for sexual offences

Cleared by Karen Greenland

1 June 2018

## 2. Drug and Alcohol Court

- The Government is undertaking phase one, 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 is in the process of conducting 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 is developing proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns.

Cleared by: Karen Greenland

Date: 15 January 2018

### 3. Liquor Reforms

- The Government is committed to developing a regulatory regime that supports Canberra businesses, helps develop this community's vibrant night life and does so while ensuring public safety.
- Following extensive policy development and stakeholder consultation relating to liquor issues in 2015 and 2016, in 2017 the ACT Government made amendments to the *Liquor Act 2010* to cut unnecessary red tape and reduce alcohol-related harm.
- On 8 January 2018 *The Canberra Times* reported that the Commissioner for Fair Trading is yet to impose any conditions on Canberra's bars or nightclubs eight months after introduction of the new powers through the *Liquor Act 2010*.
- The article also stated that the controlled purchase operation powers were yet to be used.
- These powers were intended to be available for use where a compliance issue is identified. As this has not been the case, the powers are yet to be drawn upon.
- The Liquor Advisory Board serves to bring together stakeholders to advise the Attorney-General about matters relating to the operation and effectiveness of the *Liquor Act 2010* and support harm minimisation and community safety principles.
- The Board's diversity has been enhanced with an additional member to represent the late night economy appointed in June 2018 .
- The safety measures introduced by the *Liquor Amendment Act 2017* have been enhanced by additional funding of \$4.866 million included in the 2017-18 Budget most of which covers six additional police officers for night-time patrols.

Cleared by: Alex Ingham

Date: 27 July 2018

## 4. Community Club Grants

- The Government is implementing 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.
- Fourteen applications have been received by the Justice and Community Safety Directorate for the community club grant. The grant is available to help clubs diversify their business away from reliance on gaming machine revenue.
- 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.
- The Justice and Community Safety has entered into Deeds of Grants and provided funds to fourteen clubs.

Updated by: AlexIngham

Cleared by: Karen Greenland

Date: 27 July 2018

## 5. Community Legal Centres (CLCs)

### Tenant's Union evaluation:

- The Tenants Union receives \$445,000 annually from ACT Government trust money.
- As a result of changes to Commonwealth reporting requirements under the NPA, the Government has undertaken a re-evaluation of our legal assistance sector.
- The ACT Government's priority is to ensure that all service delivery funding is routinely evaluated and supported by appropriate performance indicators in order to maximise frontline service delivery.
- The TU has not had an evaluation of its funding arrangements in some time. The Government is working with the TU Board to both evaluate the current arrangement and formulate a framework for future funding arrangements.
- This work is being undertaken by an independent evaluator and will ensure that appropriate and fair outcome-based measures are in place moving forward.

### CLC funding generally:

- This initiative will assist the ACT legal assistance sector to continue to provide core services to the most vulnerable members of the community.
- This funding is provided in the context of the National Partnership Agreement on Legal Assistance Services 2015-20 (NPA), under which the Territory is responsible for managing Commonwealth funding to the Legal Aid Commission and Community Legal Centres (CLCs) and for facilitating service planning for the ACT legal assistance sector.
- Under the NPA, the Commonwealth reduced core funding to ACT CLCs by 25 per cent from 1 July 2017.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 6. Commonwealth Funding – DV/Women’s Safety

- I am pleased that the Commonwealth Government has invested in community legal services for family violence matters, including by funding the Women’s Legal Centre and Legal Aid ACT to establish dedicated domestic violence legal services in the ACT.
- I also welcome the Commonwealth’s Budget initiative to transform the family law system, which includes an additional \$39 million over three years under the National Partnership Agreement (NPA) on Legal Assistance Services for Community Legal Centres (CLCs) to deliver family law and family violence related services.
- Along with the ACT Government’s own initiatives for supporting the ACT legal assistance sector, this additional commonwealth funding responds to the Productivity Commission’s recommendation for governments to increase funding to legal assistance providers.

### If asked about 2017 Commonwealth funding for domestic violence units

- On 16 October 2017, the Commonwealth announced \$3.4 million in funding to establish six new specialist domestic violence units.
- The ACT was not successful in securing funding for a second domestic violence unit in this round.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 7. Moss Review

- Mr Moss' Review was provided to the Minister for Corrections on 7 November 2016 and released to the public on 10 November 2016. The report notes that Mr Freeman spent considerable time on remand in the Alexander Maconochie Centre (AMC) before he was sentenced.
- The Minister for Corrections Shane Rattenbury tabled the Government's response on 16 February 2017.
- The inquest into Mr Freeman's death began on 27 February 2017, undertaken by Coroner Robert Cook. The inquest has heard that Mr Freeman died from aspiration pneumonia due to methadone toxicity.
- The Coroner's Inquest has concluded and Coroner Cook released his findings on 11 April 2018.
- The Coroner has not made any adverse findings in this matter.
- However, I note the Coroner's findings in relation to deficiencies and inconsistencies in some ACT Health and ACT Corrective Services procedures.
- The ACT Government acknowledges the acute grief, loss and sadness that Steven Freeman's family has experienced, and the impact this death has had on the Aboriginal and Torres Strait Islander community, and the wider AMC community including those involved in the various aspects of his treatment and care.
- The Coroner has made seven recommendations for the ACT Government to consider.
- A number of actions the Coroner has recommended have already been implemented by ACT Health and ACT Corrective Services through the Government's response to the Moss Review.

Cleared by: Tamsyn Harvey

Date: 1 June 2018



## 8. ACTP Crime Statistics

- ACT Policing and other ACT Government agencies do excellent work on a daily basis to keep the Canberra community safe and our low crime rates are a testament to this.
- We know that Aboriginal and Torres Strait Islander people are over represented in the criminal justice system and we are committed to addressing this.
- We are investing in programs and partnering with community-based organisations to keep Aboriginal and Torres Strait Islander people out of the criminal justice system.
- The government is also committed to reducing recidivism by 25 per cent by 2025, under the Parliamentary Agreement.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 9. Eastman Update

- The retrial of Mr Eastman demonstrates that the ACT judicial system is functioning independently and appropriately. The system has upheld a 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.
- There are penalties under the Juries Act 1967 for disclosing the identity of jurors.
- The Crown's Counsel has indicated that trial is progressing on schedule and the prosecution case is expected to be completed by mid September.

### 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 by: Tamsyn Harvey

Date: 30 May 2018

## 10. New Courts Facilities

- The New ACT Court Facilities is being delivered by a 25-year Public Private Partnership (PPP) and the Territory issued a Major Default Notice to Juris Partnership on 3 November.
- Juris Partnership says that construction of the new facility will be delayed due to structural complexities with the pre-cast ordering and installation, restricted working hours from noise and vibration delays in excavation, and complications in finalising engineering solutions for linking to the existing Magistrates Court due to Building Code of Australia requirements.
- Phase one (new wing and refurbishment of Magistrates Court building) is expected to be complete in September/October 2018 with Phase two (refurbishment of heritage building) due in mid 2019.
- Construction and timing risk rests with Juris Partnership. The Territory has entered into an agreement with fixed price for the design, construction, maintenance and operations of the facility for 25 years.
- The end date of this agreement is static. Payment by the Territory does not commence until the building has been completed and accepted by the Territory.
- The Notice issued to Juris as a result of delays is largely a technical contractual issue.
- However, the benefit of issuing the notice is that Juris is required to submit a remedy program which then becomes a commitment against which failure to deliver has the potential to trigger a Default Termination Event.

### If Asked: What effect will the delay have on Court listings?

- The Supreme Court has been aware of the potential delay for some months and will take it into account when listing matters in 2018. The Court will have access to the same number of courtrooms (both jury and non-jury) in early 2018 as has been available in 2017.
- The impact of committing one of the jury courtrooms to the Eastman retrial from April 2018 may mean some jury trials will be held in the Queanbeyan courthouse.
- Presently the Supreme Court has started listing for the new jury court rooms from July.
- The project is continuing to monitor the program and assessing if there will be any impact to listings.

If Asked: What sort of penalties are in place for the builder being late in delivery?

- The delays to completion do not result in a negative financial outcome for the Territory. The contract runs for a 25-year period with a fixed start and finish date. The Territory only pays for the facility once it has been completed and accepted.
- For each month that completion is delayed there will be an avoided cost for the Territory equivalent to the Monthly Service Payment amount. For example, if completion was delayed by three months then the contract would run for 24 years and nine months rather than the contracted 25 years.

Cleared by: Sean Egan

Date: 27 July 2018

**ATTORNEY-GENERAL**  
**QUESTION TIME and OVERSIGHT BRIEF INDEX**  
**14-16 and 21-23 August**

Question Time Briefs (updated for each Assembly Sitting Period)	
1.	AG Budget initiatives
2.	National Security Issues (copy of MPES QTB)including Facial Biometrics, and TP for AG focussing on privacy protections
3.	Outlaw Motor Cycle Gangs – Taskforce Nemesis (Copy of ACT P Brief only)
4.	Serious and Organised Crime Response (Policy)
5.	Casino Announcement
5.1	Aquis Entertainment unsolicited bid*
6.	Belconnen Raiders Club
7.	Govt Response to Stevens Report and Community Club Contributions
8.	Child Abuse Royal Commission
9.	Redress
10.	Family Violence Policy
11.	Bail Laws (include TPs on issues raised re: HR compatibility with coronal process – following Cook Coronial)
12.	DPP Resourcing (including DPP appointment process)
13.	Resourcing of Magistrates and Coroners Court (include TP on age of retirement)
14.	Coroner’s Court Reform
15.	Judicial appointment process
16.	Residential Tenancies
17.	Greyhound Funding and Transition to end Industry
18.	Gaming Machine Harm Reduction Measures
19.	PPP Law Courts Progress
20.	Thoroughbred Racing Issues

\*In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) as the current record owner. Refer to the CMTEDD website ([www.cmtedd.act.gov.au](http://www.cmtedd.act.gov.au)) for further information on the release of this brief under Open Access.

Oversight Brief (updated weekly)	
	<p><b><i>Hot Issues</i></b></p> <ol style="list-style-type: none"><li>1. Crimes (Consent) Amendment Bill 2018</li><li>2. Drug and Alcohol Court</li></ol> <p><b><i>Ongoing Issues</i></b></p> <ol style="list-style-type: none"><li>3. Liquor Reforms</li><li>4. Community Club Grants</li><li>5. Community Legal Centres</li><li>6. Commonwealth Funding (DV Women's safety)</li><li>7. Moss Review</li><li>8. ACT Policing Crime Statistics</li><li>9. Eastman Update</li><li>10. New Court Facilities</li></ol>

\*2018\*000083-028

**Portfolio:** Attorney-General**ISSUE: 2018-19 Budget Summary – Minister for Police and Emergency Services****Talking points:**

The 2018-19 Budget invests **\$32.1 million** to keep the ACT safe by continued investment in a strong and secure justice system, including:

- **\$5.4 million** over four years to appoint an additional magistrate to maintain a timely and effective justice system including:
  - **\$3.1 million** for ACT Courts and Tribunal for full time eighth magistrate and support staff; and
  - **\$2.3 million** for Legal Aid and the Director of Public Prosecutions to respond to additional workload in the Magistrates Court.
- **\$7.3 million** over four years for more staff and resources for the Director of Public Prosecutions to respond to a growing city and more complex criminal trials.
- **\$1.9 million** over four years to appoint a full-time forensic pathologist to support the Coroner.
- **\$625,000** in 2018-19 to continue the scoping and design work on the Government election commitment to deliver a dedicated Drug and Alcohol court for the ACT.
- **\$1.1 million** over four years to modernise the Supreme Court Jury Management System.
- **\$187,000** in 2018-19 from the Confiscated Assets Trust to develop Canberra as a Restorative City through events and workshops.
- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response.

