



DEBATES
OF THE
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY

DAILY HANSARD

Edited proof transcript

20 August 2020

This is an **EDITED PROOF TRANSCRIPT** of proceedings that is subject to further checking. Members' suggested corrections for the official *Weekly Hansard* should be lodged in writing with the Hansard office (facsimile 02 6205 0025) no later than **Tuesday, 1 September 2020**. Answers to questions on notice will appear in the *Weekly Hansard*.

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MADAM SPEAKER (Ms J Burch) (10.00): Members:

Dhawura nguna, dhawura Ngunnawal.
Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.
Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

The words I have just spoken are in the language of the traditional custodians and translate to:

This is Ngunnawal country.
Today we are gathering on Ngunnawal country.
We always pay respect to Elders, female and male, and Ngunnawal country.

Members, I ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory.

Petitions

The following petitions were lodged for presentation:

Municipal services—Kingston dog park—petition 16-20

By Miss C Burch, from 10 residents:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

The petition of certain residents of the Australian Capital Territory draws to the attention of, and requests the Assembly to:

- Introduce a new designated, fenced, off-leash dog park at the Kingston Foreshore, noting that:
 - d. The increased number of dogs given the recent and ongoing development of apartments.
 - e. The nearest off leash area to the Kingston Foreshore is over to 2km's away.
 - f. The Government has committed to off-leash dog within 800 meters.

Municipal services—Campbell dog park—petition 17-20

By Miss C Burch, from 12 residents:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of, and requests the Assembly to:

- Introduce a new designated, fenced, off-leash dog park at Campbell, noting that:
 - a. The recent development of the Campbell5 apartments and the large increase of the number of dogs living in the suburb
 - b. The nearest off leash area to the Campbell5 apartments is close to 2km's away
 - c. The Government has committed to off-leash dog within 800 meters

The Clerk having announced that the terms of the petitions would be recorded in Hansard and referred to the appropriate ministers for response pursuant to standing order 100, the petitions were received.

Ministerial responses

The following response to a petition has been lodged:

Legislative Assembly—sitting pattern—petition 4-20

By **Madam Speaker**, dated 19 August 2020, in response to a petition lodged by Ms Le Couteur on 7 May 2020 concerning sittings of the Assembly.

The response read as follows:

Dear Mr Duncan

On Thursday 7 May 2020, you announced that a petition (4-20) lodged by Ms Le Couteur, MLA had been received. The petition was signed by 32 residents, and contained the following request:

Your petitioners, therefore, request the Assembly to resume the Assembly's customary annual sitting pattern. Virtual sittings should be introduced and broadcast in the normal manner. This will reduce the risk of expose (sic) to COVID 19 to members and staff whilst ensuring our Territory parliament continues its essential role at this important time.

Although standing order 100 indicates that every petition received by the Clerk and received by the Assembly shall be referred by the Clerk to the minister responsible for the administration of the matter which is the subject of the petition, as there is no responsible minister the matter was referred to me.

I can advise that, on 2 April 2020, the Assembly amended the sitting pattern to provide that, instead of sitting for 16 scheduled sitting days for the period up to the October 2020 election, the Assembly resolved that it would sit on a Thursday in May, June, and 2 in August. Later, on 7 May 2020, the Assembly resolved to add six further sitting days (with additional single day sittings on Thursdays for an additional six weeks).

This meant that, instead of sitting for 16 sitting days, the Assembly will sit for 11 sitting days.

There is a question whether virtual sittings can be conducted for the Assembly. There is a provision in the *Australian Capital Territory (Self-Government) Act 1988* (Cth) that stipulates that decisions of the Assembly must be made by members present and voting, and it is unclear if that requirement allows for virtual sittings.

However, recognising that all members could not meet in the Assembly Chamber in accordance with the Chief Medical Officer's advice, and that there were provisions in the *Australian Capital Territory (Self-Government) Act 1988* (Cth) as outlined above, which cast doubt about the ability to conduct virtual sittings, discussions were had with the architect of the Assembly building to ascertain whether the Chamber could be expanded. Following the construction of several desks, the Assembly reconvened for its scheduled sitting on Thursday 23 July with all members present and able to abide by the physical distancing requirements.

Motion to take note of petitions

MADAM SPEAKER: Pursuant to standing order 98A, I propose the question:

That the petitions and responses so lodged be noted.

Municipal services—Kingston dog park—petition 16-20 Municipal services—Campbell dog park—petition 17-20

MISS C BURCH (Kurrajong) (10.03): I rise today to speak in support of the two petitions being tabled, the first on behalf of the foreshore Owners Corporation Network, relating to an off-leash dog park for Kingston, and the second on behalf of Campbell C5 residents relating to an off-leash dog park for Campbell.

I also seek leave to table two out-of-order petitions relating to these same matters, with a further 210 signatures on the Kingston dog park petition and 54 signatures on the Campbell dog park petition.

Leave granted.

MISS C BURCH: Thank you. I present the following papers:

Petitions which do not conform with the standing orders—

Kingston foreshore—Introduction of an off-leash dog park.

Campbell—Introduction of an off-leash dog park.

Just over 12 months ago, in July last year, the Labor-Greens government announced that they would be expanding the number of off-leash dog areas in Canberra so that all dog owners would be within 800 metres of an off-lead area.

Twelve months on and the government has not fulfilled this commitment. In particular, residents of the Kingston foreshore remain 2.1 kilometres away from their nearest

off-leash area, while residents of the C5 precinct in Campbell are just over one kilometre away.

With recent densification in both of these precincts, and the exploding number of apartment dwellers with pets, off-leash dog areas and dedicated dog parks become even more important. The lack of off-leash areas also results in residents letting their dogs off lead in areas where they are not meant to. While I do not condone the behaviour of residents who knowingly break the rules and have their dogs off leash in non-designated areas, I can appreciate their frustration at not having any areas within walking distance where they are allowed to do so.

I would like to clarify that not all of the signatories on the petitions being tabled today are dog owners. Many Canberrans have grown frustrated at the lack of basic local services in their suburb or are passionate about improving the amenity of their local parks and green spaces for the use of all Canberrans. Of course, more dedicated off-leash dog areas will mean that fewer owners are letting their dogs off lead where they are not supposed to.

Despite the government's previous commitment, there has been little to no action on extending these areas in the Campbell and Kingston precincts. This is again symptomatic of a government that has been totally indifferent to actually delivering on its promises.

Question resolved in the affirmative.

COVID-19 pandemic response—update Ministerial statement

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (10.06): I am very pleased to have another opportunity to present an update on the COVID-19 public health emergency and the ongoing planning, preparation and actions taken by the ACT government to protect the health and wellbeing of the ACT community.

Members will be aware that this is the ninth update I have provided to the Legislative Assembly on the COVID-19 pandemic since declaring a public health emergency at 1.11 pm on 16 March 2020.

This global pandemic is arguably the greatest challenge that has faced any Australian government outside of wartime and we would not be in the position we are in without the continued support and effort of the community to do their part.

During this pandemic we have witnessed the tragic loss of life, the implementation of extraordinary rules and restrictions to protect our citizens, and the cooperation and collaboration of a community working together and making sacrifices to support and protect the most vulnerable amongst us.

I sincerely thank the ACT community for their continued efforts to stop the spread. Your efforts have been outstanding and continue to play a vital role in flattening the curve and keeping the ACT in a position where we have no active cases of COVID-19.

It is in all our interests to keep our community free of COVID-19 to the greatest extent possible so that we can continue on our path to recovery and protect our most vulnerable community members. As a community and as individuals we each play an important role.

Madam Speaker, the ACT remains in a strong position. On this front, I am pleased to advise that it has been more than four weeks since the last COVID-19 case was detected in the ACT and three weeks since we had an active infection. In addition, the ACT's testing numbers remain consistently high, with more than 67,000 negative tests conducted as at 19 August 2020.

I also thank the community for continuing to come forward and get tested when experiencing symptoms. Testing remains a vitally important measure in identifying new cases in our community and enabling our disease detectives to respond quickly with case investigation and contact tracing.

But we remain vigilant as we closely monitor the situations in Victoria and New South Wales and manage the risks that these outbreaks present to the territory and our residents. As experiences in Victoria, New South Wales and, lately, New Zealand demonstrate, outbreaks can happen without warning and rapidly spread even with decisive action.

Madam Speaker, the government continues to place the health and safety of Canberrans first in order to prevent and detect any new cases in our community. This includes learning the lessons from other jurisdictions. Our public health specialists are working closely with stakeholders to support and build the capability of the residential aged care sector to prepare for and respond to a COVID-19 outbreak.

We are also working collaboratively with the commonwealth government in support of actions to increase responsiveness and preparedness in aged-care settings. Indeed, the government is constantly reviewing our situation and ensuring we are in the best position to respond to this ongoing emergency.

We have recently seen the benefits of interoperable contact tracing systems that allow support to be provided across jurisdictions. This gives our public health officials the best opportunity to work together to tackle any new outbreaks or resurgence. This is why the government will invest \$7.5 million to implement the Maven disease response management system in the ACT over the next six months. This will significantly strengthen our COVID-19 response and align our system with those of New South Wales and Victoria, providing the ability to work closely with larger jurisdictions and support the excellent work of the Chief Health Officer's team.

Madam Speaker, yesterday I signed a notifiable instrument to extend the ACT's public health emergency declaration in response to COVID-19 for a further 90 days

from 21 August, effective until 19 November 2020. I took this decision in light of the current situation across the country and based on the advice provided by the Chief Health Officer, Dr Kerry Coleman.

The extension of the public health emergency allows the Chief Health Officer to continue to take any action or give any direction deemed necessary to protect the community from the spread of COVID-19. We need to keep public health directions in place at this time to be able to respond quickly and appropriately if there were to be an outbreak of new cases in the ACT.

From the beginning of this pandemic, the Chief Health Officer has kept the government informed of the ACT's situation and the broader national situation. The Chief Health Officer sits on the Australian Health Protection Principal Committee, AHPPC, which provides expert public health advice to national cabinet and informs the ACT government's response to COVID-19.

Members will be aware that the AHPPC continues to hold significant concerns at the persistently high case numbers in Victoria over the past few weeks. Along with the commonwealth and the jurisdictions, the AHPPC has worked to assist Victoria's public health response at this critical time. It is hoped that this combined effort will bring the situation in Victoria under control soon, but ongoing community transmission continues to be a source of concern, with new cases being reported in regional Victoria and, sadly, a number of deaths reported each day.

New South Wales continues to see a relatively low but persistent number of daily cases reported. Most of these have been linked to cases and known outbreaks, and the majority have been identified in south-western Sydney. Wide rings of contact tracing around cases is ongoing and testing rates are high in affected areas.

The ACT has implemented public health directions to restrict the movement of people, which reduces the risk of the importation of the virus into the ACT.

Since the border restrictions with Victoria were implemented, the ACT Health Directorate has processed approximately 3,000 exemption applications. As at 19 August, there were almost 500 people in quarantine, with support provided by the ACT Health Directorate. These are people returning from Victoria and overseas, as well as close contacts of confirmed cases. Quarantine compliance is being monitored by ACT Policing.

On 7 August 2020, the New South Wales government introduced restrictions around people entering New South Wales from Victoria. Any person returning from Victoria to New South Wales may now only arrive via Sydney airport and must spend 14 days in hotel quarantine in Sydney directly after arriving at the airport. This decision affected a number of ACT residents who had been approved to return to the ACT in their private vehicles, as New South Wales cancelled transit permits for ACT residents returning by road, preventing them from crossing the border into New South Wales to drive home.

The situation at the New South Wales-Victoria border was challenging for ACT residents, and the ACT government immediately engaged in discussions with the New South Wales government to resolve the matter as quickly as possible. While it took a few days, I know that those ACT residents waiting at the border were extremely relieved when an agreement was reached to enable them to return home.

On Thursday, 13 August we welcomed back the first group of ACT residents that had been stranded on the other side of the border. The conditions of travel, agreed with New South Wales, allowed ACT residents to cross the border at Wodonga between 9 am and 11.30 am and drive directly to Canberra, with one safety stop permitted at Gundagai, and check in on arrival at our reception centre at Hall by 3 pm before commencing their 14-day quarantine. Between 13 and 17 August, 120 ACT residents returned home via Wodonga and are now quarantining at their homes, or in hotels if their home situation is not appropriate for quarantine.