Cleared as complete and accurate:	23/07/2018	
Cleared by:	Deputy Director-General	Ext:53504
Information Officer name:	Richard Glenn	
Contact Officer name:	Karen Schofield	Ext: 54775
Lead Directorate:	Justice and Community Safety	

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## QUESTION TIME BRIEF

- **\$1.7 million** over four years to continue and expand CBR NightCrew to assist people affected by alcohol and or drugs in Civic nightlife precinct, partially offset by:
  - **\$954,000** million over four years jointly funded by various agencies (\$854,000 by JACS, Access Canberra, ACT Health and ACT Policing and \$100,000 by the City Renewal Authority).
- **\$640,000** over four years to establish a Senior Rights Services at Legal Aid to provide targeted legal services to older Canberrans who are experiencing, or are vulnerable to, elder abuse.

The funding also provides for:

- **\$70,000** in 2018-19 from the ACT Civil and Administrative Tribunal (ACAT) Trust for a quantity surveyor to examine the ACAT's future accommodation needs
- One-off funding of **\$6.1 million in 2018-19** for the retrial of Mr David Eastman for the murder of Mr Colin Winchester. This funding will provide:
  - **\$2.159 million** to fund judicial resources and the cost associated with managing the database in relation to the Eastman matter and subsequent proceedings, jury costs and other relevant expenses;
  - **\$2.2 million** resources for the Director of Public Prosecutions;
  - **\$0.695 million** resources for ACT Policing; and
  - **\$1.025 million** for Legal Aid to provide ongoing representation for Mr Eastman in relation to his retrial.

In addition, **\$5.5 million** over five years from 2017-18 is provided in the 2017-18 2<sup>nd</sup> Appropriation. This includes:

- **\$2.6 million** over five years to increase the capacity of the ACT Government Solicitor to support the implementation of the ACT Digital Strategy and the provision of legal advice to directorates on employment law and workplace rights.
- **\$970,000** over 18 months for more resources for the Office of the Director of Public Prosecutions to address organised crime.
- **\$547,000** over 18 months to continue the implementation of criminal law reform recommendations arising from the Royal Commission into Institutional Responses to Child Sexual Abuse.

Cleared as complete and accurate: 23/07/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Richard Glenn  
Contact Officer name: Karen Schofield Ext: 54775  
Lead Directorate: Justice and Community Safety



- **\$1.1 million** in 2017-18 to develop a model of care, procedures, design and finalising costs for the Drug and Alcohol Court.
- **\$293,000** in 2017-18 for the implementation of the Commonwealth Redress Scheme for Survivors of Child Sexual Abuse in Institutions, which will commence on 1 July 2018.

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## Background

The ACT's budget announcements will include initiatives relating to:

- More support for families and inclusion – Improving ACT Coronial Services;
- More support for families and inclusion – More resources for the Director of Public Prosecutions;
- More support for families and inclusion – Additional Magistrate;
- More support for families and inclusion – Retrial of Mr David Eastman;
- More support for families and inclusion – ACT Civil and Administrative Tribunal Accommodation – early planning;
- More support for families and inclusion – Drug and Alcohol Court;
- More support for families and inclusion – Implementing the National Redress Scheme for Institutional Child and Sexual Abuse;
- More support for families and inclusion – Canberra as a restorative city;
- More support for families and inclusion – Expanding CBR Night Crew;
- Better Government – New Jury Management System;
- More support for families and inclusion – Preventing and responding to elder abuse;
- Better support when it matters – Director of Public Prosecutions – Additional resources to confiscate criminals' assets;
- Better support when it matters – Criminal law reforms;
- Better support when it matters – Stronger resourcing for the Government Solicitor's Office;
- Better support when it matters – Drug and Alcohol Court establishment; and
- Better support when it matters – Redress for survivors of child sexual abuse in institutions.

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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:	08/08/2018	
Cleared by:	Executive Director	Ext: 78628
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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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## QUESTION TIME BRIEF

- 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 has been referred to 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 ten 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.

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## QUESTION TIME BRIEF

TRIM Ref: 2018/000086-001

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

### ISSUE: OMCG INCIDENTS AND TASKFORCE NEMESIS

#### 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 target criminal gang members to deter, detect and disrupt 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: 09/08/2018  
Cleared by: DCPO-C  
Information Officer name: Tamsyn Harvey  
Contact Officer name: ACT Policing  
Lead Directorate: Justice and Community Safety

- As at 7 August 2018, there are four known Criminal Gangs (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.
- 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:
  - Executed 76 search warrants against criminal gang targets
  - Seized 22 firearms
  - Seized \$61,750 in currency
  - Laid 53 charges against criminal gang members.

#### Most recent criminal gang activity

- On 11 June 2018, a Molotov cocktail was thrown through a window and a firearm was discharged at a Ngunnawal residence. No one was injured in the incident. On 20 June 2018, the same residence was subject to an aggravated burglary, in which offenders forced in the front door of the residence and set fire to the property. As these matters remains subject to ongoing investigation, it would be inappropriate to comment further.
- On 28 June 2018, four people attended two residential properties in Calwell. A firearm was discharged at both properties, and three vehicles were set alight at one of the residences. An adult male received medical treatment for a related injury to his hand. As these matters remain subject to ongoing investigation, it would be inappropriate to comment further.
- On 6 July 2018, a physical altercation broke out between six men on Anketell Street in Greenway. The men are believed to be criminal gang members and the altercation is understood to be a result of ongoing tensions between criminal gangs. As this matter remains subject to ongoing investigation, it would be inappropriate to comment further.

Cleared as complete and accurate: 09/08/2018  
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## QUESTION TIME BRIEF

- On 6 August 2018, Taskforce Nemesis undertook targeted operations as part of investigations into the criminal gang related shooting incident that occurred on 28 June 2018.
  - A targeted vehicle stop was undertaken by Taskforce Nemesis, resulting in a .357 calibre revolver being located and seized by Police.
  - A short time later, Taskforce Nemesis members executed a search warrant at a Calwell residence. Police located and seized 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 firearms 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.
  - On 7 August 2018, both men appeared before the ACT Magistrates Court and were granted bail and ordered to appear at a later date.

### 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.

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Contact Officer name: ACT Policing  
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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.

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Cleared by: Deputy Executive Director  
Information Officer name: Tamsyn Harvey  
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Lead Directorate: Justice and Community Safety

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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.

### *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).

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

Cleared as complete and accurate:	20/06/2018
Cleared by:	Deputy Executive Director
Information Officer name:	Tamsyn Harvey
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Lead Directorate:	Justice and Community Safety

### 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.

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Lead Directorate: Justice and Community Safety

TRIM Ref: MIN:2018/000083-025

**Portfolio:** Attorney-General**ISSUE: CASINO****Talking points:**Provision of Key Information by Aquis

- On 13 April 2018 the Head of Service Ms Kathy Leigh wrote to Aquis Entertainment Chairman, Mr Tony Fung, the current licensee of Casino Canberra. The correspondence advised Aquis Entertainment that the company had until 14 May 2018 to progress the unsolicited bid that was first announced in 2015.
- The letter outlined that the Territory had been waiting since mid-2017 for key financial information to confirm the viability and capacity of Aquis Entertainment to undertake the proposed redevelopment, and that if the requested information was not received by 14 May 2018, the Territory would have no option but to assume Aquis Entertainment no longer wished to proceed with the proposal.
- The Government subsequently announced on 14 May 2018 that Aquis has been granted an extension of time to provide the requested information. Dialogue between the parties is continuing.

Staging of Casino Legislation (not a 'piecemeal' approach)

- A framework of interlinked Acts and Regulations regulates gaming in the Territory. Each Act or Regulation has its place in addressing particular matters and at any given time, there are a range of issues under consideration in the policy development cycle, some of which will require legislative changes to implement.
- When introducing the Casino (Electronic Gaming) Bill 2017, the Government foreshadowed that more legislative and regulatory changes were underway.

Cleared as complete and accurate: 18/07/2018  
Cleared by: Executive Director Ext: 76244  
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Lead Directorate: Justice and Community Safety

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## QUESTION TIME BRIEF

- The *Casino (Electronic Gaming) Act 2017* allows the casino to start the process of buying gaming machine authorisations from other venues subject to certain requirements, and contribute to reducing the overall number of electronic gaming machine authorisations in the ACT.
- The *Casino and Other Gaming Legislation Amendment Act 2018* provides further details about the specific requirements for matters to be addressed by, and information to be given by the casino in a Social Impact Assessment (SIA). An SIA is required under the *Casino (Electronic Gaming) Act 2017* before any authorisations can be acquired.
- There are a number of administrative, operational and technical matters that will be addressed through future provisions. These include taxation provisions; specific rules and control procedures for operating gaming machines; approval processes; and certification and technical standards for gaming machines and Fully Automated Table Games (FATG) terminals, the centralised monitoring system and the pre-commitment system.
- The suite of harm minimisation measures applicable to casino electronic gaming will be informed by the Social Impact Assessment process and the community feedback received as part of that process.
- Some provisions are not required until the casino has successfully completed a redevelopment stage and is seeking to bring casino gaming machines and FATG terminals into operation.
- The Government is ensuring the community benefits from any increased gambling products being introduced at the casino. Any future application to operate gaming machines at the casino would be contingent on a substantial investment in the precinct and associated community benefit.
- Casino gambling is a highly regulated activity for harm minimisation, consumer protection and industry integrity reasons and I make no apology for an approach that has the right legislation in place at the right time.

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### Reduction to 4,000 Authorisations

- Under amendments introduced by the *Casino (Electronic Gaming) Act 2017*, any authorisations held by the casino are counted within the overall maximum number of authorisations in the Territory.
- Before acquiring any authorisations, the casino must undertake a Social Impact Assessment involving community consultation, and be issued with the appropriate authorisation certificates by the Gambling and Racing Commission.
- Once these regulatory processes are completed, the casino could acquire up to 390 authorisations from existing gaming machine licensees, for a total of up to 200 casino gaming machines and 60 FATG terminals (after 1-in-3 of the authorisations is forfeited to the Territory).
- Under the legislation, 50 per cent of the authorisations must be acquired from small or medium clubs/club groups, or hotels.
- The Government will reduce the maximum number of authorisations in the Territory to 4,000 by May 2020. Depending on the timing of the acquisitions, forfeiture associated with the casino acquiring authorisations may or may not contribute to the reduction to 4,000 authorisations.
- The Government commissioned an independent expert, Mr Neville Stevens AO, to undertake the Club Industry Diversification Support Analysis during April and May 2018. The Government is now considering Mr Stevens' report, which will inform decisions about the pathway to reach 4,000 authorisations.
- The *Casino and Other Gaming Legislation Act 2018* delays the commencement of Phase 2 of the trading scheme (which was scheduled to start by 31 August 2018 and required compulsory surrender of authorisations to reach a ratio of 15 authorisations per 1,000 ACT adults). Delaying the start of these provisions until 31 August 2019 will allow time for the pathway to achieve 4,000 authorisations to be finalised and for necessary legislative amendments to be introduced and considered by the Assembly.

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Lead Directorate: Justice and Community Safety

**Key Information**

- In August 2015 Aquis Entertainment submitted a Stage 1 proposal to Government for the redevelopment of Canberra Casino and the surrounding precinct.
- In June 2017 Aquis was advised that the Government had given in-principle support for the proposal to progress to Stage 3 of the Investment Proposal Guidelines process, subject to the provision of certain information including financial information.
- The *Casino (Electronic Gaming) Act 2017* was passed on 2 November 2017 and commenced on its default commencement date of 13 May 2018. Under the Act, casino gaming machines are restricted to a maximum bet limit of \$2 and are subject to mandatory pre-commitment. All casino gaming machines and FATG terminals must be connected to a central monitoring system. The Act provides that a Social Impact Assessment is required as part of an application for an authorisation certificate for casino gaming machines or casino FATG terminals.
- The *Casino and Other Gaming Legislation Act 2018* was passed on 5 June 2018 and commenced on 15 June 2018. The Act:
  - provides for the establishment of a Casino Advisory Panel, when required, to make a recommendation to the Attorney-General on key decisions about the ownership or leasing of the casino, the grant or transfer of the casino licence, and the conversion of restricted authorisations to allow the operation of casino gaming machines or casino Fully Automated Table Game (FATG) terminals.
    - A Panel will provide increased transparency and independence in relation to the regulation of casino gaming in the Territory.
    - A Panel will consist of people with significant experience in relevant areas such as governance, law, integrity and probity assessments, finance, risk, urban design and property development.
    - The independent Panel's advice will be in addition to technical advice provided by the ACT Gambling and Racing Commission and the ACT Planning and Land Authority.
    - The Panel's report will be tabled in the Legislative Assembly.
  - provides for the introduction, through the making of a regulation, of the requirements and information that must be provided in a social impact assessment (SIA) for the casino. The casino SIA must include details of the proposed redevelopment of the casino and its precinct.
  - provides that gaming machines operated within 200 metres of the boundary of the casino by a gaming machine licensee that is related to the casino licensee will be subject to the same harm minimisation

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## QUESTION TIME BRIEF

measures as casino gaming machines – including \$2 maximum bet limits, mandatory pre-commitment and the requirement to be connected to a central monitoring system.

- amends the *Gaming Machine (Reform) Amendment Act 2015* to delay the commencement of Phase 2 of the gaming machine trading scheme until 31 August 2019 to allow time for a revised approach to be finalised to achieve the Parliamentary Agreement commitment to reducing the number of gaming authorisations to 4,000 by 2020.

### Background Information

- Following the correspondence from the Head of Service of 13 June 2017, Government officials communicated with Aquis Entertainment in the form of a meeting between Deputy Director-General Enterprise Canberra Kareena Arthy and Aquis Entertainment Chief Executive Officer Jessica Mellor on 17 July 2017, and further letters from the Head of Service to Aquis Entertainment Chairman Tony Fung on 30 June 2017 and 16 January 2018.
- On 16 April 2018 Aquis provided the following statement to the ASX: ‘Aquis lodged the detailed business case for the project in June 2016 and did not receive advice from the Government for some 17 months.’ 17 months is the period from June 2016 to November 2017 (when the *Casino (Electronic Gaming) Act 2017* was passed). However, there had been ongoing communication with Aquis during this time as outlined above, and the legislation itself was tabled in the Assembly on 24 August 2017.

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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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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.

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

- 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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Lead Directorate: Chief Minister, Treasury and  
Economic Development

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

- 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.
- I am currently working towards implementing the Government commitment to reduce the number of gaming machine authorisations. Based on current numbers, it is expected that approximately 947 authorisations will need to be surrendered to reach 4,000.
- As I have previously stated, Mr Neville Stevens AO was engaged by the Government to conduct an analysis of the Club industry.
- The report makes a number of findings and recommendations about how best to support clubs to voluntarily surrender their authorisations and to diversify their businesses to reduce reliance on gaming revenue. I will be announcing the Government's response to his findings in August.

Key Points – Review of the Community Contributions Scheme

- An Options Paper was released by the Justice and Community Safety Directorate (JACS) on 17 July 2018 to facilitate discussion. 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.
- JACS is keen to hear from stakeholders on what is good about this scheme, what could be improved and what the best structure of the scheme would be to maximise the benefit it provides to the community. I would encourage all stakeholders to engage in the review.

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## QUESTION TIME BRIEF

- The Government is yet to make their mind up on this matter. The feedback received by JACS in the course of the review will be considered by Government to determine the future of the community contributions scheme.

### Consultation period

- The review of the community contributions scheme has been foreshadowed for some time through the Parliamentary Agreement. The Auditor-General Report on ACT Clubs' Community Contributions highlighted a number of issues for consideration, and I have made it a priority to progress these important reforms of the scheme by the end of the year. Accordingly, I have sought timely advice from the Justice and Community Safety Directorate on this matter.

### Accuracy of Options Paper

- The comments made in the Options Paper regarding taxation are correct. Due to significant differences in how tax thresholds and tax arrangements are set in each jurisdiction, the Options Paper utilises 'effective tax rates' to provide a broad comparison between jurisdictions. This is calculated using aggregated state level data, as published by Queensland Treasury in the Australian Gambling Statistics.
- The effective tax rate indicates the level of tax revenue raised compared to gross gaming machine revenue. It is a way of comparing the "aggregate" level of revenue raised between different a jurisdictions, based on actual data collected by each State and Territory Government.

### Responses to the Options Paper

- There has been significant response to the Options Paper. Some of the responses indicate concerns that small not-for-profit organisations will lose support if the Club's community contributions are channelled into a government directed fund.
- The Chief Minister has not announced that all community contributions would be taken away from the clubs. The Government recognises that some clubs were established to support certain sporting teams and cultural groups, and this will be considered as part of the review.

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Reduction of gaming machines in the ACT to 4,000 by 1 July 2020

- The Parliamentary Agreement includes a commitment to reduce the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020.
- Canberrans were encouraged to have their say on the ACT Government's YourSay website on options to achieve this maximum limit.
- The Government held a number of meetings with club representatives on the most appropriate model and timeframes to achieve this reduction, and is currently considering the pathway to reach 4,000 authorisations.
- The ACT Government engaged Mr Neville Stevens AO, as an independent expert, to analyse potential options to support club industry diversification. Mr Stevens' engagement was announced on 3 April 2018.
- The terms of reference for Mr Stevens' analysis make it clear that compulsory surrender of authorisations will commence from 1 April 2019, to reach a maximum of 4,000 by 1 May 2020.
- Over April and May 2018 Mr Stevens consulted with the club industry on options for incentives for clubs to surrender authorisations and support clubs in reducing their reliance on gaming machines revenue, while improving the services, facilities and benefits clubs provide to the community.
- Mr Stevens has submitted his report which will inform Government decision-making about supporting clubs to diversify their revenue streams as the number of gaming machine authorisations in the ACT reduces to 4,000 by 2020. I thank Mr Stevens for his assistance in this important matter.

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### Community Contributions Review

- The Parliamentary Agreement includes a commitment to review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme. Appendix 2.6c of the Parliamentary Agreement also includes a commitment to establish an independent charitable fund to distribute nominated community funds to charitable and community causes levied on venues operating electronic gaming machines in the ACT.
- Consultation has commenced on 18 July 2018 with the release of an Options Paper. A range of options are provided for discussion including consideration of the current scheme, where clubs have discretion on the direction of funding or whether a portion of community contributions funding should be directed to a central fund, external of Government, for distribution to community purposes.
- The Options Paper asks industry and community groups to consider and comment on the:
  - scheme objectives and the best structure for the community contributions scheme
  - impact of in-kind and monetary contributions and whether a cap is required
  - distribution of community contributions including categories and how to share the benefits of the scheme fairly
  - transparency around beneficiaries of contributions and how to improve governance arrangements.
- As part of the review, the Government is considering relevant reports and models for these types of schemes which operate in other jurisdictions, to identify any opportunities to maximise the benefits to the community from the scheme. The review is also considering issues such as the appropriate distribution of community contributions for the purpose of gambling harm reduction and other community purposes, as well as the transparency of these arrangements.

Cleared as complete and accurate:	08/08/2018	
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**Background Information**Parliamentary Agreement

Parliamentary Agreement Commitment 9 is to reduce harm from gaming in the ACT by the following measures:

- 9.1 Reduce the number of electronic gaming 'licenses' (authorisations) in the ACT to 4000 by 1 July 2020
- 9.2 Explore further harm reduction measures, including mandatory pre-commitment systems and bet limits for electronic gaming machines
- 9.3 Increase the Problem Gambling Assistance Fund levy from 0.6 per cent of gross gaming machine revenue to 0.75 per cent, and direct additional funds into addressing problem gambling
- 9.4 Review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

Consultation on reducing gaming machine authorisations

- On 29 June 2017, the Executive Director of Legislation, Policy and Programs, from the Justice and Community Safety Directorates (JACS), emailed club licensees about the Government's commitment to reducing the number of gaming machine authorisations in the ACT to 4,000 by 1 July 2020. Input was invited on views about the appropriate model and timeframes to achieve the target of 4,000 gaming machine authorisations. This was requested by 19 July 2017. The directorate received eight written submissions and met with several clubs; ACT Rugby Union Club, the Burns Club, Raiders Group, Eastlake Football Club and Ainslie Football Club, as well as Canberra Community Clubs.
- Community feedback on the options paper Implementing the Government Commitment to Reduce Gaming Machine Authorisations opened on 17 August 2017 and closed on 18 September 2017.
- JACS received six written submissions from clubs and one from the Canberra Gambling Reform Alliance.
- Your Office and JACS staff met with representatives of the club industry in December 2017 and January 2018 to discuss potential options for an incentive package for clubs. Meetings were held with Canberra Community Clubs (CCC), ClubsACT, Canberra Southern Cross Club Group, Magpies Sports Club Group and the Belconnen Labor Club Group.
- The Government agreed to Terms of Reference for the analysis undertaken by Mr Neville Stevens AO as an independent expert to provide a Club Industry Diversification Support Analysis.
- Mr Stevens met with Canberra Community Clubs, ClubsACT, United Voice and 23 club and club groups.

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**Background – Not for public release:**

- Mr Stevens' report has now been received and makes a range of recommendations, including cash and non-cash incentives for early voluntary surrender of gaming machine authorisations. The report also recommends the establishment of a Diversification Support Fund, increasing capabilities of club boards through the introduction of mandatory training requirements and collaborative administrative support from government agencies to assist clubs in navigating planning approval requirements.
- Cabinet is due to consider the Report on 20 August. You provided advice to JACS Executives that the Government will release the Report publically along with an announcement of the incentive package as soon as possible after this date.