After 17 August, no other ACT residents have been permitted to cross the Victoria-New South Wales border by road, and the ACT government will not issue any further exemptions to drive to the ACT while the border is closed. Any ACT resident in Victoria who wishes to return home and has applied for an ACT exemption to enter after 17 August must reapply and request to travel by air into Canberra Airport.

I would like to remind ACT residents planning to return from Victoria that they must notify ACT Health of their travel plans at least 72 hours in advance, and they must be prepared to travel by air, and quarantine on arrival for 14 days. The ACT government's advice remains that Canberrans should not travel to Victoria except for essential reasons.

Madam Speaker, the planning, preparation and work I have outlined have placed the ACT in a strong position. The ACT government is firmly focused on Canberra's recovery plan, keeping the ACT free of COVID-19 to the greatest possible extent and preventing community transmission. While the ACT has been very successful in suppressing the virus, we know there is still a long way to go for our country, and that the threat will not be alleviated in the short term.

The excellent cooperation of the community has allowed us to make some minor and cautious changes to assist a small number of businesses and activities to recommence under strict COVID guidelines. Step 3.1 of Canberra's recovery plan commenced at 9 am on 10 August 2020. This change has allowed for the opening of food courts for dine-in, casinos and gaming in clubs, steam-based services and adult services. There was also some easing of restrictions in other settings, such as community sport activities; group bookings at bars, clubs and pubs; and the number of patrons at gyms and health club facilities when unstaffed.

This demonstrates that when Canberrans work together to stop the spread, we are stronger and better for it. However, it is also important that we do not let complacency set us back. I know that the community may be feeling a level of fatigue at this time. Unfortunately, the pandemic will not be over any time soon, so we need to keep up

our efforts. We also need to take care of ourselves and of one another, particularly our most vulnerable. As we learn to adapt our lives to our changed world, I want to acknowledge that life has been far from normal in 2020: this has been a very tough year for our community, and some have had an especially hard time.

This pandemic has had far-reaching effects across Canberra. Our thoughts are with those who have experienced loss, illness and high levels of anxiety during this time. They are also with the many Canberrans who have lost jobs and livelihoods or whose incomes have been significantly affected and who are really doing it tough right now. I would like to recognise the efforts of our community organisations who have provided ongoing assistance to those who have been most affected and to thank the community as a whole for its united response and for helping those in need. As I said earlier, Canberrans are to be congratulated for their combined efforts, to date, that have seen the community remain free of community transmission and with very few cases over recent months. We want this to continue.

Our recovery plan is focused on minimising risk as restrictions are eased and putting in place appropriate measures to manage these risks as best as possible. There are no immediate plans to ease restrictions further at this time; however, we will continue to plan for future easing of restrictions when the Chief Health Officer advises that it is appropriate.

Members are obviously aware that all jurisdictions have travel restrictions in place at this time in relation to Victoria, and all jurisdictions other than Victoria have their borders closed or heavily restricted for travellers from New South Wales and the ACT.

The Chief Health Officer also has clear advice for Canberrans about appropriate travel, including that ACT residents should not be travelling to Victoria unless it is absolutely essential. She is also advising people not to travel to greater Sydney, nor invite family and friends from the greater Sydney region to the ACT, and to keep an eye on the evolving situation elsewhere in New South Wales.

The government's current advice for any ACT resident who plans to travel is to follow the guidance on both the ACT COVID-19 website and the COVID-19 website of the state you are travelling to, and to remember that, while travelling, it is each person's responsibility to maintain physical distancing and practise good hand hygiene, as well as to adhere to the rules of the jurisdiction in which you are travelling.

ACT Health is also advising anyone who has recently visited locations identified by NSW Health as having cases of COVID-19 to please follow the advice being provided by the New South Wales health authorities. Workers, volunteers and visitors in high risk settings are being provided with additional advice, and employers are being asked to ensure that those people do not attend high risk settings within 14 days of being in an identified COVID-19 hotspot.

People who work in other health settings, such as general practitioners and other community health practitioners, have been advised that they can continue to deliver services. However, they should remain vigilant and, if symptoms develop, should

self-isolate and get tested. We will continue to monitor the situation in New South Wales and provide further advice to the community as needed.

This will probably be my last COVID-19 update to the Ninth Assembly, and I would like to take this opportunity to recognise the tireless efforts of all the public servants, public health officials and frontline workers across all directorates. It has been an absolute privilege to see the public service and public health system at their finest as they have responded to the challenges 2020 has thrown at them. Once again, I particularly thank Dr Coleman for her calm, measured and strong leadership throughout the pandemic. We are brilliantly served as a community by the intellect, commitment and ingenuity of all our public servants and healthcare workers, and they deserve our ongoing recognition and gratitude.

I present the following papers:

Status of the public health emergency due to COVID-19—Chief Health Officer Report—dated 18 August 2020.

COVID-19—Update on Government response—Ministerial statement, 20 August 2020.

I move:

That the Assembly take note of the ministerial statement.

MRS DUNNE (Ginninderra) (10.19): I would like to begin where the minister left off. I join her in extending thanks to the public health officials for the work that they have done over this very difficult time. We are in a much better place than we thought we would be back in February, when this issue first really gained the attention of the public.

I want to convey again my thanks to the minister and her officials for the courteous way in which the opposition has been provided with briefings and updates on a regular basis and for their professionalism, although from time to time I have expressed my concerns about issues. When I thought it was necessary, I raised those issues directly with the minister. All in all, putting aside some misgivings I have had from time to time, the people of the ACT have been served in an exemplary fashion through this period.

I do want to take note of one issue in terms of public administration and what the minister, in her statement, says in relation to the public health emergency declaration. We created the situation by amending the Public Health Act to create the way the public health declaration works. But, on reflection, when you see it described here as blandly as it is, in governance terms it is not absolutely perfect. When we come to review the Public Health Act in light of the COVID pandemic, I think that we should be looking at a better governance model than we have.

It is a closed circle. The Chief Health Officer advises the minister that the Chief Health Officer's power should be extended under the public health emergency, and the minister says yes. I do not have a problem with the actual outcome of that in the

current circumstances, but I think that in governance terms there should be some other oversight of the situation, whether that be that the minister advises cabinet and the cabinet says yes or that the minister seeks the view of the standing committee on health or something. It is just so that there is somebody else in the loop. That is not a criticism of what is actually happening but a suggestion for how to make it better in the future.

Because this is the last update of this type, I again thank the minister and the staff and public health workers, who we will talk about later today, for the great work they have done in serving the people of the ACT during this crisis.

Question resolved in the affirmative.

MADAM SPEAKER: I think that Mrs Dunne and Ms Stephen-Smith have reflected the thoughts of all of us on the good work of our public health officials during this time.

Emergencies Amendment Bill 2020

Mr Gentleman, pursuant to notice, presented the bill, its explanatory statement, and a Human Rights Act compatibility statement.

Title read by Clerk.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (10.23): I move:

That this bill be agreed to in principle.

The bill before us this morning has come about as a result of the whole-of-government review into the bushfire season earlier this year. This is one of many reviews, including an independent operational review commissioned by the ACT Emergency Services Agency, the ESA—a review which I will touch upon in my closing remarks. To help members' consideration of the bill, I present the following papers:

2019-20 Bushfire season—

Report to the Minister for Police and Emergency Services on ACT Government coordination and response, dated 7 August 2020.

ACT Emergency Services Agency Operational Review.

As members would be aware, the 2019-20 bushfire and storm season produced some of the most unprecedented weather conditions in Australia's history. Large parts of Australia were impacted by significant fires, with unpredictable and dangerous fire behaviour fuelled by hot, dry, windy conditions. These conditions meant that fires

started easily and were difficult to contain. The ACT was no exception to this, experiencing several months of thick smoke from fires in the surrounding regions, a damaging hailstorm and, of course, fires themselves. These events culminated in the ACT's worst bushfire season since 2003.

While it was a challenging time for many, I praise the efforts of the ESA, the ACT government directorates and external organisations who supported the ESA in ensuring the safety of the ACT community during this time. I also want to thank and recognise the efforts of volunteers who played, and will continue to play, a crucial role when our territory needed help.

In April 2020 we announced our intent to undertake a whole-of-government review to complement the already commenced internal operational reviews being undertaken within the ESA and other government directorates. In presenting this review, it is important to take note of what the ESA Deputy Commissioner, Mr Ray Johnson, reflects on in his report:

... in emergencies such as bushfires, many good, capable and dedicated people step up and take responsibility for dealing with the emergency on behalf of their community. They may be paid or unpaid; they might be on a fire appliance, in an ambulance, engaging with the public or holding a leadership role ... Those decent and capable people who make decisions and act in good faith almost never have the same luxury of time afforded to those of us undertaking a review. Their decisions and actions are often progressed in difficult and unfamiliar situations, when working in uncertain environments and often without the benefit of full situational awareness—

or hindsight—

As such, it would be a mistake to examine any deficiency observed through the lens of individual fault and blame. Good decisions come from wisdom, knowledge and experience. It is reasonable to accept that decision makers and action takers in an emergency do so in good faith and to the best of their abilities. It is also reasonable for them to expect that when they do so, their professional reputation and self-worth are not at risk should things not go precisely to plan. Deficiencies in a response or identified areas of improvement should be examined in the context of improving the emergency management system, unless there is objective evidence of negligence. There needs to be an acknowledgement that there will always be opportunities for improvement ...

He also said that we need our organisations to have a culture of continuous improvement and review, facilitated by open and honest dialogue about how we can do better. The report further stated:

With multiple emergency events during the 2019-20 bushfire season the economic—

and socio-economic—

cost to the ACT Community was extensive ...

With the impact of COVID-19 likely to last for some time, we are facing future interconnected and compounding risks and the occurrence of compounding and consecutive disasters will be more likely. Community multi-risk resilience across multiple hazards and extended times will be key to preparedness. This will require coordinated Government, community and non-Government efforts to build resilience.

The individual recommendations arising from this report encompass four broad themes. Recommendations focused on key updates to the Emergencies Act 2004, the emergency plan and supporting subplans; improvements recommended to whole-of-government emergency management systems and processes; approaches to strengthening key relationships across the ACT government and with federal and non-government entities; and the delivery of a regular and supporting exercise and testing program at a strategic as well as operational level.

This review does two things. It provides comfort that we responded to this year's extraordinary bushfire season in an effective and professional manner and highlights areas of best practice; and it recognises that we should not rest on our laurels, providing recommendations aimed at continuous learning and improvement so that we are even better prepared if and when there is a next time.

Madam Speaker, the response framework, preparedness and investments by this government helped us navigate what was a difficult season. That is not to say that things cannot be done better in future. Mr Johnson's report outlines four recommendations to improve the Emergencies Act 2004. These are: more flexibility in the appointment of the emergency controller; provision for a deputy emergency controller to be appointed, independent of the initial appointment of an emergency controller; provision for the granting of powers, including delegations, to the emergency controller upon their appointment, and for them to remain in place under the same section of the act for the duration of their appointment; and clarity around the emergency controller's powers to direct agencies and directorates to share personal information for the preservation of life and the protection of Canberrans.

The government has accepted these recommendations. The bill before us today seeks the Assembly's concurrence to make amendments to the Emergencies Act 2004 to implement these recommendations.

Noting this government's commitments to human rights, the bill also makes amendments to strengthen the human rights framework of the Emergencies Act 2004. These amendments were developed in consultation with the Human Rights Commission and ensure that there is a robust emergency management framework in place that is consistent with the principles of the Human Rights Act.

The bill also strengthens the exemptions that apply across the ACT legislation register for persons acting under the control of the emergency controller. This ensures that those persons can respond effectively to any emergency situation without fear of inadvertently breaching the requirements of, or committing an offence under, any other act.

Madam Speaker, it is important to note that these amendments will not change the service the ACT community receives from the ESA before, during or after an emergency incident. Rather, the amendments enhance the ESA's ability to manage an emergency incident such as that witnessed during the last bushfire season.

Before closing, it is important to take this opportunity to reflect on the independent operational review commissioned by the ESA. As I indicated earlier, during the 2019-20 bushfire season, a season that took lives and left a trail of destruction across Australia, Canberrans remained informed and safe. We are extremely proud of this achievement and of the efforts of everyone who contributed to this outcome.