**Community Contributions**

- 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.
- Contributions are made to support community sports and recreational programs, reduce the effects of gambling harm, develop community infrastructure and support not-for-profit groups and charities.
- A number of research papers were used to inform the Options Paper. These are:
  - *Community Contributions Scheme Impact Analysis*, PricewaterhouseCoopers (September 2017)
  - *Benefits and costs associated with licensed clubs operating poker machines in the ACT*, Livingstone, C., Francis, L. and Johnson, M. (2017)
  - *ACT Clubs' Community Contributions*, ACT Auditor-General (2018)
- Based on the Government's commitment and the findings of the above reports, the options discussed for stakeholders' consideration include the introduction of:
  - Option 1 – A centrally administered fund for all community contributions; or
  - Option 2A – A centrally administered fund for a portion of community contributions, retaining the current scheme at the current prescribed percentage of 8 per cent of Net Gaming Machine Revenue (NGMR).
  - Option 2B – A centrally administered fund for a portion of community contributions, retaining the current scheme with a new but lower, prescribed percentage of contributions.
- On 4 July 2018 you released a media statement advising stakeholders of the impending consultation surround a review of the community contributions scheme.
- Consultation on the Options Paper closes on Monday, 13 August 2018.

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### Effective Tax Rates

- ClubsACT and the Raiders Group have written to the media and JACS respectively on the issue of whether the ACT is the lowest taxing jurisdiction for gaming machines, providing a comparison of tax rates between ACT and NSW clubs.
- They claim that the comparison of taxation rates in the Options Paper is wrong.
- The Options Paper notes the effective tax rate of gaming machines in the ACT was the lowest of all State and Territories in 2016 (NSW is only slightly more), and is significantly lower when compared to the effective tax rates payable in Victoria, Queensland and South Australia.
- The average effective tax rates referred to in the Options Paper were calculated using aggregated State level data, as published by Queensland Treasury in the Australian Gambling Statistics.
- The effective tax rate indicates the level of tax revenue raised compared to the overall base, which in this case is gross gaming machine revenue. It is a way of comparing the “aggregate” level of revenue raised between different a jurisdictions, based on actual data collected by each State Government.
- The effective tax rates does not take into account the overall turnover of clubs or the tax free threshold. It is not intended to apply to individual clubs, and does not take account for the circumstances of different clubs.
- When comparing taxation arrangements in different jurisdictions, that Government will generally adjust their tax rates and thresholds to account for the tax base that is available to them.
  - For example, New South Wales has a significantly higher tax free threshold than many other jurisdictions, partially as a result of the presence of very large clubs with high levels of gaming machine revenue.
  - If NSW tax rates and brackets were applied in the Territory, only 4 clubs would fall into the second highest marginal tax bracket (for revenues between \$10m and \$20m) and no clubs would be in the highest marginal tax bracket (for revenues above \$20 million).

### Responses to the Options Paper

- To date 48 responses to the Options Paper have been received. The majority of responses have been from small organisations or individuals who believe that not-for-profit organisations will be disadvantaged if the Government controls the distribution of contributions to the community.
- ClubsACT has mounted a campaign to encourage clubs and organisations to comment against any reform of the scheme.
- The Vikings Group held a meeting on 6 August 2018 to inform the community about the Government’s intention to *“to change the Club Community Contribution model to move support away from individual sporting and community groups to a select centralised*

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## QUESTION TIME BRIEF

charity”.<sup>1</sup> Vikings has also emailed affiliated sporting and community groups suggesting the funding they have previously received from the club may be in jeopardy.

- *The Canberra Times* has discussed the Options Paper in several articles involving various community organisations and clubs.
- Mr Stuart Ramshaw, of Weston Social Golfers club, which meets at the Raiders Weston club, has commenced a campaign criticising the Chief Minister for “ planning to divert funds from local community groups, charities and junior sports” and fast tracking the consultation process of the review. Mr Ramshaw operates a website that encourages people to participate in the campaign by signing a petition on the change.org platform.<sup>2</sup>
- A response from Canberra Community Clubs which is supportive of the review.

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<sup>1</sup> <https://www.vikings.com.au/2018/08/01/possible-changes-to-the-community-contribution-scheme/#.W2pFDNlza72>

<sup>2</sup> [www.stopbarr.com.au](http://www.stopbarr.com.au)

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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.
- On 22 March 2018, I opened a consultation process to seek stakeholder views on further reforms to respond to the Royal Commission’s criminal justice recommendations.

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## QUESTION TIME BRIEF

- That consultation process closed on 4 May 2018, and the ACT Government is currently considering the responses to the consultation.
- 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. It is publicly available at <https://www.act.gov.au/childabuseroyalcommission>. All states and territories are currently releasing their responses to the Royal Commission's recommendations.
- A consultation process in relation to criminal justice reforms arising from the Royal Commission was opened on 22 March 2018 and closed on 4 May 2018. The consultation process 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 will be progressed later in 2018 and 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

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## QUESTION TIME BRIEF

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.

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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.

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## QUESTION TIME BRIEF

- 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.

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TRIM Ref: 2018/000083-018

**Portfolio:** Attorney-General**ISSUE: FAMILY VIOLENCE POLICY****Talking points:**

- Family violence is a serious issue that the Government remains absolutely committed to addressing. All Canberrans have the right to feel safe, and to be safe.
- The experience of domestic and family violence causes enduring damage to individuals and to society as a whole.
- The financial cost of family violence in our community is measured in the billions of dollars.
- The ACT Government views acts of family violence as intolerable and is actively working to make changes to protect the safety of all members of our community.

**What is the Government doing to prevent family violence?**

- Domestic and family violence is a difficult and complex problem which has no simple solutions.
- To prevent domestic and family violence we need to change the way Australians think and act in their homes. This means the whole community needs to be engaged in the job of changing attitudes and social norms.
- It was in recognition of this complexity that the ACT Government refocused its efforts to combat domestic and family violence in 2016. The commitment was to a comprehensive and long term reform agenda. The Safer Families package was the largest action to address family violence in Canberra's history.
- The investment in Safer Families is continuing. In the 2017-18 Budget the commitment has grown to \$23.5 million over four years.

Cleared as complete and accurate:	12/07/2018	
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## QUESTION TIME BRIEF

- The reform program involves a new model for integration across Government, the community sector and the community. The work is being led by the first full-time Coordinator General for Family Safety, who commenced in October 2016.
- On 11 May 2018 the Government launched the Family Safety Hub, which will be a catalyst for change within the existing ACT service system. The Hub was developed through a co-design process led by the Coordinator General for Family Safety. It will bring together people with expertise to help find and test new solutions before allowing them to be scaled-up and merged into the broader justice and service systems. The Hub's first focus is on how to build better early intervention support for pregnant women and new parents.

### Death Review

- The Government has committed to introducing a family violence death review scheme for the ACT.
- This commitment was in response to the first and only ACT Death Review in 2016, which analysed 14 family violence deaths in the ACT between 2000 and 2012.
- A death review scheme will analyse information relating to family violence deaths in the ACT and make recommendations for system wide improvements to services to prevent similar deaths occurring in the future.
- Death reviews will help to improve family violence responses by examining the ways in which our systems and services performed when they were most challenged.
- The Justice and Community Safety Directorate (JACS) will consult with key stakeholders with a view to introducing legislation to implement a death review scheme in 2019-20.
- Comprehensive stakeholder engagement will be important to ensure establishment of a death review process that is consistent with best practice principles and appropriate for the ACT context.

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

- The ACT Death Review, published in May 2016, provided 28 recommendations for action, including the recommendation that the ACT establish a legislative scheme to enable future family violence death reviews.
- In June 2016, the Government published the ACT Government Response to Family Violence, which included a commitment to ‘legislate for the Attorney-General to order a future family violence death review and provide powers for those undertaking such a review’.
- An ACT death review model will require funding. Costing for a death review model is yet to be determined. Legislation, Policy and Programs (LPP) will prepare a detailed costing for the 2019-20 budget process.
- LPP is preparing to consult key family violence stakeholders on two draft death review models, in anticipation for implementation in 2019-20.
- All jurisdictions, except Tasmania and the ACT, have a family violence death review function.

Sentencing of Graham Dillon

- On 4 June 2018 Graham Dillon was sentenced to 41 years in jail, including 36 years for the murder of his 9-year-old son, Bradyn. Bradyn was killed on 15 February 2016 following months of abuse by Dillon. On the day of his death, Bradyn was beaten by Dillon, causing fresh brain injuries and causing older brain injuries to re-bleed. Bradyn died in hospital.
- In response to this tragedy, a week after Bradyn’s death, the ACT Government launched a review into system level responses to family violence in the ACT, also known as the Glanfield Inquiry. The Glanfield Inquiry considered the interactions between ACT Government Directorates, agencies and service providers to identify areas where the Government can improve support for families experiencing violence. A report was published in April 2016 and all 31 recommendations were accepted by the ACT Government.
- One of the key areas of reform identified by the Glanfield Inquiry is about information sharing between family violence agencies to ensure women and children receive the assistance they need. An ACT family violence death review scheme would address this issue as it will aim to facilitate better information sharing in the family violence context.
- The ACT Children and Young People Death Review Committee (the Committee) reviews information about the deaths of children and young people to help prevent similar deaths from happening in the future. This would include review of Bradyn’s death. An ACT family violence death review scheme would have a similar function to the Committee, and LPP will consult with the Committee in developing a family violence death review model.

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Family Violence Policy

- On 6 June 2016, the ACT Government announced the Safer Families package which included \$21.42 million in funding and highlighted four key priority actions for the ACT Government, including:
  - appointing the first, full-time Coordinator-General for Family Safety to lead change and provide accountability across the service system;
  - implementing a collaborative and integrated approach to services through a dedicated Family Safety Hub;
  - authorising information sharing and collaborative practices via a new legislative framework; and
  - developing a skilled and educated workforce, especially frontline staff, to respond to the needs of adults and children experiencing family violence.

Family Safety Hub

- The Family Safety Hub was a key commitment in the ACT Government's Response to Domestic and Family Violence. The Coordinator General for Family Safety has spent the last 12 months co-designing the final hub design with input from government, community services and front-line workers, experts and victims of domestic and family violence.
- The Family Safety Hub is funded at \$5.96 million over four years through the Safer Families Levy which sees each household contribute \$30 per year through their rates.

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TRIM Ref: 2018/000083-010

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

- The Government is committed to ensuring that the Territory's bail laws operate effectively and appropriately within the criminal justice framework.
- Bail is a long established practice in the criminal law which allows, in appropriate cases, accused people to remain in the community until their charges can be determined by a court of law.
- The *Bail Act 1992* (Bail Act) operates to both protect the community and uphold the administration of justice, recognising the operation of the presumption of innocence and an accused person's human rights under the *Human Rights Act 2004*. It takes account of a variety of competing rights, interests and expectations.
- The purposes of the Bail Act include ensuring that accused persons appear at Court, and managing the risks that might arise while an accused person is on bail.