As with any major incident, there is a need to review, learn and improve. The ESA Commissioner, Georgeina Whelan, gave a personal commitment to do this by proactively initiating the first step, with a comprehensive series of internal reflections and debriefs or 360-degree feedback from those involved in keeping Canberra safe this season. Some dubbed these the after-action reviews. The 360-degree feedback formed part of the operational review.

Findings from the ESA's independent operational review have identified that there were a lot of great wins for the agency, as well as areas for improvement. From the onset of all the various reviews, both the commissioner and I were clear that, while the response was excellent, we would use the reviews to learn and improve.

While the independent operational review focused on improvements in responding to bushfires, recommendations can be implemented to improve operations across the ESA for all hazards. Some of these recommendations can be addressed immediately, while others require long-term planning and consultation with stakeholders or may be impacted by the outcomes of other reviews, including the Royal Commission into National Natural Disaster Arrangements, due to report on 28 October 2020.

Prior to the findings being released, the ESA had already begun work to prioritise and address concerns raised by members of the ACT Rural Fire Service. I encourage volunteers and staff to continue to share their valuable experiences and opinions; it is how we can ensure that we are prepared for the next season. This is how the agency can improve on matters raised, such as: training programs; communication channels from the incident management team, the IMT, to the fireground; greater opportunity to undertake roles within the IMT; and, importantly, managing fatigue of the emergency workforce. I also encourage all volunteers to take advantage of training opportunities and undertake the courses necessary to qualify for the roles they are interested in.

Once again, I want to acknowledge the many sacrifices our volunteers and staff made throughout the 2019-20 storm and bushfire season and congratulate them for keeping us all safe. I also want to thank all those who assisted or supported the response and all those who contributed to the review of the 2019-20 bushfire season.

Madam Speaker, all Canberrans are proud of the efforts that so many individuals put in to keep our city safe. I want to join them in again thanking these marvellous

individuals. As our city grows, we will continue working with our Emergency Services Agency, experts across government and our volunteers to prepare and keep our city safe. I am proud of the investments this government has made and will continue to make to support this important work.

While we did well, we can improve. This bill is one example of this, and we will continue to improve as we prepare for the next bushfire season, which is coming ever closer. I commend the bill to the Assembly.

Debate (on motion by **Mrs Jones**) adjourned to the next sitting.

Justice and Community Safety—Standing Committee Scrutiny report 49

MRS JONES (Murrumbidgee) (10.36): I present the following report:

Justice and Community Safety—Standing Committee (Legislative Scrutiny Role)—Scrutiny Report 49, dated 18 August 2020, together with a copy of the extracts of the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MRS JONES: Scrutiny report 49 contains the committee's comments on two bills and one government response. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Administration and Procedure—Standing Committee Report 17

MS J BURCH (Brindabella) (10.37): I present the following report:

Administration and Procedure—Standing Committee—Report 17—*Inquiry into possible structures of the committee system for the 10th Legislative Assembly for the Australian Capital Territory*, dated 20 August 2020, together with a copy of the extracts of the relevant minutes of proceedings.

MS CHEYNE (Ginninderra) (10.37), by leave: I move:

That the report be noted.

This is a report that sets out some suggestions and recommendations from the Standing Committee on Administration and Procedure about how committees might be structured in the Tenth Assembly. That Assembly will be able to consider the recommendations.

Question resolved in the affirmative.

Planning and Urban Renewal—Standing Committee Report 14

MS LE COUTEUR (Murrumbidgee) (10.38): I present the following report:

Planning and Urban Renewal—Standing Committee—Report 14—Inquiry into Planning for the Surgical Procedures, Interventional Radiology and Emergency Centre (SPIRE) and the Canberra Hospital campus and immediate surrounds, dated 19 August 2020, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

That the report be noted.

This is the 14th report of the planning and urban renewal committee to the Ninth Assembly. The report presents our findings from the inquiry into planning for the Surgical Procedures, Interventional Radiology and Emergency Centre, SPIRE, and the Canberra Hospital campus and immediate surrounds—the SPIRE inquiry, which was self-referred by the committee on 11 December 2019, following the receipt of two petitions in relation to community concerns.

The timing of this inquiry was unfortunate. The inquiry having been referred in December, by the time we came to inquire, the COVID emergency situation had begun but the committee system had not transited to the new arrangements of offsite virtual hearings. So we did not actually hold any hearings in this; instead, we called for submissions. I would like very much to thank the people who did submit.

It was very clear to the committee that, whilst the community supported the urgent need for additional medical facilities in Canberra, the local community clinicians and healthcare consumers all had very reasonable concerns about the project. The majority of the evidence submitted noted concerns including development progressing in the absence of a precinct master plan, increased traffic, reduced access to parking and public transport, pedestrian and student safety, inadequate disability access, increased noise levels, the functional capacity of the proposed facilities, and the overt lack of consultation engagement. It was very evident to the committee that this community angst led to the petition that led to this inquiry.

The committee recognised very clearly the two competing realities within the SPIRE project. Firstly, there is an urgent need for additional medical facilities in Canberra, in particular at the only tertiary hospital in this area. Secondly, the local community clinicians and healthcare consumers have very reasonable concerns about the project. They very reasonably point out that the SPIRE project was started before there was a master plan for the precinct and it seems quite likely that there will be negative impacts on the surrounding community. This community angst led to the petition which led to this inquiry. The committee understands that the ACT government has made other responses in terms of improved planning and consultation.

Given the need for more hospital facilities, the committee has not made any recommendations which would have the effect of stopping the SPIRE project, although such recommendations were suggested to us. Instead, we have aimed at improving the SPIRE project and future health projects in the ACT. The committee's report has 26 recommendations, and I commend all of them to the Assembly.

Before I speak a bit more on a personal basis, I would like to thank the other members of the committee. First, I thank the two current members, the "MPs", Mr Mark Parton and Mr Michael Pettersson. As this is the last report for the PUR committee for this Assembly, I would also like to very much thank the committee's secretaries, current and past. As well as thanking the current members of the committee, I would like to thank the past members of the committee: Suzanne Orr, Tara Cheyne, Nicole Lawder and James Milligan.

The main points from our inquiry, the 26 recommendations, were about consultation and planning. Recommendations 1 to 19 were largely consultation related; recommendations 20 to 26 were planning related. I will not bore you by reading them all out—

Mr Parton: Go on.

MS LE COUTEUR: Oh, Mr Parton, I am tempted to do that, but in the interests of other members I will not read them all out. I will leave that for you to do in your speech on the subject. I will start with recommendation 2:

The Committee recommends that where there are significant changes to this or other government projects, the ACT Government proactively brings these to the attention of interested members of the community rather than expecting the community to discover the changes.

We had to put that in. Speaking personally, I remember going to a Woden Valley Community Council meeting where Minister Stephen-Smith or officials had a beautiful picture of the SPIRE-to-be. Everyone said, "Yes, it looks very pretty; it looks like a wedding cake." But the presentation totally omitted how we were going to get to this beautiful new building. We all had our assumptions as to what it would be, but those assumptions were based on what we thought; they were not based on any evidence. When people finally worked out what was going on, the community got really upset.

Let me quote from something from the FOI. I should have acknowledged the debt of gratitude the committee has to Mrs Dunne, who—fortuitously, but not accidentally—put in a large FOI request towards the end of 2019. The information obtained from that provided a major part of the evidence for this committee. Part of it was correspondence from 28 May 2019 which said: "Plan to avoid talking too much about how it has all changed between original commitment and what we are going to deliver." That is entirely disrespectful to the community and unhelpful when the community finally work out what is going on. They do not know why the changes happen. They do not know why they are good ideas, if they are good ideas. The

committee proceeded on the basis that the health department was trying to do the best thing, according to its lights, but they just were not explained and may or may not have been the best thing for the community as a whole.

Recommendation 4 says:

The Committee recommends that the ACT Government ensure that governance structures for all major projects require and include meaningful consultation with local affected communities.

To begin with, that was not the case for this.

I hope that recommendation 16 is adopted. It says:

The Committee recommends that the ACT Government revise its engagement and consultation policy to ensure it is timely, transparent and meets the needs of stakeholders.

Then we move to the planning-related recommendations. Basically, all the community, all submitters apart from the government, highlighted the lack of a master plan for either the Canberra Hospital campus or the areas around, or the health system as a whole. The level of concern about this was such that recommendation 23 says:

The Committee recommends that a legislative requirement is placed on the ACT Health Directorate to maintain a model of future demand for health services and a service delivery plan and to review these every five (5) years. This model should:

- Cover at least ten (10) years;
- Cover the ACT plus the areas of NSW that the ACT supports in conjunction with the NSW Government;
- Be prepared with extensive public and expert consultation; and
- Be made publicly available.

This is a great recommendation. The really sad, worrying thing is that we felt that we had to go to the level of suggesting a legislative requirement, because this seemed to us to be the sort of thing that the Health Directorate should have done as a matter of course, and what a lot of the people who submitted to us felt that the Health Directorate should have done as a matter of course.

The other recommendation that I will talk to specifically, because I am a member for Murrumbidgee, a past resident of Garran and someone who currently lives within a kilometre of the hospital, is committee recommendation 24:

The Committee recommends that the ACT Government ensure that the master plan process is not limited by the current boundaries of the precinct and includes consideration of the future role of other nearby Government sites such as the former Woden CIT and the Garran Primary School oval.

In explaining this, I point out the fact that, right now, the Garran Primary School oval and the Woden CIT site have both been taken over by the health precinct. One is

becoming a car park; the other is the pop-up emergency department. So I think that planning a bit further from the campus is absolutely needed for the Canberra Hospital.

I thank my fellow committee members, I thank the secretary again and I commend the report to the Assembly and to the future government, whoever that may be. This was not a party political report; it is a report based on the urgent need for better hospital planning and better consultation with the people of Canberra.

MR PARTON (Brindabella) (10.49): I would like to borrow some of the words of Ms Le Couteur in her speech to this report. I think that they are words that could actually underpin the upcoming election campaign: “when people worked out what was going on”. I think that could underpin many more things.

This has been a difficult inquiry, for many reasons. Ms Le Couteur alluded to them at the start of her speech. This inquiry came up at the very worst time. If we had been deciding on the inquiry as little as three or four weeks later, I dare say we would have had some real-time inquiries, albeit on a technology-based platform; but in this particular inquiry we did not. I have certainly found on this committee, as is the case with every other committee that I have been on, that your ability to draw out key facts at a live hearing is so much more acute, and, particularly when it comes to these complex issues around planning, it is much more difficult to get the information that you want—particularly because when it came to this inquiry it was not the case that we had too little information to draw on; we probably had too much. There was reams of material to go through and it was difficult at times to get to the key points. Having said all that, I am more than pleased with the final report.

SPIRE, it goes without saying, has been one of the great failings of the ACT Labor-Greens government. It is a failing that stretches back a decade. Just as it has been described as an infrastructure project of epic proportions, it is a failure of epic proportions. It involves planning on the back of a drinks coaster. It involves changed positions, denials, me-toos, timing delays, scope reductions, failed community consultation processes, and even a name change because Mr Barr is not all that good with acronyms.

SPIRE could have been the culmination of visionary planning by the former health minister, now senator, Katy Gallagher. It would almost have been ready for patients now. It was to be a redevelopment of buildings 2 and 3 at the Canberra Hospital. When the Canberra Liberals picked up the idea and ran with it as an election commitment in 2016, ACT Labor said that it was not necessary at all.

But, as Labor started to bleed votes, they decided that they needed to do it after all. That is when the drinks coaster and the pencil came out; but Labor could not replace buildings 2 and 3 with SPIRE. That would look too much like a me-too with the Liberals, despite the fact that this was actually their idea in the first place. So they decided that it would be located on the corner of Kitchener Street and Yamba Drive. But wait—another obstacle: that is where the helicopter pad is, so it could not go there after all. It has just become a great big mess. So then it went up to the back of the campus, away from Yamba Drive, a major road and the perfect access for emergency

vehicles. No, it would be on a minor road across the road from the local residents and, even worse, Garran Primary School.

That is when the Greens and Labor realised that they had forgotten to consult with the community—and what an outcry there was too. As Ms Le Couteur alluded to, when people actually worked out what was going on they were none too pleased—so much so that even though they had made the decisions on the location, Labor and the Greens decided they should consult with the local community at that point.

I am really pleased with the final report. I have also been really pleased to be a part of this committee. When it was suggested to me that I was going to join the planning committee and when I considered the meetings of that planning committee, I thought that it might be a better option to stab my eyes out or something; but it has actually turned out to be quite a positive experience for me. I think that it is, in part, because of the personnel on the committee. Ms Le Couteur and Mr Pettersson have been wonderful to work with, as were previous members of the committee, including Ms Cheyne and Ms Orr.

Thanks to my committee colleagues Ms Le Couteur and Mr Pettersson. Thanks also to the amazing Annemieke and all of those who assisted in the support office. I am glad that is done.

Question resolved in the affirmative.

Health, Ageing and Community Services—Standing Committee

Statement by chair

MS CODY (Murrumbidgee) (10.54): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Health, Ageing and Community Services relating to petitions No 21 of 19 and No 1 of 20, concerning newborn screening for severe combined immune deficiency, as referred to the committee, pursuant to standing order 99A, on 11 February 2020.

The committee notes that with regard to the referral of a petition to a standing committee for consideration, that standing order 99A, together with the terms of the Assembly resolution establishing general purpose standing committees, indicates that a committee being referred a petition pursuant has an obligation to report back to the Assembly on its consideration of the particulars of the submission. The nature of a committee's consideration inquiry and report process is a matter to be determined by that committee.

As members are aware, the right to petition parliament to highlight issues and directly influence the work of parliament dates back to the 13th century in Britain. A petition is a request by a group of citizens that asks its parliament to take action to solve a specific problem. It is the oldest and most direct way that citizens can draw attention to a matter and ask parliament to assist them.

Specifically, as signatories to petitions No 21 of 19 and No 1 of 20, 710 residents of the ACT have sought to:

... draw to the attention of the Assembly: the infant mortality of Severe Combined Immune Deficiency [*SCID*]. *SCID* is a life-threatening condition that without early diagnosis and treatment results in death within the first few months of life.

... [*The*] petitioners, therefore, request the Assembly to call on the Government to: introduce the inclusion of screening for [*SCID*] ... into the existing Newborn Screening (Guthrie test) to reduce preventable infant mortality. Inclusion in the Newborn Screening test would enable early detection, diagnosis and lifesaving treatment for these babies. This is already standard practice in New Zealand, most US states and other OECD countries.

According to the Royal Australian College of Physicians, newborn screening:

... is an important child health issue, since early identification of infants who are affected by certain congenital disorders and timely intervention significantly reduce morbidity, mortality and associated disabilities. Newborn screening can be used to identify specific health conditions which, untreated, lead to intellectual disability, other significant morbidity or child death.

In responding to the petitions, pursuant to standing order 100, on 12 May 2020 the Minister for Health stated:

I am advised that the Immune Deficiencies Foundation of Australia (IDFA) is advocating strongly for *SCID* to be included in the Australian Newborn Bloodspot Screening program to support earliest diagnosis and treatment and has started online e-petitions to Australian State and Territory governments, including the ACT.

Decisions about tests for inclusion or removal in national newborn bloodspot screening are overseen by COAG Health Council on advice from the Standing Committee on Screening. ACT newborns are currently screened for 25 medical disorders. The condition *SCID* is not currently part of the ongoing newborn bloodspot screening program. However, I am pleased to advise that NSW is conducting a pilot *SCID* study and, as part of that study, ACT newborns are receiving this additional screening.

I am advised that the Standing Committee on Screening is currently reviewing *SCID* for inclusion in the Australia Newborn Bloodspot Screening program. A recommended ACT position on ongoing screening for *SCID* will be provided to me for consideration once the advice of the Standing Committee on Screening recommendation is known and the results of the NSW *SCID* pilot study are available.

The committee met with the Minister for Health and directorate officials on 23 June 2020 to discuss the particulars of the petitions and government response. The committee thanks the minister and officials for making time to meet with it and for providing further information on notice. This information assisted the committee in its

understanding of the important public health issues raised in its consideration of the referred petitions.

The committee notes that decisions about tests for inclusion or removal in national newborn bloodspot screening are overseen by the Clinical Principal Committee of the Australian Health Ministers Advisory Council on national population-based screening activities, on advice from the standing committee on screening. The committee further notes that the standing committee on screening is currently reviewing SCID for inclusion in the Australian newborn bloodspot screening program.

The committee is pleased to hear that, as part of the New South Wales pilot SCID study, ACT newborns are receiving screening for SCID. The committee looks forward to the Minister for Health advising on a recommended ACT position for ongoing screening for SCID after the recommendations from the standing committee on screening review and the New South Wales pilot study are known.

In conclusion, the committee reiterates the importance of the right to petition parliament to highlight issues and directly influence the work of parliament. The petitions referred to the committee were a request by a group of citizens that asked the Assembly to take action to solve a specific problem. The committee therefore wishes to advise that it has concluded its consideration of referred petitions numbered 21 of 19 and 1 of 20.

The committee notes that if petitioners have any further concerns regarding the particulars of the referred petitions and their requested action, they are to please raise such matters with a member of the Legislative Assembly.

Question resolved in the affirmative.

Crossbench executive members' business

Ordered that crossbench executive members' business be called on.

Age of criminal responsibility

MR RATTENBURY (Kurrajong) (11.01): I move:

That this Assembly:

(1) notes that:

- (a) the ACT minimum age of criminal responsibility of 10 is well and truly out of step with the rest of the world;
- (b) Australia has been chastised by the United Nations Committee on the Rights of the Child, which recommends raising the age to 14;
- (c) groups including, but not limited to, the ACT Human Rights Commission, ACTCOSS, the Aboriginal Legal Service (NSW/ACT), Winnunga Nimmityjah Aboriginal Health and Community Services, Gugan Gulwan Youth Aboriginal Corporation, Anglicare NSW South/ACT, the Law Society, the Youth Coalition of the ACT and the Australian Medical

Association, have called on the ACT Government to raise the age of criminal responsibility from 10 to 14 years of age to further protect vulnerable children in our community; and

(d) on 28 July 2020, the Council of Attorneys-General meeting deferred a decision on raising the age at which children can be held criminally responsible, despite extended consideration of the issue; and

(2) calls on the ACT Government to:

(a) support the raising of the age of criminal responsibility from 10 to 14 years of age;

(b) recognise the need to resource new programs and implement new policy frameworks to support young offenders under the age of 14; and

(c) commission preliminary work to prepare the legislative, policy and resourcing frameworks required for an incoming government to legislate for raising of the age of criminal responsibility from 10 to 14 years of age.

I welcome the opportunity to bring on this motion on behalf of the ACT Greens to call on this Assembly to support raising the age of criminal responsibility here in the territory. The debate surrounding incarcerating children and young people at as young as 10, 11, 12 and 13 revolves around the proven lifelong negative impacts of that incarceration. It is a debate about the criminal justice system's inability to see children's offending as, most often, the result of vulnerability, risk factors, and missed opportunities for early intervention support services.

By bringing on this motion here today, we are backing the calls from a range of prominent community groups calling on the ACT government to raise the age of criminal responsibility to 14. Groups including, but not limited to, the ACT Human Rights Commission, ACTCOSS, the Aboriginal Legal Service of New South Wales and the ACT, Winnunga Nimmityjah Aboriginal Health and Community Services, Gugan Gulwan Youth Aboriginal Corporation, Anglicare New South Wales South and ACT, the Law Society and the Youth Coalition of the ACT have recently called on the ACT government to take this important step to further protect vulnerable children in our community. In their letter to all ACT MLAs, they say:

We should be supporting kids to thrive in family, community and culture, not forcing them into the quicksand of the criminal legal system.

At the time of our open letter, I publicly expressed the ACT Greens' support for this important reform. Where children are imprisoned, the evidence and research tells us, it sets the trajectory for the rest of their lives and can increase the risk that they will be involved in the adult criminal justice system as they mature. We believe that with the right supports in place and a well-resourced youth sector, we can provide better alternatives to custody for children under 14.

To be clear, it was and remains my strong preference that the standing Council of Attorneys-General should act decisively to make this reform. As I said in the days leading up to the last meeting of that council, if they do not, the ACT should be willing to go it alone. We should not be held to the lowest common denominator on such an important question. The ACT is a good place to advocate for this important

change, as we already have so few children in custody. It is an entirely solvable problem, and a place where we can give these children a brighter future. In saying that, I acknowledge the work of a number of other ministers and agencies.

The work in the youth justice space over many years now has seen very few children under the age of 14 held in custody in the Bimberi Youth Justice Centre. I appreciate the recent comments from the Attorney-General, Minister Ramsay, as reported in the *Canberra Times*, that he:

... understand[s] the detrimental effect that facing the courts and spending time in detention can have on children ...

and that:

... the ACT government is committed to progressing this important issue as a uniform change across Australia through the Council of Attorneys-General.

But I simply do not believe that we can continue to wait for the collective membership of the commonwealth to form consensus on this issue. It is clear that, despite the best intentions of some at the council table, this issue has slowed to what I consider to be a glacial pace. I also genuinely struggle to see the merits in the arguments that some have put forward that there must be a nationally consistent model.

Each and every state and territory has different laws and legislation, different child protection and youth justice systems and criminal codes. In this context, where each jurisdiction has a similar but different approach, there is no clear reason why we should be held back while other jurisdictions drag their feet. We do not have uniform national criminal laws. That is the context in which I make these remarks.

Australia's minimum age of criminal responsibility of 10 is well and truly out of step with the rest of the world, and we have been chastised by the United Nations Committee on the Rights of the Child, which recommends raising the age to 14. The doctors from the Australian Medical Association have found that sending children to prison can cause them lifelong harm, increase rates of mental illness and trauma, and even lead to early death. Raising the age responds to recommendations made recently by the Royal Commission into the Protection and Detention of Children in the Northern Territory. The legal fraternity, civil society, medical practitioners and service providers alike from all over the country are calling for this change. So, in our view, we should not wait. I do not believe that we do need to wait.

I understand and respect that careful work is required to ensure that we maintain community safety. Some young offenders may, indeed, pose a risk of harm to others and themselves. I am not naively suggesting that, in a very small number of cases, some children will not require much higher levels of supervision and support than others. That is why I am calling for the government to recognise the need to resource new programs and implement new policy frameworks to support young offenders under the age of 14, to get the balance right. We have already seen some successes with the family group conferencing that is being offered through Gugan Gulwan and the Yarrabi Bamirr program provided by Winnunga, which works with families as a

whole to support them and prevent ongoing interaction with the juvenile or adult criminal justice systems.

Young offenders between the age of 10 and 14 will need to be provided with therapeutic care, sometimes in the form of court orders, that addresses the underlying reasons for their offending behaviour and reduces their risk of following a longer-term trajectory to prison, a trajectory that is inevitable unless there is appropriate and intensive support and intervention. This is particularly the case for our young First Nations children, who are over-represented in the care and protection, out of home care and juvenile justice systems. It is our shame that this continues to occur, and we must do things differently if this over-representation is to be reduced.

To legislate for raising the age of criminal responsibility from 10 to 14 years of age will require careful planning, analysis of existing services' capacity to undertake potentially more complex work, and needs identification of where services may already be feeling the strain. I acknowledge that this change may require further expenditure. What is certain is that no matter how much we invest in these services, it will cost us less than if we leave the system as it currently stands.

Regardless of the obvious need to take some time to repair the ground for this change, we cannot ignore the pressing need to start that process now. Waiting for national consensus may well be a fool's errand that sees real action continually kicked down the road for another day. With a number of elections on the horizon in other states, it seems entirely feasible that it may take years of going around in circles to get the outcome that is so clearly needed.

That is why today I am asking for us to commit our in-principle support for the raising of the age of criminal responsibility, in full recognition of the need to resource new programs and implement new policy frameworks to support young offenders, and to commission preliminary work to prepare the legislative, policy and resourcing frameworks required for an incoming Assembly to legislate for raising the age of criminal responsibility from 10 to 14 years of age.