Decisions to grant bail

- The ACT Government is committed to reform in the ACT criminal justice system to ensure that the legislation protects the most vulnerable, reflects community expectations, and provides a strong deterrent to criminal behaviour.
- There is always a risk that an alleged offender will reoffend, but this risk is taken into consideration under our bail laws, including through presumptions against bail for certain offences and conditions of bail which can be imposed, and the role of ACT Policing in ensuring that offenders comply with their bail conditions.
- While there is no statistical evidence available about the number of instances where a person offends on bail, the ACT Government is satisfied on the basis of available information that the mechanisms

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currently in place to determine the issue of bail and management of people on bail are satisfactory.

- The ACT Government commenced a trial Bail Support Program in 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.

### Review of bail laws

#### *Section 44 of the Bail Act*

- The most substantive recent reform to the Bail Act was the *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* which 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.

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- 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.

### **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.
- There are restrictions on the powers of police officers, magistrates and judges to grant bail in certain circumstances.
- For certain specified offences, the presumption in favour of bail is stated not to operate, creating what is sometimes referred to as a 'neutral presumption'. For these offences, the court must simply consider the criteria for granting bail, such as the likelihood of the person appearing in court in relation to the offence, the likelihood of the person committing further offences while on bail, harassing or endangering the safety or welfare of members of the public, interfering with evidence and witnesses or otherwise obstructing the course of justice, and the interests of the person.
- 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. This reflects that the protection and welfare of the community is to be one of the paramount considerations in relation to a bail decision.

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

- At the ceremonial sitting to mark her Honour Justice Penfold's retirement on 23 March 2018, the President of the Bar Association raised the declaration of incompatibility made by Penfold J in *In the matter of an application for bail by Islam* [2010] ACTSC 147 (*Islam*) that section 9C of the Bail Act (presumption against bail for certain offences) was not consistent with section 18(5) of the *Human Rights Act 2004* (which provides that 'Anyone who is awaiting trial must not be detained in custody as a general rule').
- The Government tabled the final government response to the declaration in the Legislative Assembly on 1 May 2012. In this response, the Government restated its commitment to bail laws that properly balance the presumption of innocence on the one hand and the right of the community to be safe and for justice to be done on the other. The final response also proposed options for minor and important amendments to the Bail Act. In tabling the final government response, the Government requested community views on the options proposed. Due to the diverse views received during consultation on the final Government response to the 2010 declaration of incompatibility in Islam, the ACT Government elected not to pursue any of the three options originally proposed.

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*Coronial inquest into the death of Andrew Nolan Christie*

- In January 2018, Coroner Cook published his reasons for determining the manner of death of Mr Andrew Nolan Christie.
- In the days immediately prior to his death, Mr Christie was arrested for a family violence offence and refused police bail. Due to the timing of his arrest on a Saturday afternoon, he was transferred from police custody at the ACT Watchhouse to the Alexander Maconochie Centre (AMC) under the authority of section 30 of the *Corrections Management Act 2007*, which provides that an adult cannot be detained in a police cell for more than 36 hours. The transfers occur in order to provide services and accommodation beyond that which is possible for a person detained for lengthy periods in police cells.

Police discretion in dealing with failures to comply with bail conditions (recent [media](#))

- On 8 June 2018, ACT Policing dealt with a failure to ensure timely compliance with bail conditions by arresting the accused person without a warrant. Section 56A of the *Bail Act 1992* applies if a person has been granted bail and a police officer believes on reasonable grounds that the person has failed to comply with one of the conditions of bail. In the case reported in the *Canberra Times*, the accused person reported to the Woden Police Station 39 minutes later than required by her conditions. The Magistrate presiding over the bail hearing the next day requested the prosecutor to remind ACT Policing it had discretionary powers that meant it did not have to jail people and alluded to the possibility of the accused having grounds for a false imprisonment claim.

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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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## QUESTION TIME BRIEF

- 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 will be open for a period of three weeks and will close at midnight on 19 August 2018.

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## QUESTION TIME BRIEF

- 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.

### 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 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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## QUESTION TIME BRIEF

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

Position Level	2018-19 FTE	2019-20 FTE	2020-21 FTE	2021-22 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>

### 2017-18 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 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.
- 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.

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*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 been 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.

*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.

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## QUESTION TIME BRIEF

- 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.
- 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.

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## QUESTION TIME BRIEF

- 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.
- 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.

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## QUESTION TIME BRIEF

- 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.
- 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.

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## QUESTION TIME BRIEF

- 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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## QUESTION TIME BRIEF

- 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.

Cleared as complete and accurate: 19/07/2018  
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Lead Directorate: Justice and Community Safety

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## QUESTION TIME BRIEF

TRIM Ref: MIN:2018/000083-020

**Portfolio:** Attorney-General

### ISSUE: JUDICIAL APPOINTMENTS PROCESS

#### Talking points:

- I am aware that the Bar Association has called for greater consultation with the local legal profession in the making of judicial appointments.
- The ACT Government recognises the importance of, and adheres to, a transparent process for selecting judicial officers.
- The process and criteria for selecting a new judge are set out in the *Supreme Court (Resident Judges Appointment Requirements) Determination 2015 (No 1)* which is available online.
- The ACT's legislative framework ensures a transparent, merit-based selection process for judges. The Government advertises judicial positions publicly and evaluates applications according to clear selection criteria.
- The ACT Government recognises the importance of views of the local legal profession, and seeks nominations from the ACT Law Society and the ACT Bar Association each time a judicial selection process is conducted.
- Evaluation of applicants is conducted independently and the Government is required to choose appointments based on the published selection criteria.
- The Government values the input of the local profession and will continue to engage with them in the context of the statutory framework.

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

- I was pleased to announce the appointment of Ms Louise Taylor as the eighth magistrate on 10 August 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 includes 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.

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- 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.
- The Justice and Community Safety Directorate undertook a recruitment process for the new magistrate following the Government providing \$3.1million over four years for the appointment of an eighth 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 at the ACT Magistrates Court

### Key Information

- Selection processes and criteria for Judges, Magistrates and Special Magistrates, and Presidential Members of the ACT Civil and Administrative Tribunal are all set out online.
- Selection criteria for the judiciary include intellectual capacity, personal qualities, an ability to understand and deal fairly, efficiency and authority, communication, leadership and management skills.
- Before any appointment to the Supreme Court is recommended the Attorney-General must consult the current Chief Justice about possible appointees (other than for the Chief Justice).
- For temporary appointments or re-appointments there are more flexible provisions which support the continuity of services provided to the ACT community, but the experience, skills and qualifications of candidates are paramount considerations.

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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.
- Further, 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.
- I expect to introduce amendments addressing these issues later this year.
- The working groups are made up of key stakeholders including advocacy groups, people living in occupancy agreement accommodation and providers of occupancy agreement accommodation.
- Further, the government is actively considering all recommendations in the review of the Residential Tenancies Act along with the residential tenancy reforms announced in Victoria in October 2017.

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### Victorian reforms - Keeping pets in rental properties

- I am aware the Victorian Government has announced plans to amend the Victorian Residential Tenancies Act to make it easier for tenants to keep pets in rental properties.
- I understand that tenants in Victoria will be given the right to keep pets if they obtain the landlord's written consent, and that landlords will not be able to unreasonably refuse. I look forward to seeing this legislation when it is introduced.
- In the ACT, it is up to individual landlords to decide whether a tenant may have pets in a rental property. The standard residential tenancy terms do not refer to keeping pets in rental properties. However, on 29 April 2009 the ACT Civil and Administrative Tribunal (ACAT) issued a Practice Direction stating that due to the right of exclusive possession, tenants have an implied right to keep pets unless otherwise stated in the lease. It is therefore the obligation of Landlords to put in a specific clause to prohibit pets, or restrict the type and number of pets.

### Victorian reforms – other proposals

- The Victorian Government proposes to cap bonds at one month's rent where the rent is twice the current median weekly rent.
- In the ACT, the Residential Tenancies Act already provides that a landlord may only require or accept a maximum bond of four weeks' rent in all circumstances.
- The Victorian Government has announced proposed changes to the bond release process, including a 14 day automatic bond release process if there is no dispute.
- In the ACT, amendments were made to the bond release process in 2016 following the review of the *Residential Tenancies Act 1997*. These amendments modified the mechanism for releasing the bond money to allow an early opportunity to resolve any dispute before an application is made for release of the bond.

There is a positive obligation on the landlord to give the tenant an application for payment of the bond money out of the trust account within three working days after the termination of the residential

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tenancy. If the landlord wishes to make a deduction from the bond, the landlord must include in the form the reason for the deduction.

- The ACT Government is monitoring developments in other Australian jurisdictions, including Victoria. While Victorian residential tenancy law does not currently expressly prohibit rental bidding, the Victorian Government has stated it will introduce legislative amendments to restrict the practice.
- Other reforms proposed by the Victorian Government include abolishing ‘no specified reason’ notices to vacate, making it easier for tenants to make minor modifications to a property and creating a landlord and real estate agent blacklist. The Justice and Community Safety Directorate (JACS) will consider these reforms as part of the second tranche of the review of the Residential Tenancies Act.

### **Key Information**

#### Issues raised by Caroline Le Couteur MLA

- In a media release dated Thursday 10 May 2018, Caroline Le Couteur MLA of the ACT Greens expressed concern that the second tranche recommendations in the 2016 review of the *Residential Tenancies Act 1997* had not yet been implemented.
- Ms Le Couteur referred to the following recommendations from the report:
  - reducing the maximum rent payable in advance to two weeks, instead of the current four weeks, consistent with NSW;
  - allowing tenants to give 14 days notice to leave a rental property if they have been offered social housing;
  - giving tenants the power to terminate a lease if the terms are inconsistent with the RTA;
  - placing greater focus on sustainability and energy efficiency;
  - implementing minimum standards for safety and security.

#### Victorian proposals

Victoria announced a number of reforms to residential tenancies law in October 2017. Legislation has not yet been introduced.

The proposals include:

- residential properties Victoria will be given the right to keep pets if they obtain the landlord’s written consent, and that landlords will not be able to unreasonably refuse
- cap bonds at one month’s rent where the rent is twice the current median weekly rent
- abolishing ‘no specified reason’ notices to vacate

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- making it easier for tenants to make minor modifications to a property
- creating a landlord and real estate agent blacklist.

### 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.

### Occupancy Agreements

- Occupancy agreements cover a wide variety of different living arrangements for either short or long term accommodation, including boarding houses, student accommodation and manufactured home parks.
- The review of the Residential Tenancies Act in 2016 found that issues with occupancy agreements were complex and affect a diverse range of stakeholders.
- These issues included: a lack of awareness for parties to an occupancy agreement about their rights and responsibilities; collection of bonds which are not required to be lodged with the Office of Rental Bonds; termination of the occupancy and eviction from premises;

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application of occupancy agreements to community housing residents; and a grantor's rights of entry to occupied areas.

- Given the complexity, the 2016 review of the Residential Tenancies Act recommended the Government consider establishing a working group to consider the issues relating to occupancy agreements and develop recommendations.

The working group would be asked to consider the development of standard occupancy terms, with particular emphasis on providing occupants with protections similar to those enjoyed by tenants as far as possible while retaining flexibility.