There is important work that can be done by the public service during the coming months while we are all out campaigning and seeking to get either elected or re-elected to this place. That work can be done. The consultation with the community sector can be undertaken, and the discussions with other jurisdictions on issues that they are thinking, so that when the 25 members come to this place or return here there can be fairly quick action, knowing that that policy work has been developed. This is, in my mind, the most sensible way to progress this important reform that, while affecting a very small number of children, will positively change the record and change their lives for the better.

I commend my motion to the Assembly.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (11.09): Raising the minimum age of criminal responsibility is technically a very

straightforward legislative matter. Outside this place it has been called, somewhat over-simplistically, a stroke-of-the-pen change. However, it is a complex change at a systems level—it requires multifaceted considerations to ensure that our services will succeed in their endeavours to support children at risk of or who are already in contact with the justice system.

Changing the minimum age of criminal responsibility requires careful analysis to detect any gaps in current services and programs to ensure that young people who have complex needs are best supported and are diverted from the justice system. It is important when dealing with matters of this complexity that the Assembly specifically acknowledges the fullness of the situation and the ongoing foundational work which is required. ACT Labor does not believe the motion does this sufficiently, and so, accordingly, I move:

Omit all words after “That”, substitute:

“this Assembly:

(1) notes that:

- (a) the minimum age of criminal responsibility across all Australian jurisdictions is 10 years, with the principle of *doli incapax* applying to children between 10 and 14 years;
- (b) the United Nations Committee on the Rights of the Child has recommended the age of criminal responsibility should be 14;
- (c) in Australia, groups including, but not limited to, Amnesty International, the ACT Human Rights Commission, ACTCOSS, the Aboriginal Legal Service (NSW/ACT), Winnunga Nimmityjah Aboriginal Health and Community Services, Gugan Gulwan Youth Aboriginal Corporation, Anglicare NSW South/ACT, the Law Society, the Youth Coalition of the ACT, Law Council of Australia and the Australian Medical Association have called on the ACT Government to raise the age of criminal responsibility from 10 to either 12 or 14 years of age to further protect vulnerable children in our community; and
- (d) on 27 July 2020, the Council of Attorneys-General noted that the Working Group on the minimum age of criminal responsibility had identified the need for further work to occur regarding the need for adequate processes and services for children who exhibit offending behaviour in advance of making a recommendation to the Council raising the age and agreed to provide a progress report within 12 months;
- (e) the Council of Attorneys-General Working Group on the minimum age of criminal responsibility has considered:
 - (i) representations about medical evidence on cognitive capacity; and
 - (ii) options to shift the age with different presumptions for more serious criminal offences; and
- (f) there is desirability of national consensus on the minimum age of criminal responsibility but that this does not prevent a jurisdiction from making an independent decision to raise the age; and

(2) further notes that:

- (a) the *Blueprint for Youth Justice in the ACT 2012-2022* has resulted in a significant reduction in the number of young people coming into contact with the Territory's youth justice system;
 - (b) the ACT Government has invested in a number of programs to support at-risk young people, including through justice reinvestment initiatives such as Yarrabi Bamirr, the introduction of Functional Family Therapy, After-Hours Crisis and Bail Service, the Safe and Connected Youth project, the Intensive Diversion Program and the Muliyan flexible education program;
 - (c) in the 11 years from 2008-09 to 2018-19, only one young person under the age of 14 has been sentenced to a term of detention at Bimberi Youth Justice Centre;
 - (d) the detention of children under 12 is extremely rare, with four instances of unsentenced detention between 2008-09 and 2018-19; and
 - (e) the Attorney-General has approved the use of funds from the Confiscated Asset Trust to undertake a gap analysis to enable successful implementation of any change to the minimum age; and
- (3) calls on the ACT Government to:
- (a) support raising the age of criminal responsibility to 14 years of age, taking into account medical and other relevant evidence and with consideration given to exemptions for serious offences;
 - (b) ensure that reform in this complex area engages with and enhances support services identified through the gap analysis, noting that keeping young people safe and diverting them from the justice system is a whole-of-government and whole-of-community responsibility; and
 - (c) continue to progress policy work and consider programs and resources that may be required in order for the tenth Assembly to consider legislation raising of the age of criminal responsibility.”.

We know that no one program or service will address youth offending for every child. There is, rather, the need for individual tailored plans drawing together a pattern of interwoven supports. We know that the family supports for many of these children can be fractured and the types of interventions which require work require whole-of-government and, indeed, whole-of-community approaches. In order to be assured of that, our support services and our programs are being robustly and appropriately resourced to meet any challenges posed by the increase in the minimum age of criminal responsibility.

I have already approved funds of \$120,000 from the confiscated assets trust for an independent gap analysis to be undertaken. The analysis will examine the journeys of young people who have come into contact with the justice system and the supports and the plans which were in place. That review will recommend ways to enhance the opportunities for intervention and whether the appropriate support measures are in place to prevent and address risk factors that are associated with children engaging with criminal activities.

This is vital preliminary work and it is already underway. There is not a vacuum of work, as can be suggested at times, in the advocacy space around this matter. This

government has been quite active already in the preparatory work to enable an increase in the minimum age of criminal responsibility. It is the work that has been recommended to be undertaken by the working group of the Council of Attorneys-General on the minimum age for criminal responsibility. We are doing that work and we will continue to.

We also know that there are several decisions to be made about how and when the minimum age of criminal responsibility could be raised from a policy perspective. These decisions include evidence as to what age is appropriate, with reference to cognitive capacity; whether the principle of *doli incapax* should be retained in any form and if so, at what stage of the process; whether the minimum age should be staggered when serious offences are involved; and whether the minimum age for responsibility ought to be different from the age at which detention can be imposed.

Raising the minimum age of criminal responsibility is also a values-based issue. It is a reform steeped in the understanding that incarceration of young people entrenches offending and disadvantage. Reform in this area is based on the ethics of compassionate concern for vulnerable and disadvantaged people and a commitment to breaking the cycles of poverty and disadvantage.

This government knows that the people of Canberra believe in and want progressive, evidence-based social policy. They have demonstrated this time and again. Canberrans have shown themselves to be leaders in the nation in the marriage equality vote. We have done this very clearly in relation to the Australian republic. We have spoken very clearly about the importance of territory rights; and we were, of course, the first jurisdiction in Australia to enact human rights legislation. This is simply who we are.

That is why I believe that the people of Canberra are ready for this reform to progress and to continue to progress. There is, indeed, a clear basis for a preference for a national consensus. Were the ACT to raise the age of criminal responsibility unilaterally, there is a risk that an ACT child could be held criminally responsible for certain conduct in Queanbeyan but not in Woden. I am all too aware of the human rights concerns that would arise in this situation and, accordingly, I still believe that the best outcome is a national solution.

There is another reason why the decision to raise the age requires careful thought and planning and consideration. The ACT government has an ethical obligation to help achieve consistent law as and when we can by continuing to work with the Council of Attorneys-General on this matter.

On 27 July this year, the working group of the Council of Attorneys-General on the minimum age of criminal responsibility identified the need for further work to occur to identify adequate processes and the services for children who exhibit offending behaviour. That work is taking place in advance of the working group making a recommendation to the council. I have been a very active participant in these considerations and, if beyond the election I have the privilege of being in this role in the next term of government, I assure the Assembly that I will continue to do so.

I know that to truly achieve the intended social justice outcomes embodied in the people of Canberra's values we also need to think outside of our own jurisdiction. We need to be aware of the potential situation of a 12-year-old Wadigali girl sentenced to detention hundreds of kilometres away in South Australia, a 10-year-old Eora boy who could be in the police watch house in Sydney and the Yolngu mother, whose 13-year-old child could be in youth detention in Darwin. It is better if we can collectively, as a nation, move on this matter so that more children are treated equally.

However, if the medical evidence and the review that I have commissioned into our whole-of-government diversionary support services demonstrate that a movement in the age of criminal responsibility is appropriate, the next ACT government should not and will not be precluded from legislating accordingly, notwithstanding the positions of other jurisdictions. In those circumstances, I believe that the people of Canberra, the most progressive community in Australia, will, indeed, support this reform.

It is for these reasons that I commend the amendment, which notes the complexity of the considerations, carefully weighs the issues involved and makes a clear statement of principle of the values of the people of Canberra. I commend the amendment to the Assembly.

MR HANSON (Murrumbidgee) (11.17): I am glad that we are having this debate; it is an important one to have. I state at the outset that the Canberra Liberals are open to the concept of raising the age of criminal responsibility. As has been stated in other speeches today by Mr Rattenbury and particularly by Mr Ramsay, careful thought needs to be given before we enact this. It is clear that this is a very complex area of law and there are arguments on both sides of this debate. I certainly agree with Mr Ramsay's point that the best outcome is a national solution. He also said that it is better if we move collectively as a nation, and I will come to that point.

The national body investigating this issue in Australia, the Council of Attorneys-General, has been looking at the matter for some time and the final report is not due until next year. That is why, although we are open to the concept and are engaged in the debate, we do not think that pre-empting the national report is the right way to go. As I said, I agree with Mr Ramsay—the best outcome is a national solution.

In the view of the Liberal opposition, it is far more important to get this right than to do it in a rushed way. As Mr Ramsay said, again, there may indeed be human rights implications of having one jurisdiction in the proximity of another separated only by kilometres where there is such a difference in law.

Mr Ramsay's amendment says that we must ensure that the reform in this complex area engages with and enhances support services identified through the gap analysis, noting that keeping young people safe and diverting them from the justice system is a whole-of-government and whole-of-community responsibility. I agree with that, but simply changing the age of criminal responsibility is only a small part, in many ways, of a very complex puzzle, and Mr Ramsay went to that point quite well.

What I did not hear is the need to rush on this. I will cite again the amendment that Mr Ramsay has moved:

- (c) in the 11 years from 2008-09 to 2018-19, only one young person under the age of 14 has been sentenced to a term of detention at Bimberi Youth Justice Centre;

And:

- (a) the *Blueprint for Youth Justice in the ACT 2012-2022* has resulted in a significant reduction in the number of young people coming into contact with the Territory's youth justice system;

When we have statistics like that it is hard to argue that there is a need for unilateral immediate action to be taken in the ACT. Although there may be other issues playing out nationally, certainly in the Northern Territory as I understand it, in the ACT those statistics, in terms of one person in over a decade under the age of 14 being sentenced to incarceration, are compelling. It is not a situation in the ACT that is in any way out of control.

We need to look at the work being done in the national forum right now. Again, from Mr Ramsay's amendment, the Council of Attorneys-General working group on the minimum age of criminal responsibility has considered representations about medical evidence on cognitive capacity and options to shift the age with different presumptions for more serious criminal offences. Lastly, it notes that on 27 July 2020 the Council of Attorneys-General—the CAG—noted that the working group on the minimum age of criminal responsibility had identified the need for further work to occur regarding the need for adequate processes and services for children who exhibit offending behaviour in advance of making a recommendation to the council raising the age and agreed to provide a progress report within 12 months.

Why are we debating this today? Why are we endeavouring to get out in front of the national process? It is because there is an urgent need? Based on Mr Ramsay's own words in his amendment, that is clearly not the case. There is work to be done by the ACT government. I commend that. An enormous amount of work is being done federally. You then come down to the reason that it is much more about the politics and the theatre of the left playing politics with each other—Mr Rattenbury trying to do a bit of grandstanding on the second-last sitting day—he has been in this place for now 12 years—in the lead-up to an election. That is the deadline.

Rather than waiting for the report from the CAG, the deadline Mr Rattenbury is working to is an election deadline and he is seeking to separate himself on issues from what he would describe as his progressive colleagues from the Labor Party. We have seen promises from Mr Rattenbury to deal with this, and he is doing this at what you could consider the last safe moment to do so.

In our view, the looming election and the desire to look a bit different from the Labor Party on an issue is not a good enough reason to change a fundamental part of our

criminal justice system before we get the report from the national body that is looking at this. A race to show who is the most progressive is not a sufficient reason to act unilaterally, and our children and our community deserve better from this minister.

We do not want a situation where jurisdictions act unilaterally. As Mr Ramsay said, we do not want a situation where something is a crime in New South Wales but not in Canberra. I think that we can all envisage the complications that something like that would throw up. This is being discussed at the national level right now. The ACT, according to Mr Ramsay—and I believe him on this—is heavily engaged in this debate. It is not a good enough reason.