- On 19 July 2017, JACS hosted an occupancy agreements discussion forum with independent facilitator Design Managers Australia.
- During the forum, key stakeholders identified important issues relating to occupancy agreements. Forum attendees included grantors and occupants of different kinds of occupancy accommodation, advocacy groups and representatives of associations for students and occupants of residential parks. Based on the discussions in the forum JACS established working groups focussing on different types of occupancy accommodation.
- The following working groups will provide advice and help develop recommendations for Government:
  - a caravan park and manufactured homes group that will look at short term solutions that can assist residents and also consider whether caravan parks should be regulated separately
  - a student group that will look at issues facing students in both on and off campus accommodation as long as the agreement could be characterised as an occupancy agreement and
  - a boarding house and crisis accommodation group that will look at whether a standard agreement term is needed, how to work with the ACT and Commonwealth obligations for the providers in this group, and whether further regulation is needed.
- The working groups for caravan parks and manufactured homes and for boarding house and crisis accommodation last met in June 2018. The student accommodation group last met in March 2018.

### Conditional termination and possession orders (CTPOs)

- The report on the review of the Residential Tenancies Act recommended that consideration be given to amending the CTPO provisions.
- CTPOs can be ordered by ACAT in situations where the tenant has failed to pay rent. Instead of making a termination and possession order to terminate the tenancy, ACAT may make a CTPO to give the tenant a further opportunity to address rental arrears. If the tenant fails to comply with the CTPO, the tenancy automatically terminates at a stated time after any rent becomes payable and is not paid.
- Automatic termination occurs even in circumstances where rent was paid late for reasons outside the control of the tenant, such as Centrelink processing delays.
- Automatic termination occurs even if the lessor does not want the tenancy to end.
- During the review, key stakeholders expressed concern about the automatic termination and its impact on vulnerable social housing tenants.

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- The Government passed amendments to the Residential Tenancies Act on 5 June 2018 to resolve these issues (the Residential Tenancies Amendment Act 2018). These amendments:
  - replace the CTPO provisions with a new concept of a payment order
  - provide that there is no self-executing component of the new payment order provisions so that a breached order will not automatically end a tenancy
  - give the lessor the right to apply for a termination and possession order and a warrant for eviction within 60 days if a breach of a payment order occurs
  - provide that if the lessor does not pursue a breach of a payment order within 60 days of the breach occurring, the tenancy continues and the debt remains with the tenancy, with this rule applying to further breaches of the payment order, and
  - automatically deem CTPOs in force immediately before the commencement day to be payment orders.

### Commercial Guarantees

- The Residential Tenancies Act allows a lessor to accept a guarantee or indemnity instead of a bond
- This is a promise to pay the lessor for damages that occur during a tenancy. The guarantee or indemnity is only enforceable to the maximum amount a bond would have been.
- The Residential Tenancies Act was amended in 2017 to improve consumer protections for tenants and lessors who enter into a commercial guarantee or indemnity contract.
- A Lessor can only accept a commercial guarantee if the standard guarantee contract is registered.
- The provider of commercial guarantee must apply to the Commissioner for Fair Trading for registration. The registration process is prescribed by regulation. The regulation prescribing this process commenced on 7 May 2018.
- Commencement of the provisions relating to registration were delayed to allow the Government time to consider the implications of commercial guarantee products, including consumer protection issues. These provisions commenced operation on 7 May 2018.
- The *Residential Tenancies Amendment Act 2018* introduced the following amendments to the commercial guarantee provisions:
  - The Bill extends the delay on the use of commercial guarantees as an alternative to a rental bond to give the Government further opportunity to consider the legal policy implications and conduct further stakeholder consultation
  - The Bill proposes amendments to the Act to provide that a person may only apply to the Commissioner for Fair Trading to register a standard guarantee contract for a commercial guarantee on or after a day declared by the Minister.
  - Any applications for registration of a standard guarantee contract made before this time that have not been decided by the Commissioner or have been refused by the

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Commissioner are deemed not to have been made. If any contracts have been registered before this date, the registration is deemed to have ended.

- Any guarantees entered into before the legislation commences will continue to be in force.

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## QUESTION TIME BRIEF

Portfolio/s Regulatory Services  
Transport & City Services

### ISSUE: GREYHOUND RACING

#### Talking points:

##### *Racing ban and transition support*

- 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.
- This government's priority is the welfare of greyhounds, which are put at unacceptable risk through racing, and the people who have been affected by the end of racing in the ACT.
- That's why the Government established the Greyhound Industry Transition Taskforce, and why the Taskforce 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 support the process of ending greyhound racing and trialling in the ACT. The ACT Government announced the availability of over \$1m in transition support when we announced the decision to prohibit racing and trialling, over a year ago.
- Applications for transition support, and support to rehome ex-racing greyhounds, closed on 30 June 2018.

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- The Greyhound Industry Transition Taskforce received applications from a range of people, businesses and re-homing organisations for support.
- To protect the confidentiality of the individuals involved, I am unable to discuss these applications in detail.
- The Taskforce, with assistance from Woden Community Service, is now in the process of considering all applications that were lodged and making arrangements to disburse funds for eligible applicants.
- Free counselling will 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.

### *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.

### *Collaborative approach to compliance*

- The Transport Canberra and City Services (TCCS) Directorate, in collaboration with Access Canberra, is responsible for ensuring that any illegal conduct at the premises of the Canberra Greyhound Racing Club in Symonston is investigated and appropriate action taken.
- Upon commencement of the ban, TCCS and Access Canberra implemented a comprehensive approach to engage, educate and enforce the legislation. This has included an initial intensive compliance program lasting for two weeks from the date of the ban commencing, with compliance activities ongoing since then.
- Access Canberra and TCCS provided a range of written information to industry participants, including key contacts for people who wished to seek further information. Information on the racing ban and the ACT's new regulatory framework for racing greyhounds is available at [www.act.gov.au/greyhound](http://www.act.gov.au/greyhound).

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- TCCS and Access Canberra engaged closely with industry participants, with inspectors from both agencies attending an information session at the Canberra Greyhound Racing Club on 2 May 2018 to explain the new legislation and answer questions. A further information session was held on 13 June 2018.
- Between 30 April 2018 and 13 May 2018, TCCS and Access Canberra conducted a total of **23** inspections of the Greyhound Racing Club as part of the initial intensive compliance program.
- During these inspections no racing, trialling or illegal betting activities were identified at the premises.
- Inspectors from both agencies have continued to conduct inspections of the venue and have at times attended Wednesday evening training sessions held at the venue with no issues being identified.

### *Breeding, training and registration*

- As indicated previously, it is still lawful for ACT residents to breed, train and own racing greyhounds here, subject to a range of measures designed to better protect ACT greyhounds who will continue to race interstate.
- More regular racing registration renewals, new licensing requirements on owners, trainers and breeders and a mandatory Code of Practice for people who have day-to-day control of greyhounds registered for racing, are now in place to improve our oversight of these practices in the ACT.
- This framework is designed to give us a better line of sight on the entire lifetime of greyhounds here in the ACT. For example, registering new litters within seven days now means that every young greyhound is to be accounted for, whether or not it is later registered as a racing dog.

### *Code of practice*

- The *Code of Practice for the Keeping and Breeding of Racing Greyhounds* commenced on 30 April 2018.

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- Over a dozen stakeholders (including the Animal Welfare Advisory Committee, the RSPCA, the Canberra Greyhound Racing Club, the Australian Veterinary Association, greyhound welfare organisations and interstate racing authorities) provided feedback during consultation on the Code.
- All feedback was carefully considered in the Code's development. The ACT Government will continue to monitor the implementation of the Code, and the development of similar codes in other jurisdictions. Ongoing conversations with the industry will be part of this monitoring process.
- An ongoing review of greyhound breeding and training practices over the next two years will also help the Government assess whether any further intervention is warranted. This includes a review of the Code within twelve months of operation.

### *Fees for racing greyhounds in the ACT*

- The ACT Government has been clear that ACT residents will be able to continue to own, breed and train greyhounds for racing elsewhere only on the basis that it is at no cost to the broader ACT community.
- The fees that have been determined for registering a racing greyhound and obtaining a racing greyhound controller licence reflect this decision. They account for the anticipated costs of monitoring the welfare of greyhounds who are involved in racing, including tracking of greyhounds, regular inspections of premises and any necessary compliance activity.
- Engagement with keepers of ACT-based racing greyhounds has identified high levels of compliance with key welfare-related conditions such as kennelling facilities. A review of fees is being undertaken to ensure that fees accurately reflect the cost of service and do not unduly impact on the ability of otherwise compliant keepers to continue to train racing greyhounds in ACT. Opportunities to align with the new NSW Greyhound Welfare and Integrity Commission are also being explored.
- The ACT registration and licensing fees for racing greyhounds are distinct from the licencing required by greyhound racing controlling bodies. People who wish to race their ACT based dogs outside the Territory still

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need to comply with the requirements of the relevant controlling body (such as the NSW Greyhound Welfare and Integrity Commission).

- Opportunities to streamline processes between NSW and ACT, and ensure the highest standard of welfare for racing greyhounds are being considered.
- The NSW Greyhound Welfare and Integrity Commission commenced on 1 July 2018 as an independent regulator of the greyhound racing industry in NSW, and was a key recommendation of the Greyhound Industry Reform Panel set up in NSW.
- Anyone with questions about registration, licensing and compliance and the Code of Practice, are encouraged to contact Domestic Animal Services via Access Canberra on 13 22 81 to discuss their individual circumstances.

### *The role of Woden Community Service*

- Mr Redmond, the CEO of Woden Community Service (WCS), is not a member of the ACT Government's Greyhound Industry Transition Taskforce. The Taskforce is made up of senior executives from across ACT Government.
- WCS has provided support to members of the ACT community for 49 years.
- Given the range of services that WCS is able to offer (including counselling, personal support and linkage with a wide range of Canberra's community services) together with their long and respected history in supporting the people of Canberra, the Taskforce engaged their services to assist those Canberra residents who are affected by the end of greyhound racing in the Territory.

### *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.

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- 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% of the greyhounds that raced in the ACT in 2016 were based in NSW.
- The Durkin Report estimated that at the time there were approximately 70 Canberra residents who were active participants (i.e. owners, breeders and trainers) in greyhound racing in the ACT. Approximately 52 racing greyhounds were both owned by ACT residents and based here.
- 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).
- Given the length of time involved in the transition to implement the ban on greyhound racing, trialling and betting, the ACT Government is proposing a strong regulatory response to any individual or association that is found to be knowingly engaging in conduct that constitutes an offence in this regard.
- Access Canberra and the Transport Canberra and City Services Directorate established a joint agency initiative to provide appropriate inspection activity and

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ensure that any response to unlawful conduct is timely and dealt with by the appropriate agency.

- The Code of Practice and fee instruments were notified on 30 April 2018. Consistent with the Government's concern for people affected by the legislative changes, the focus of compliance activities has been on engaging and educating in the first instance. Nonetheless, in accordance with established regulatory approaches, wilful or recidivist non-compliance will be dealt with in a rigorous manner.

### **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 an 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.

### Durkin Report

- 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.