Our view is that we should await that review and then come to a conclusion at that point. I certainly support the further work that is being done by the ACT government in the interim in anticipation of that debate. Much of the amendment put forward by Mr Ramsay I fundamentally agree with. We have a very similar position on this issue, actually. I think that Mr Ramsay would rather wait. When it comes to the national decision, as he said, the best outcome is a national solution and it is better that we move collectively as a nation.

To that end, I have circulated an amendment which I will move shortly. It keeps Mr Ramsay's amendment as is and does not change it, other than what we are calling on the ACT government to do. Mr Ramsay has basically made the decision that the ACT government should support raising the age of criminal responsibility to 14 years. That may be where we end up, but before we make that presumptive decision let's await that report. Why are we engaging in these national forums if we are just going to act unilaterally anyway? It makes it a bit of a nonsense of engaging in the process.

I am encouraged by the fact that Mr Ramsay, in paragraph 3(a), which I am going to seek to replace, notes that consideration needs to be given to exemptions for serious offences. I think that is an important consideration, even though I am suggesting that that clause should be removed. We should delay the decision until we have a national consensus. If we do not get that, if there were further stalling by the Council of Attorneys-General, that would be frustrating. This is something that we need to make a decision on one way or the other and, as I said, the opposition is certainly open to this debate.

Mr Ramsay made the commitment that he will continue to progress the work done by the ACT government in this area of law reform should he continue to serve as Attorney-General. I make the same commitment: should I be the Attorney-General following the election, we will continue the work he has started. Regardless of what is eventually tabled by CAG, this is important work and we need to make sure that we understand the full complexities of this. If there is to be a change, we need to make sure that the ACT is positioned to make that change.

I commend the amendment I have circulated to the Assembly. I think that it is a better way, a more considered way. It is the right and, to be frank, this is the way that the government had been proceeding. I do not think that we should be acting unilaterally simply for political expediency and a little bit of grandstanding in the run-up to an election. I move:

Omit paragraph (3)(a), substitute:

“(a) refrain from proceeding unilaterally with any decision to raise the age of criminal responsibility before the Council of Attorneys-General has reached its conclusions;”.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (11.28): I am pleased to support the Attorney-General’s amendment to this important motion, and I thank Mr Rattenbury for bringing this motion to the Assembly. I also note that Labor members in this place will not be supporting Mr Hanson’s amendment to Mr Ramsay’s proposed amendment. In noting that, I would say that, for all Mr Hanson’s fine words in terms of supporting, in theory, raising the age of criminal responsibility to 14 years, his amendment removes the one clause in Mr Ramsay’s amendment that calls on the ACT government to support raising the age of criminal responsibility to 14 years of age.

We will not be supporting the removal of that. That is an important call. Mr Ramsay spoke about all of the other issues that need to be considered in that context, if we were to determine that moving unilaterally was an appropriate thing to do in the context of understanding, as we all agree, that a national approach is absolutely preferred.

As I have reported to this place many times, the blueprint for youth justice 2012-22—and I give credit to my colleague Minister Gentleman for delivering that when he was the relevant minister—has resulted in a significant reduction in the number of young people coming into contact with the territory’s youth justice system. This is a great outcome, but we also know that there is more to do.

While the amendment notes, as Mr Hanson highlighted, the very low numbers of young people in detention—and this speaks to our commitment to diversion of young people from a detention response and using the detention response as a last resort—it is also problematic and damaging to be bumping up against the justice system. Going to court and being sentenced to community orders still has an impact on young people, let alone being detained on remand.

Again, we do have very low numbers of young people under the age of 12 being detained, even on remand, and that is excellent. That is an excellent reflection of our community and our system, but it is not a reason that we should not seek to move that number to zero and find other ways to support young people, keep them safe and address their offending behaviour.

We have also spoken many times in this place about the over-representation of Aboriginal and Torres Strait Islander peoples in the justice system. This is an issue for all jurisdictions. Again, we have seen a decrease in the ACT in the youth justice sector since the blueprint for youth justice in the ACT was implemented. However, we are also committed to continuing to address what remains a disproportionate representation of Aboriginal and Torres Strait Islander young peoples in all stages of the youth justice system.

The ACT government and ACT Labor are committed to a justice reinvestment agenda that empowers young people, their families and their community, rather than a punitive or reactionary approach that only harms young people and increases the cost to the taxpayer, at the end of the day.

As the attorney noted in his amendment, the ACT government has invested in programs to support at-risk young people and their families, including Yarrabi Bamirr, functional family therapy, the after-hours crisis and bail service, and the safe and connected youth project.

With respect to the intensive diversion program, the other day I had a constituent write to me about her son's experience with intensive diversion and what an enormous impact that that PCYC program has had on her son. It was really good to hear that we are already investing in these programs that are diverting young people from the youth justice system. Of course, the Muliyan flexible education program, which is a relatively new part of our public education system, provides really important support for young people who are disengaging from mainstream education.

These programs are all a demonstration of how serious we are about providing a therapeutic response for young people who brush up against or become involved in the youth justice system. As Minister Rattenbury has said, Canberra's children should be supported to stay safe in their family, community and culture. That is exactly what our fundamental aim is, across the integrated child protection and youth justice system. It was a first in Australia to integrate those into a single act and a single service.

As I and others have noted, thankfully, there are small numbers of young people involved in the youth justice system. This gives us the opportunity to provide those wraparound services. Two examples that I have mentioned, but I will touch on them again, are the safe and connected youth project and functional family therapy, which work with a young person's family and kin to explore why young people might be displaying challenging and offending behaviours, and work with the whole family to address that and keep them out of the statutory services, including youth justice, and prevent and limit further trauma. Detention should always be considered as an absolute last resort for young people. Raising the age of criminal responsibility will be another step in building our diversionary and therapeutic youth justice system.

To those who have seen the moving and inspiring documentary *In My Blood it Runs*—those who have not should do so, as it is moving and inspiring—I would like to say that the ACT is a very different place from the one we see in that film, and the numbers say that this is so. We also know that the reality for too many Aboriginal and Torres Strait Islander families is an experience of institutional and systemic racism, a lack of trust in police and other authorities, and the ongoing impact of past policies and practices that manifest in intergenerational trauma, and all that that implies for the physiological and psychological impacts on grandparents, parents and their children.

We can absolutely do more. I am pleased to support the attorney's amendment today, which puts the ACT on a path to raising the minimum age of criminal responsibility, based on evidence and detailed policy work that is still required. This is important to

address both the needs of children and young people themselves and the community that is affected by disruptive offending behaviour.

I note Mr Ramsay's advice to the Assembly that he has commissioned a gap analysis to consider any additional measures and supports that may be required. The community sector has also been doing some important work in this space, and it has recognised that this is needed to underpin what could be seen as a simple legislative change. I commend the Attorney-General's amendment and look forward to following the progress of this work in the Tenth Assembly.

MR RATTENBURY (Kurrajong) (11.36): I thank members for their contributions to what is a really important discussion. This is a significant legal area and one where reform is overdue.

As I said in my opening remarks, this has the potential to have a significant impact on a cohort of young people whose lives can be very differently shaped, depending on how the system responds to them. There is a choice there regarding the pathway on which we put young people who find themselves involved in activities that we consider to be socially undesirable. Minister Stephen-Smith used the term—that idea of justice reinvestment. It is about saying, “We want to spend some money now to get your life on a better trajectory, rather than simply bumping you through a series of institutions over the next couple of decades.” That will produce better outcomes for our whole community.

For the young people involved, it is about putting their lives on a better track. Frankly, that is the case for the rest of the community. We have talked about that same premise on a number of occasions, in that our community will be safer overall and better off if we can help these young people to put their lives on that different trajectory.

Mr Hanson talked about the idea that our children and community deserve better. He said it in the context of criticising the approach that I am endeavouring to take. I agree with his quote but not with the way in which he expressed it. Our children and community do deserve better. “Better” means finding a way to make sure that children as young as 10 do not end up in a correctional institution of some form. That is what we are seeking to achieve with this motion.

I was interested in the commentary around not wanting something that is a crime in New South Wales to not be an offence in the ACT, and vice versa. As I said in my opening remarks, we already have that situation. There are some things that you can do in the ACT that you cannot do in New South Wales, and vice versa. There are different laws, so I do not think that is a material issue in this debate.

As has been discussed, national consistency would be optimal, but we should not simply wait, potentially for years, because we have seen issues go into these national fora and, frankly, disappear. I hope that that is not the case here. I know that our attorney has made the case in those fora to move forward, and I am sure that there are others that I do not know about who are making that case.

I also know that there are clearly jurisdictions who are not wanting to see these issues move forward, despite the clear recommendations of the Northern Territory royal commission, and despite the clear advice to us from a range of respected community sector organisations who work on the front lines on these issues, and who know that we can take a better approach.

I am appreciative of the support in the Assembly today for the central premise that we do want to move the minimum age of criminal responsibility in the ACT from 10 to 14. I look forward to the work continuing in the Tenth Assembly.

It would be remiss of me to not reflect my disappointment at the way Mr Hanson so often plays the person and not the issue in these conversations. He has also been in this place for 12 years—and thank you for the reminder of my passing years, Mr Hanson. I have been trying to recall, in all of those 12 years, whether Mr Hanson has ever given a response to any of my motions or initiatives in this place in which he has not had a go at me personally for doing it, and simply debated the policy issue. I cannot think of one, but I am sure he will remind me if he can think of one.

The important part of today's discussion is that this work will now get underway. As I said in my opening remarks, this is an opportunity for our public service to work with our community sector agencies, and to get on and do some really important policy work so that those of us who are fortunate enough to be re-elected to this place after 17 October can come back here knowing that a bunch of that work has progressed, and that we can get on with this issue and make the improvement that needs to be made in our legal system. I thank members for their support for the motion.

Question put:

That **Mr Hanson's** amendment to **Mr Ramsay's** proposed amendment be agreed to.

The Assembly voted—

Ayes 11

Noes 14

Miss C Burch	Mr Milligan	Mr Barr	Ms Orr
Mr Coe	Mr Parton	Ms Berry	Mr Pettersson
Mrs Dunne	Mr Wall	Ms J Burch	Mr Ramsay
Mr Hanson		Ms Cheyne	Mr Rattenbury
Mrs Jones		Ms Cody	Mr Steel
Mrs Kikkert		Mr Gentleman	Ms Stephen-Smith
Ms Lawder		Mr Gupta	
Ms Lee		Ms Le Couteur	

Amendment negatived.

Mr Ramsay's amendment agreed to.

Original question, as amended, resolved in the affirmative.

Executive business—precedence

Ordered that executive business be called on.

Justice Legislation Amendment Bill 2020 Detail stage

Debate resumed from 10 August 2020.

Bill, by leave, taken as a whole.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (11.46): I seek leave to move amendments to this bill that have not been considered by the scrutiny committee together.

Leave granted.

MR RATTENBURY: I move set A, amendments Nos 1 and 2, circulated in my name together, and table a supplementary explanatory statement to the government amendments [*see schedule 1 at page 2160*]. This set of amendments, group A, is a minor and technical amendment to section 2(2) of the Employment and Workplace Safety Legislation Amendment Act 2020 to change the commencement of sections 105 to 108 from six months after notification to commencement by written notice of the minister. The effect of this would be to allow the minister the flexibility to commence those sections earlier than six months. If no notice is provided, these provisions would, in any case, commence within six months.

Sections 105 to 108 of the Employment and Workplace Safety Legislation Amendment Act 2020 amend the Work Health and Safety Act 2011 to better encourage compliance with health and safety obligations in the workplace.

Amendments agreed to.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (11.47): I move set B, amendments Nos 1 and 2, circulated in my name together, and table a supplementary explanatory statement to the government amendments [*see schedule 2 at page 2160*].

This set of amendments, group B, are minor but urgent amendments to the Confiscation of Criminal Assets Act. These amendments are required to address a gap that has been identified during implementation planning for the unexplained wealth scheme. The scheme was passed by the Assembly on 23 July 2020 with the Confiscation of Criminal Assets (Unexplained Wealth) Amendment Act 2020, which will commence by ministerial notice.

These amendments are urgent, as there is a public interest in commencing the unexplained wealth act as soon as possible and, without these amendments, questions are likely to arise as to whether a person may apply for property to be excluded from an unexplained wealth restraining order.

These amendments are minor in that they are consistent with amendments already adopted by the Assembly under the unexplained wealth act and continue the existing policy approach under part 6 of the Confiscation of Criminal Assets Act. The amendments extend the existing exclusion order provisions in part 6 of the Confiscation of Criminal Assets Act 2003 to apply to unexplained wealth restraining orders.

The effect of the amendment is to allow a person to make an application to the court in relation to property that is the subject of an application for an unexplained wealth restraining order or is restrained by an unexplained wealth restraining order. An application may be made either by the person in relation to whom the unexplained wealth restraining order has been made or is sought, or by another person who can establish that they have an interest in the property.

An application for an exclusion order cannot be made in relation to property that has already been used to satisfy an unexplained wealth order. The amendment sets out the criteria that the court must apply when making an exclusion order, including that the property is not tainted property and does not have evidentiary value in any criminal proceeding. The listed criteria broadly reflect the criteria under existing provisions in part 6 relating to the making of exclusion orders.

The amendment complements other human rights safeguards in the unexplained wealth scheme, such as the mechanism that allows for applications for living expenses and support for dependants. The amendment provides an important further safeguard for the unexplained wealth scheme to allow the court to make orders to exclude property from an unexplained wealth restraining order in appropriate circumstances. I commend the amendments to the Assembly.

MR HANSON (Murrumbidgee) (11.50): The Canberra Liberals will support these amendments. They appear to remove any doubt about the laws intended to cover unexplained wealth. It seems to be a loophole that has been picked up. I say to whoever did that in JACS: well done. That is good work. It certainly explains the adjournment of the matter last week, when Mr Ramsay came running in and waving his hands, and we all stopped. We were all curious to see what it was that would be coming forward. The Canberra Liberals are happy to support this and thank Mr Ramsay's office, particularly Amy Kilpatrick, for her briefing.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Mental Health Amendment Bill 2020

Debate resumed from 30 July 2020, on motion by **Mr Rattenbury**:

That this bill be agreed to in principle.

MRS DUNNE (Ginninderra) (11.52): The opposition will support the Mental Health Amendment Bill 2020. The bill seeks to provide a more flexible approach to apprehension, especially when a patient agrees to the need for treatment. There are five elements to the bill, which came about as a result of the initial review provisions of the act in 2015.

First, apprehension will not apply to a person who has contravened a mental health order but later agrees to treatment somewhere other than a mental health facility—for example, in the person’s home—and the relevant official is satisfied that that will work. This will have the added benefit of relieving pressure on mental health facilities.

Importantly, though, this element of the bill will improve what some mental health patients have told me is a very confrontational, upsetting and unilateral system. Equally importantly, this amendment will necessitate some training and retraining of officials dealing with what can sometimes be a difficult and emotional situation, and will require a more proactive and empathetic approach.

The second element under these amendments is the prospect that an apprehension will require attending officers to be satisfied on reasonable grounds, not clinical grounds, that the person needs to be examined by a doctor and that the person refuses to be examined immediately. An application can be made to the ACAT in relation to decisions made by officers.

This goes to training as well, as I mentioned earlier. This element and others in the bill will come into force in February next year. If the training is done before then, the minister can decide to bring the commencement date forward; but the delay is, essentially, to allow for a training program.

The third element of the bill relates to affected persons; that is, a person who suffers harm by a forensic patient. Currently, affected persons can only have access to information about forensic patients who are processed through the justice system. This bill allows affected persons, as well as the Victims of Crime Commissioner, to be heard at ACAT proceedings in relation to a forensic patient.

Fourthly, the chief psychiatrist will be able to make guidelines by notifiable instrument for mental health facilities, mental health professionals and anyone else carrying out a function under the act. The chief psychiatrist must consult as relevant, and the guidelines must include a statement about how they are consistent with the act and with human rights. Guidelines can also apply, adopt or incorporate laws or judgements of other jurisdictions. Compliance with guidelines is mandatory.

In my briefing on this bill, for which I thank the minister, I raised concern about giving the chief psychiatrist lawmaking powers. I was also concerned that the chief psychiatrist is effectively given the power to adopt laws from other jurisdictions. This lawmaking power and any scrutiny thereof is removed from the Assembly because the guidelines are issued only by way of notifiable instruments. I also reiterate that compliance with guidelines is mandatory, so they amount to something more than a guideline. Perhaps they are more like directives and should be called as such.

I am concerned that this approach escapes the scrutiny of the Legislative Assembly. I am not convinced that this is a proper approach under the Westminster system of lawmaking. I note that the Assembly's legislative scrutiny committee is also unconvinced.

I still do not understand why laws of this kind, made on the expert advice of the chief psychiatrist, could not be subject to the Assembly's scrutiny in our system of democracy. At the very least, these guidelines should be made by way of disallowable instrument so that the Assembly at least has the opportunity to scrutinise them.

The minister has assured me that the policy is largely consistent with that of other jurisdictions. In the case of New South Wales, an official does not have this lawmaking power but the health department can and does make mandatory policy directives. The Northern Territory does not give anyone the power to make guidelines or directives.

Finally, the bill includes a review provision. The review contained in the act is repeated and there is to be a review of the material introduced by this bill. Subject to my reservations about the removal of lawmaking power from the Assembly and the reservations of the scrutiny committee, this bill does pave the way for an improvement in the way that we deal with mental health patients in the ACT. Perhaps the lawmaking powers of the chief psychiatrist will be part of the review process further down the track. Having said that, the Canberra Liberals will support the bill.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (11.57): This bill is an important piece of work to progress the ACT government's agenda of better health care when and where Canberrans need it, and, indeed, our support for human rights. I thank Mr Rattenbury for bringing this bill to the Assembly.

The objective of the Mental Health Act 2015 was to promote the capacity of people with a mental disorder or mental illness to determine and participate in their assessment and treatment, care or support, taking into account their rights in relation to mental health under territory law. This act brought the territory's mental health legislation into line with the Human Rights Act 2004 and the United Nations Convention on the Rights of Persons with Disabilities. The act also included requirements to undertake reviews into section 85 of the act and involuntary orders made under the act.

This bill responds to some of that review's findings most in need of immediate remedy and ensures that those in our community in most need of care, and often at their most vulnerable, are better able to participate in their own treatment decisions. One critical way in which this has been done is through the proposed new section 77(2A), which would allow mental health consumers who have previously been non-compliant with treatment orders to change their minds and accept treatment in their home rather than be taken to an approved mental health facility.

This change will benefit a small cohort of Canberrans who are on psychiatric treatment orders, but for those individuals it reinforces and re-emphasises their ongoing right to make decisions and to engage with treatment where and when they need it. Allowing those individuals to work with their healthcare team to undergo treatment at home, where possible, gives the individuals more choices and agency about their mental health treatment pathways. This amendment is made recognising and understanding the unique and valuable role that community mental health workers have in delivering on our commitment to better health care, when and where it is needed.

Finally, we have learned throughout this global pandemic that the expert advice of health professionals is central to the delivery of good health policy. The bill recognises this through the new section 198A, providing the Chief Psychiatrist with the power to make guidelines under the act. These guidelines will be notifiable and enable the Chief Psychiatrist to be responsive to new and evolving issues in the mental health system, and will ensure best practice and consistency across the mental health system when engaging with the act. In saying that, I recognise Mrs Dunne's comments about the process.

These legislative amendments are one part of our response to the mental health needs of the Canberra community. We are innovating with creative new ways to provide better health care when and where people need it, particularly in crisis, such as through the police, ambulance and clinician early response, known as PACER. These significant investments are commensurate with the critical role of our mental health system as part of the broader health system. The bill is a positive step forward for consumers and the mental health system, and an important mechanism to deliver on our commitment to Canberrans.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (12.00), in reply: This bill is the first step in taking action on what we heard from the Canberra community when we reviewed the Mental Health Act. It further entrenches the principle and objects of the act, which are the guiding philosophy for our mental health legislation. Our legislation recognises that mental health consumers have the same rights as any other health consumer when it comes to choosing their own treatment pathways, receiving care in ways that protect their inherent dignity and ensures that treatment is received in a way that is least restrictive or intrusive for the individual consumer.

The modern understanding of mental health recognises that mental health consumers can be both a vulnerable population that needs protection and a group that is at particular risk of having their rights infringed. This bill makes our mental health legislation a closer reflection of these two concepts, and in doing so upholds our responsibility as a government and an Assembly to ensure that members of our community receive the treatment they need in the way they need it.

Our mental health legislation is person-centred with a focus on the individuality of the consumers and the need to be responsive to an individual's specific needs and circumstances. This bill takes this focus forward to ensure that the individuals subject to this legislation know their rights and what to expect as they navigate their treatment, care and support. A simple but important change to section 77 means that more consumers will be able to make choices in relation to how and when they receive care. A consumer who is subject to a contravention order will be able to consent to undergo treatment in their own home or another place of their choosing, rather than being transported to a mental health facility. This is consistent with the preferred compassionate approach of those providing this treatment, while ensuring that the person providing the treatment is able to assess if the place is a suitable place for the treatment to be given.

Another important step that we are taking to embed the human rights of the consumer into the legislation is amending the emergency apprehension power to be abundantly clear that the emergency apprehension power should not be exercised if a consumer consents to treatment. In making this change we are articulating the principle that mental health consumers are entitled to receive treatment, care and support in a way that is least restrictive to them. It embeds the assumption of decision-making capacity that is set out in the principles of the act, while also acknowledging the role that the government plays in protecting the right to life, by having a framework in place when it is necessary to support people to return to a place of wellness.

In addition to this change to the emergency apprehension power, the bill broadens the powers of ACAT to review emergency apprehensions. The act recognised that mental health consumers are not the only vulnerable population that require protection and recognition. In circumstances where the actions of a mental health consumer cause harm to another member of our community, that person should not be disadvantaged because the mental health consumer is appropriately diverted from the criminal justice pathway to a mental health pathway. This disadvantage can occur because no crime is established and therefore the victims of crime scheme does not apply. Instead, the act created a register of persons affected by the actions of a mental health consumer. The bill amends the act to ensure this captures all appropriate matters by reference to their origin in the criminal justice system, rather than the type of order applied for or made. This ensures that affected persons can obtain relevant information about the location of the mental health consumer to enable them to take steps for their own safety, and for the ACT Civil and Administrative Tribunal to hear and consider the perspective of the affected person when making orders.

This is a delicate balance, noting that in these circumstances both parties are vulnerable and require a level of protection. For the mental health consumer, one way

this is balanced is respected by including a provision for a person to be removed from an affected person register. For the affected person, this balance is reflected by an extension of the right of appearance at ACAT and to access information, as well as bolstering the role of the Victims of Crime Commissioner in supporting affected people.

One significant way in which we are making our legislation more agile and responsive is through the introduction of a power of the Chief Psychiatrist to make guidelines for the act. Mrs Dunne made some remarks about this. This enables the Chief Psychiatrist to provide leadership and clarity for consumers, clinicians, carers and other members of the community who are interacting with this legislation. It recognises that the Chief Psychiatrist is appointed to bring their expertise as a psychiatrist to ensure that the real-life clinical and operational aspects of our system are functioning in accordance with the law made by this Assembly. The Chief Psychiatrist can use these guidelines to ensure that the principles and objects of the act are being embedded into the decisions that are being made every day in clinical and operational settings.

It is common in other jurisdictions for the Chief Psychiatrist to make guidelines as one of the levers available to provide leadership and direction in the mental health system in relation to the legislation. In practice, the Chief Psychiatrist is frequently asked for guidance on these matters by clinicians and others engaging with the act. These guidelines provide a mechanism for this guidance to be formalised through a notifiable instrument, which will be available on the legislation register for all in our community to see. Some jurisdictions allow the Chief Psychiatrist to make mandatory guidelines through policy alone. However, we have taken the step of making these guidelines notifiable instruments to ensure a higher standard of transparency. It ensures that mental health consumers and their carers can know what to expect from clinicians or others who are working with the act on a daily basis. Guidelines will be mandatory for all public and private mental health facilities in the ACT.