### NSW position on greyhound racing

- The NSW Government announced a ban of greyhound racing to take effect from 1 July 2017 but reversed the decision on 11 October 2016. This followed an earlier inquiry by the Honourable Michael McHugh AC QC into the greyhound industry in NSW which exposed wide-spread live baiting practices and animal cruelty
- The NSW Government will spend \$41 million over the next five years to implement the recommendations of its Greyhound Industry Reform Panel. Of this, \$11 million is allocated towards the establishment of an integrity commission with the remainder to improve animal welfare standards. The Greyhound Welfare Integrity Commission commenced operation on 1 July 2018. A statutory review of the new legislation will take place after three years.

### Legal challenges - Canberra Greyhound Racing Club

- The CGRC has two legal challenges against the ACT Government on foot.
- On 23 February 2018, the ACT Supreme Court handed down its decision in a matter brought by the Canberra Greyhound Racing Club (CGRC) against the ACT Planning and Land Authority (ACTPLA) regarding the lease over the greyhound track at Symonston. The Court found that

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Lead Directorate:	Chief Minister, Treasury and Economic Development	

## QUESTION TIME BRIEF

ACTPLA should have made a decision in regard to CGRC's application for a renewal of its current lease (due to expire in 2027) and that it was unreasonable to delay making a decision because of the possibility of legislative change that would ban greyhound racing. However, the Court found that ACTPLA should not now be ordered to make a decision regarding the lease because legislation has now been passed that will ban racing from 30 April 2018. The Court found that to require ACTPLA to act with regard to the lease renewal would be futile given the impending ban on the industry, and that their existing lease, which expires in 2027, provided CGRC all the certainty and protection that it needed to conduct its affairs until the ban commences.

- The CGRC has filed an appeal in this matter, and the appeal will be heard on 15 November 2018. The CGRC were also successful in obtaining an award of costs against the ACT in this matter until 29 November 2017 (the date on which the laws banning greyhound racing were passed in the Assembly). From that date, each party is to bear their own costs.
- On 2 November 2017, the CGRC also filed an application in the Federal Court seeking damages in relation to an alleged breach of the CGRC lease; a declaration that laws relating to ACTTAB and the control of race field information are invalid; a declaration that the instruments made under those laws are also or alternatively invalid; and a declaration that the *Domestic Animals (Racing Greyhounds) Amendment Act 2017* is invalid. A hearing date has not yet been set.

Cleared as complete and accurate:	19/07/2018	
Cleared by:	Director	X 50468
Contact Officer Name:	Belinda Barnard	X 77525
	Stephen Alegria	X 79833
	Andrew Nowlan	X 52534
Lead Directorate:	Chief Minister, Treasury and Economic Development	



## QUESTION TIME BRIEF

TRIM Ref: 2018/000083-002

**Portfolio:** Attorney-General

### **ISSUE: GAMING MACHINE HARM REDUCTION MEASURES**

#### **Talking points:**

- The Government is continually looking for ways to reduce the harm that gaming machine use causes some Canberrans.
- I was concerned to hear about the outcomes of the recent Tribunal decision in relation to Professor Laurie Brown's experience.
- Now that the 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.
- Clubs who fail to take steps to protect their patrons should face penalties that reflect the significance of the harm they cause.
- 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.
- Prior to this case being decided, the Government was well underway in a program of work to explore and implement a broad range of options to ensure that the Territory's gambling harm minimisation rules are robust and fit for purpose.
- In 2017, the Government implemented a number of additional harm minimisation measures, including the introduction of legislation that restricts EFTPOS cash withdrawals in clubs to \$200 per transaction, with all stages of the transaction requiring human interaction with a trained staff member.
- During the second half of 2017, I engaged directly with a wide range of stakeholders in a series of roundtables to explore how harm reduction measures may be effectively developed in the Territory. Stakeholders spoken with included representatives of clubs, workers in clubs, and individuals with lived experience of gambling harm, community organisations, academic experts and regulators.

Cleared as complete and accurate:	24/07/2018	
Cleared by:	Deputy Executive Director	Ext: 76244
Information Officer name:	Tamsyn Harvey	Ext: 70674
Contact Officer name:	Alex Ingham	Ext: 70305
Lead Directorate:	Justice and Community Safety	

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## QUESTION TIME BRIEF

- The group discussed how to develop a better evidence base to minimise the potential of gambling harm, as well as a broad range of options that could be explored to improve harm minimisation, including the sharing of best practice between venues, improved staff training and self-exclusion procedures.
- Building on what I have learnt through this engagement, and taking into account the outcomes of Professor Laurie Brown's complaint, later this year I will bring forward amendments to the *Gambling and Racing Control (Code of Practice) Regulation 2002* that strengthen the protection the Code offers to people experiencing harm from gambling. At a minimum this will address self-exclusion and staff training measures.

### Investigation by the Gambling and Racing Commission into Patron Complaint

- Following an allegation that the Raiders Belconnen Club failed to comply with the *Gambling and Racing Control (Code of Practice) Regulation 2002*, which is itself a breach of the *Gaming Machine Act 2004*, this matter was investigated by the Gambling and Racing Commission. The Commission took disciplinary action against the Club imposing a fine of \$120,000, finding that the club did not record signs that a patron had a gambling problem, as required under the Code of Practice.
- The Club lodged an appeal against the decision to the ACT Civil and Administrative Tribunal that was referred for a mediation hearing. The outcome of this was, by consent of the parties (that is the Raiders and the Commission), a \$60,000 financial contribution by the Raiders to a charity which supports those affected by gambling harm and the remission of the Commission's decision back to the Commission for reconsideration.
- The Commission has subsequently confirmed that it was appropriate to take disciplinary action and it considers that the outcome of the consent orders made by the Tribunal achieves the intention of the Commission's initial action – to prove that the Raiders had not complied with the club's obligations.
- Given the outcome in this matter, I will be seeking the views of the Commission and others about the capacity of the *Gambling and Racing Control (Code of Practice) Regulation 2002* to deal with breaches of the obligations of clubs.

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

## QUESTION TIME BRIEF

This will be done as part of a thorough review of the Regulations, and changes identified as needed to strengthen the Regulations will be made by the end of the year.

- The Government will also continue to work with gaming machine licensees and the club sector to develop a range of strategies and measures to reduce harm caused by the playing of gaming machines.

*Please Note: Access Canberra has provided a separate QTB on the status of this matter.*

### Mandatory Pre-commitment and Bet Limits

- The Government has committed to exploring harm reduction measures, including mandatory pre-commitment systems and bet limits for gaming machines. These policy options are being explored alongside a number of other harm reduction strategies as part of a program of continuous improvement to the territory's gaming regulations.
- The Government will continue to work to ensure we have a robust suite of harm reduction measures in place.
- Mandatory pre-commitment and betting limits for gaming machines would require changes to the software on each machine, or in some instances a substantial upgrade or new machine. Additionally, the creation of a Central Monitoring System (a database for all gaming machine usage in the ACT) would be required to register these pre-commitments so that it can be maintained across all licensees in the Territory.
- Extensive community and industry consultation will be undertaken on any proposed reforms.

### Casino Electronic Gaming

- The *Casino (Electronic Gaming) Act 2017* was passed by the Assembly on 2 November 2017, and ensures the Territory has the most robust harm minimisation measures in the country, with respect to electronic gaming machines in the casino. The Act requires that any gaming machines the casino operates must be able to connect to an approved mandatory pre-commitment system.
- The Act also includes a maximum bet limit of \$2 a spin, or lower amount set by regulation. Community and expert input was taken into account in setting this limit.

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

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## QUESTION TIME BRIEF

- To maintain the intent of the harm minimisation measures in the Casino (Electronic Gaming) Act, on 5 June 2018 the Legislative Assembly passed the Casino and Other Gaming Legislation Amendment Act 2018 that provides that any gaming machines operated within 200 metres of the boundary of the casino, by a gaming machine licensee that is related to the casino licensee, will be subject to the same harm minimisation measures as casino gaming machines.

### Problem Gambling Assistance Levy

- The Government has already delivered on its commitment to increase the Problem Gambling Assistance Levy from 0.6 per cent to 0.75 per cent of gross gaming revenue, which will provide an additional \$300,000 per year to help reduce harm from gambling. This commenced in July 2017.
- Examples of the sorts of programs funded through the Problem Gambling Assistance Levy include:
  - The ACT Gambling Counselling and Support Service
  - Development of and training for a self-exclusion register in the ACT
  - A longitudinal study of those who have received treatment for gambling harm
  - Online problem gambling counselling and support.

### **Key Information**

#### 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).
- This compares to 0.8 per cent in New South Wales, 0.5 per cent in Queensland, 0.6 per cent in South Australia and 1.0 per cent in Victoria.
- 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.

Cleared as complete and accurate:	24/07/2018	
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## QUESTION TIME BRIEF

- 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.

### Background Information

#### Parliamentary Agreement

Parliamentary Agreement Commitment 9 is to reduce harm from gaming in the ACT by the following measures:

- 9.1 Reduce the number of electronic gaming licenses in the ACT to 4000 by 1 July 2020
- 9.2 Explore further harm reduction measure, including mandatory pre-commitment systems and bet limits for electronic gaming machines
- 9.3 Increase the Problem Gambling Assistance Fund levy from 0.6 per cent of gross gaming machine revenue to 0.75 per cent, and direct additional funds into addressing problem gambling
- 9.4 Review the current community contribution scheme, with a view to maximising the direct benefit to the community from the scheme.

The *Supporting Local Community Clubs Policy* includes a commitment to “*Conduct a review of Clubs’ harm minimisation strategy to examine if current approaches are appropriate and effective*”.

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

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## QUESTION TIME BRIEF

TRIM Ref: 2018/000094-001

**Portfolio:** Attorney-General

**ISSUE:** ACT Law Courts PPP - Progress

### Talking points:

- Stage 1 of the construction phase is subject to significant delays. As at the end of July 2018 the duration of the delay will be approximately 36 weeks.
- The latest completion programme issued by Juris / 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. This would represent a delay of approximately 42 weeks for both stages.
- 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.

Cleared as complete and accurate: 09/08/2018  
Cleared by: Alison Playford Executive Director  
Information Officer Name: Lloyd Esau  
Contact Officer Name: Melissa Tierney

Ext: 50542

**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 July 2018 the duration of the delay will be approximately 36 weeks.
- The latest completion programme issued by Juris / 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. This would represent a delay of approximately 42 weeks for both stages.
- 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)

Cleared as complete and accurate: 09/08/2018  
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## QUESTION TIME BRIEF

### 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;

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## QUESTION TIME BRIEF

- 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: 2018/000083-033

**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 19 July 2018, The Justice and Community Safety Directorate (JACS) was briefed on the recent Racing NSW announcements in relation to increased prize money, and the ongoing exclusion of ACT trainers from certain NSW races.
- 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.
- The ACT Government is committed to the ongoing development and sustainability of the thoroughbred racing industry in the ACT.

**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 – 0.5per 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.

Cleared as complete and accurate: 13/08/2018  
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Lead Directorate: Justice and Community  
Safety

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## QUESTION TIME BRIEF

- 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 their 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 Canberra Racing Club introduced the Federal race 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.

Sch 2 s 2.2 (a)(xi)

Cleared as complete and accurate: 13/08/2018  
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Information Officer name: Tamsyn Harvey  
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Lead Directorate: Justice and Community Safety

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## QUESTION TIME BRIEF

- The CRC may request further funding, especially in consideration of the recent introduction of a point of consumption tax. The CRC was advised by Treasury at the Joint 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 have foreshadowed that they have commissioned an interjurisdictional study which sets out the funding which other racing clubs around Australia receive from POC taxes. The report containing the findings of that study will also include a proposal for a new funding model for the CRC. The CRC have indicated that they will present that model at the next meeting of the Joint Industry and Government Committee, currently scheduled for 15 August 2018.

Cleared as complete and accurate: 13/08/2018  
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Information Officer name: Tamsyn Harvey  
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Lead Directorate: Justice and Community  
Safety

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## Ongoing Issues

### 1. Crimes (Consent) Amendment Bill

- 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.
- We are strongly committed to addressing criminal law reforms raised by the Royal Commission into Institutional Responses to Child Sexual Abuse recommendations.
- The definition of consent proposed by the Greens is a departure from the current common law position.
- Given the recommendations of the Royal Commission, it is important that reforms to fundamental concepts underpinning ACT sexual offences are carefully considered and not dealt with in isolation from broader sexual offence reforms.
- The Government will consider the findings of the Justice and Community Safety Standing Committee, to which Ms Le Couteur's Bill has been referred, in determining any changes to the definition of consent for sexual offences

Cleared by Karen Greenland

1 June 2018

## 2. Drug and Alcohol Court

- The Government is undertaking phase one, 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 is in the process of conducting 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 is developing proposals to Government in relation to the model, assisted by a working group of key stakeholders, chaired by Justice John Burns.

Cleared by: Karen Greenland

Date: 15 January 2018

### 3. Liquor Reforms

- ClubsACT has stated on its website that “Canberra’s club liquor-licence fees are the most expensive in Australia. A local sporting club in the ACT pays over \$5,000 to operate to midnight. If it were located in NSW this fee would be closer to \$500.”
- The framework for liquor licensing fees in NSW differs to the ACT. Risk based loadings in NSW such as compliance history, patron capacity and location are only applied where at least one prescribed offence event was committed during the previous calendar year, whereas risk based loadings including opening hours, capacity and purpose are applied to set the level of fees for all licensees in the ACT.
- The base licence fee for a club of any size with no recent compliance history trading until midnight is \$532 in NSW, whereas in the ACT a club with over 350 people occupancy would pay a licence fee of \$5,832 to trade until midnight.
- The number of licensees and resources available for regulatory activities are examples of considerations that have informed the licensing framework in the ACT.
- The harm minimisation and community safety principles inform the basis for liquor licensing fees in the ACT. This approach draws on the presumption that people benefitting from the sale of alcohol, licensees, should bear the costs of the risk-based scheme set in place to minimise risk and reduce harm to the community, through policing patrols.
- Licensing fees go toward funding additional police in the Regional Targeting Team, as well as regulatory costs. There are also significant indirect regulatory costs from alcohol misuse and abuse that require funding by the community.
- Following extensive policy development and stakeholder consultation relating to liquor issues in 2015 and 2016, in 2017 the ACT Government made amendments to the *Liquor Act 2010* to cut unnecessary red tape and reduce alcohol-related harm.
- On 8 January 2018 *The Canberra Times* reported that the Commissioner for Fair Trading is yet to impose any conditions on Canberra’s bars or nightclubs eight months after introduction of the new powers through the *Liquor Act 2010*.
- The article also stated that the controlled purchase operation powers were yet to be used.
- These powers were intended to be available for use where a compliance issue is identified. As this has not been the case, the powers are yet to be drawn upon.
- The Liquor Advisory Board serves to bring together stakeholders to advise the Attorney-General about matters relating to the operation and effectiveness of the *Liquor Act 2010* and support harm minimisation and community safety principles.

- The Board's diversity has been enhanced with an additional member to represent the late night economy who was appointed in June 2018 .
- The safety measures introduced by the *Liquor Amendment Act 2017* have been enhanced by additional funding of \$4.866 million included in the 2017-18 Budget most of which covers six additional police officers for night-time patrols.

Updated by: Michael Gallagher

Cleared by: Alex Ingham

Date: 9 August 2018

#### 4. Community Club Grants

- The Government is implementing 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.
- Fourteen applications have been received by the Justice and Community Safety Directorate for the community club grant. The grant is available to help clubs diversify their business away from reliance on gaming machine revenue.
- 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.
- The Justice and Community Safety has entered into Deeds of Grants and provided funds to fourteen clubs.

Updated by: AlexIngham

Cleared by: Karen Greenland

Date: 27 July 2018



## 5. Community Legal Centres (CLCs)

### Tenant's Union evaluation:

- The Tenants Union receives \$445,000 annually from ACT Government trust money.
- As a result of changes to Commonwealth reporting requirements under the NPA, the Government has undertaken a re-evaluation of our legal assistance sector.
- The ACT Government's priority is to ensure that all service delivery funding is routinely evaluated and supported by appropriate performance indicators in order to maximise frontline service delivery.
- The TU has not had an evaluation of its funding arrangements in some time. The Government is working with the TU Board to both evaluate the current arrangement and formulate a framework for future funding arrangements.
- This work is being undertaken by an independent evaluator and will ensure that appropriate and fair outcome-based measures are in place moving forward.

### CLC funding generally:

- This initiative will assist the ACT legal assistance sector to continue to provide core services to the most vulnerable members of the community.
- This funding is provided in the context of the National Partnership Agreement on Legal Assistance Services 2015-20 (NPA), under which the Territory is responsible for managing Commonwealth funding to the Legal Aid Commission and Community Legal Centres (CLCs) and for facilitating service planning for the ACT legal assistance sector.
- Under the NPA, the Commonwealth reduced core funding to ACT CLCs by 25 per cent from 1 July 2017.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 6. Commonwealth Funding – DV/Women’s Safety

- I am pleased that the Commonwealth Government has invested in community legal services for family violence matters, including by funding the Women’s Legal Centre and Legal Aid ACT to establish dedicated domestic violence legal services in the ACT.
- I also welcome the Commonwealth’s Budget initiative to transform the family law system, which includes an additional \$39 million over three years under the National Partnership Agreement (NPA) on Legal Assistance Services for Community Legal Centres (CLCs) to deliver family law and family violence related services.
- Along with the ACT Government’s own initiatives for supporting the ACT legal assistance sector, this additional commonwealth funding responds to the Productivity Commission’s recommendation for governments to increase funding to legal assistance providers.

### If asked about 2017 Commonwealth funding for domestic violence units

- On 16 October 2017, the Commonwealth announced \$3.4 million in funding to establish six new specialist domestic violence units.
- The ACT was not successful in securing funding for a second domestic violence unit in this round.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 7. Moss Review

- Mr Moss' Review was provided to the Minister for Corrections on 7 November 2016 and released to the public on 10 November 2016. The report notes that Mr Freeman spent considerable time on remand in the Alexander Maconochie Centre (AMC) before he was sentenced.
- The Minister for Corrections Shane Rattenbury tabled the Government's response on 16 February 2017.
- The inquest into Mr Freeman's death began on 27 February 2017, undertaken by Coroner Robert Cook. The inquest has heard that Mr Freeman died from aspiration pneumonia due to methadone toxicity.
- The Coroner's Inquest has concluded and Coroner Cook released his findings on 11 April 2018.
- The Coroner has not made any adverse findings in this matter.
- However, I note the Coroner's findings in relation to deficiencies and inconsistencies in some ACT Health and ACT Corrective Services procedures.
- The ACT Government acknowledges the acute grief, loss and sadness that Steven Freeman's family has experienced, and the impact this death has had on the Aboriginal and Torres Strait Islander community, and the wider AMC community including those involved in the various aspects of his treatment and care.
- The Coroner has made seven recommendations for the ACT Government to consider.
- A number of actions the Coroner has recommended have already been implemented by ACT Health and ACT Corrective Services through the Government's response to the Moss Review.

Cleared by: Tamsyn Harvey

Date: 1 June 2018

## 8. ACTP Crime Statistics

- ACT Policing and other ACT Government agencies do excellent work on a daily basis to keep the Canberra community safe and our low crime rates are a testament to this.
- We know that Aboriginal and Torres Strait Islander people are over represented in the criminal justice system and we are committed to addressing this.
- We are investing in programs and partnering with community-based organisations to keep Aboriginal and Torres Strait Islander people out of the criminal justice system.
- The government is also committed to reducing recidivism by 25 per cent by 2025, under the Parliamentary Agreement.

Cleared by: Tamsyn Harvey

Date: 12 January 2018

## 9. Eastman Update

- The retrial of Mr Eastman demonstrates that the ACT judicial system is functioning independently and appropriately. The system has upheld a 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.
- There are penalties under the Juries Act 1967 for disclosing the identity of jurors.
- The Crown's Counsel has indicated that trial is progressing on schedule and the prosecution case is expected to be completed by mid September.

### 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 by: Tamsyn Harvey

Date: 30 May 2018

## 10. New Courts Facilities

- The New ACT Court Facilities is being delivered by a 25-year Public Private Partnership (PPP) and the Territory issued a Major Default Notice to Juris Partnership on 3 November.
- Juris Partnership says that construction of the new facility will be delayed due to structural complexities with the pre-cast ordering and installation, restricted working hours from noise and vibration delays in excavation, and complications in finalising engineering solutions for linking to the existing Magistrates Court due to Building Code of Australia requirements.
- Phase one (new wing and refurbishment of Magistrates Court building) is expected to be complete in September/October 2018 with Phase two (refurbishment of heritage building) due in mid 2019.
- Construction and timing risk rests with Juris Partnership. The Territory has entered into an agreement with fixed price for the design, construction, maintenance and operations of the facility for 25 years.
- The end date of this agreement is static. Payment by the Territory does not commence until the building has been completed and accepted by the Territory.
- The Notice issued to Juris as a result of delays is largely a technical contractual issue.
- However, the benefit of issuing the notice is that Juris is required to submit a remedy program which then becomes a commitment against which failure to deliver has the potential to trigger a Default Termination Event.

### If Asked: What effect will the delay have on Court listings?

- The Supreme Court has been aware of the potential delay for some months and will take it into account when listing matters in 2018. The Court will have access to the same number of courtrooms (both jury and non-jury) in early 2018 as has been available in 2017.
- The impact of committing one of the jury courtrooms to the Eastman retrial from April 2018 may mean some jury trials will be held in the Queanbeyan courthouse.
- Presently the Supreme Court has started listing for the new jury court rooms from July.
- The project is continuing to monitor the program and assessing if there will be any impact to listings.

If Asked: What sort of penalties are in place for the builder being late in delivery?

- The delays to completion do not result in a negative financial outcome for the Territory. The contract runs for a 25-year period with a fixed start and finish date. The Territory only pays for the facility once it has been completed and accepted.
- For each month that completion is delayed there will be an avoided cost for the Territory equivalent to the Monthly Service Payment amount. For example, if completion was delayed by three months then the contract would run for 24 years and nine months rather than the contracted 25 years.

Cleared by: Sean Egan

Date: 27 July 2018