It is not uncommon for statutory officeholders to make guidelines in relation to the matters in their purview. For example, the Emergencies Act 2004 provides that the Emergency Services Commissioner may make guidelines for the strategic operation of the emergency services. These guidelines by the Emergency Services Commissioner are a notifiable instrument in the same way that the Chief Psychiatrist guidelines in this bill will be, continuing the commitment of the ACT government to be open and transparent about these sorts of provisions. As a notifiable instrument, the guideline becomes part of the legislation register, which can be viewed online alongside the information about when the guideline commences and any earlier renditions of the guidelines that applied in the past. In other jurisdictions the Chief Psychiatrist can make guideline standards and directives by mandatory policy. This was considered an undesirable pathway for the ACT and not consistent with the expectations of the Canberra community about how officeholders make decisions.

The guidelines provisions in this bill recognise the special role that police officers and ambulance paramedics have at the front line in our community. There will always be times when the first person that a mental health consumer engages with during an episode of mental ill health will be a police officer or a paramedic. It is critically important to acknowledge the overlap between the mental health system, the

ambulance service and policing, as each has its own complementary but separate objectives and operational systems and requirements in serving the Canberra community. It is for this reason that the Chief Psychiatrist will consult with the Chief Officer Ambulance Service and the Chief Police Officer for the ACT when a guideline is being developed that relates to the function of those services, ensuring guidelines are a functional part of the mental health tool kit.

The bill contains a review provision to continue to hold a light up to the act. The act is a rare example of when a person can be detained against their will, despite having broken no law. As such, the act should be held to the highest level of scrutiny and reviewed as the system develops into the future. There is more work to be done following the review of the act, as I indicated in my introductory remarks to this bill, and this work is already underway. I thank consumers, carers, clinicians and peak bodies who continue to engage in this work as we build a modern, respectful and effective legislation framework for our mental health system.

I now table a revised explanatory statement, based on the comments of the scrutiny committee. I formed the view that it was warranted to make some minor adjustments to the explanatory statement to reflect that feedback, and I thank the scrutiny committee for their observations. I thank members for their support for this legislation and I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.09 to 2.00 pm.

Questions without notice

Education—IT security

MS LAWDER: My question is to the Minister for Education and Early Childhood Development. On Friday, 14 August you were advised that emails containing inappropriate content were sent to a number of students using a year group distribution list. Your statement issued on Monday, 17 August included the explanation that in April this year the Education Directorate made a security update to its Google education platform and, in the course of making this update, a series of year group email distribution lists were created. Minister, when were you first briefed about the security breach in April, and how and at what time did the directorate become aware of the email incident last Friday?

MS BERRY: The email issue was the first advice that I received that there was an error with regard to the update that was provided to Education's email systems. The first email on that day was sent at two minutes past 10 o'clock. My office was advised at 12.50 on the same day.

MS LAWDER: Minister, how and at what time were Google accounts closed down?

MS BERRY: At 12.40 the Google accounts were shut down, and no further emails could be sent.

MS LEE: Minister, why did it take until 7.30 pm that night, on Friday, to inform parents?

MS BERRY: I will just correct that; it was 1 o'clock when the Google system was shut down, not 12.40. The parents were notified that evening because we were still working out how far the emails had been distributed across the community. It was quite a complex and complicated issue, as you would understand, with information technology, so making sure that we had all of the correct information provided to parents all at the same time was the most important thing for the Education Directorate.

Gaming—gambling harm prevention and mitigation fund

MS LE COUTEUR: My question is to the Attorney-General and relates to the gambling harm prevention and mitigation fund. I understand that in March this year there was \$2.4 million sitting in this fund unspent. Minister, why is there such a large amount of money unspent, and were any of these funds spent during the COVID shutdown of poker machines, allowing support and education for people with gambling dependence during this period?

MR RAMSAY: I thank Ms Le Couteur for the question. In relation to the gambling harm prevention and mitigation fund, I will take the question as Minister for Business and Regulatory Services because it sits under the Gambling and Racing Commission for ongoing work. I will take on notice the amount of money that was sitting in the fund. I do not believe that the amount that Ms Le Couteur has quoted is entirely accurate, so I will need to take that one on notice.

A range of work is being undertaken by the GRC and I commend them for that. That includes research in terms of prevalence and ways of being able to mitigate the harm caused by gambling. Indeed, it also looks at the ways that the next steps may be able to be taken, beyond COVID-19, for clubs and for gaming organisations.

MS LE COUTEUR: Minister, the government website implies that expenditure is entirely proposal driven. Is that correct, and what is the process for government disbursement of these funds? Is there any active strategy for targeting these funds?

MR RAMSAY: Yes, there is indeed a targeted strategy that falls under the responsibilities of the Gambling and Racing Commission. There are a range of matters that are worked out through that. It is not only that the funds can be distributed for a request, though that is one of the ways. One of the things that the GRC does regularly, for example, is to commission research. The prevalence research that has been recently commissioned is part of that work as well.

MR PARTON: Minister, given Ms Le Couteur's questions, is this government serious at all about harm minimisation in this space?

MR RAMSAY: I thank Mr Parton for the question. I think that is called a dorothy dixer! The question raised the seriousness of the ways that we are addressing gambling harm in the ACT. There are a broad range of ways. I am very proud to have been the Attorney-General who has been leading the work in relation to the reduction of gambling harm. One of the ways that that has occurred has been through the significant reduction in the number of electronic gaming machine authorisations during this term of government. There has been a more than 20 per cent decrease in the number of machine authorisations that are available.

I am very pleased, after having listened to the president's club forum most recently, that the government has determined that we will have an additional period of time where clubs are able to seek a payment for a surrender of electronic gaming machines. There is a lot of work that happens under the oversight of the Gambling and Racing Commission, not only in the research to determine the prevalence of gambling here in the ACT but also in the support that happens through that fund, overseen by the Gambling and Racing Commission, to Lifeline and to other organisations that can support people who are suffering from gambling addiction, which we take extremely seriously. We certainly do not think it is anything like eating a little bit too much chocolate. We will continue to work to make sure that people who are affected by gambling harm are well supported and that we continue our work alongside the clubs, alongside the community organisations and alongside people with lived experience in this area to make sure that the impact of gambling is significantly reduced.

Education—student support

MS LEE: My question is to the Minister for Education and Early Childhood Development. Minister, what steps have you taken to ensure that students that have been left traumatised by the distressing and pornographic material are now receiving support?

MS BERRY: I have asked the Education Directorate to ensure that families are supported—not just families that are asking for that support but reaching out to families who have been directly impacted by this and are experiencing some trauma because of its serious nature and the unacceptable material that was emailed around to students on Friday.

I want to correct a couple of details for the record before I go on. Ms Lee said that emails had not gone out until seven-ish that evening. Because there are 55,000 students, whilst it was about making sure that the information that went out was correct and reassuring, and advising parents and families of the action that the Education Directorate was taking, it goes out in batches. The email started to be sent out at 5.40 that afternoon.

MS LEE: Minister, what are you doing to provide parents with appropriate advice on how to support their children, following these distressing emails?

MS BERRY: A number, and additional staff, has been put on at the Education Directorate for parents and families to call so that they can get that direct support from the Education Directorate. They can also ask their schools for support. We have also been working closely with the eSafety Commissioner on what more work we could do to support parents, families, children and teachers as we get through this serious email issue together.

MR WALL: Minister, what resources are being given to teachers to assist their school communities at this difficult time, particularly for students who may be finding it difficult?

MS BERRY: Our schoolteachers are incredibly resilient. This year has made it a challenge for them to do their teaching and learning in an ordinary way, more than anything. They keep having challenges thrown at them, and they rise to them every single time. I would like to congratulate the Education Directorate and our teaching community within all our schools for the work that they have done to support their school communities up to now, particularly through this incident. School communities also have access to psychologists—

Mr Wall: Point of order, Madam Speaker. On relevance, whilst I share the minister's sentiment, the question was specifically about what resources have been given to teachers.

MADAM SPEAKER: I think she was getting to that. Correct me if I am wrong, minister, but you are talking about the opportunities within the department.

MS BERRY: Yes, Madam Speaker. Teachers have access to the psychologists in our school system—we now have 81 school psychologists operating across our schools—as well as having had additional training around trauma at the start of the COVID pandemic, at the end of the bushfire season. So training had already been provided earlier in the year to support teachers so that they could then support each other, importantly, but also support the students within their schools.

Education—IT security

MS KIKKERT: My question is to the Minister for Education and Early Childhood Development. Minister, how many student email accounts were breached in the email incident on Friday, and how many schools and year levels did it involve?

MS BERRY: I do not know that I have the actual number of email accounts. I would say that it was significant. It started in year 8 and I understand that it was distributed to a number of year groups, although I do not have the actual number yet. I do not think the Education Directorate has that number yet either. If it is available I can definitely provide it to the Assembly.

MS KIKKERT: Minister, what measures are in place to ensure that students or others have not copied or stored other students' email addresses that were in the distribution list used last Friday?

MS BERRY: In the afternoon when the email incident occurred and the Google system was shut down, following that process and as the Education Directorate was getting advice on what other security measures needed to be put in place, the remaining Google users were also suspended. The Education Directorate then started pulling all of the information that was on those emails off those emails so that they could no longer be sent out and distributed to other people on other distribution lists.

MS LEE: Minister, did any students lose any schoolwork as a result of the shutdown on Friday, and what is being done to accommodate those students, especially those in college years?

MS BERRY: I do not believe that there was any school student work lost. However, if that is not the case and I am advised differently, I will come back to the Assembly and let everybody know. But, if it is, teachers are well prepared and are professionals in supporting their students. This year has been the year that has tested them, with all of these challenges in place, but they are ready and well prepared and trained to provide students with the support that they need, should they have had some of their schoolwork lost. But I have not been advised that that is the case.

Schools—hazardous materials

MR MILLIGAN: My question is to the Minister for Education and Early Childhood Development. Minister, in August 2018 asbestos was found in the garden beds at Harrison School, in my electorate of Yerrabi. When the Canberra Liberals asked you to shut the school and to improve the way you communicate with parents and the community, you said we were scaremongering and political point-scoring. You also tried to downplay the severity of this incident by saying it was only bonded asbestos. Minister, why didn't you learn from this incident when it came to the management of the Yarralumla school contamination?

MS BERRY: The Harrison School issue was the perfect example of political point-scoring and scaremongering from the Canberra Liberals. In the case of Yarralumla, the ACT government and the Education Directorate, along with the school community, have been taking a mature and responsible approach and have managed the issue around lead paint at Yarralumla school with expert advice. As far as that goes, they have acted appropriately.

With regard to political point-scoring and scaremongering, I will leave that within the Canberra Liberals' area. That is the only thing they seem to come up with, rather than providing an appropriate, professional response based on expert advice and reassuring that community about the safety and comfort of their school.

MR MILLIGAN: Minister, why do you try to minimise the concerns of parents and teachers when it comes to the health and safety of our schools?

MS BERRY: I completely reject the premise of that question—that I would minimise the seriousness of these issues. It is why the ACT government's Education Directorate has hazardous material plans in each of the schools that is affected by things like lead

paint. It is a serious issue; however, it is being managed appropriately, with the advice of experts, in order to reassure the families, teachers and students in that school, based on health advice and the advice of experts, that that school is safe and comfortable, if it is managed appropriately, in line with that expert advice.

MS LEE: Minister, have you apologised, or will you apologise, to the parents and teachers of Harrison School, given that the source of the asbestos was never found? Indeed, the same goes for the way you have handled the Yarralumla contamination issue.

MS BERRY: Madam Speaker, I did not catch the last bit of the question. Could Ms Lee please repeat the question?

MS LEE: Minister, have you apologised, or will you apologise, to the parents and teachers of Harrison School, given that the source of the asbestos was never found? Indeed, the same goes for the parents at Yarralumla, given the way you have handled the lead contamination issue.

MS BERRY: Of course I am sorry that the incident has occurred and has caused some anxiety amongst that school community. However, the advice that I have, based on expert management of these systems, based on the advice of WorkSafe and the Chief Health Officer, is that it is being managed appropriately and has a very low health risk. I believe it is being managed appropriately by the Education Directorate. Communication with parents and that school community continues, as we make sure that there is a level of comfort, as well as safety, for those students and teachers, and that parents are assured that it is being managed with expert advice. It is not me that is stepping out and trying to do scaremongering; it is about reassuring and providing information every step of the way.

Arts—COVID-19

MS CHEYNE: My question is to the Minister for the Arts, Creative Industries and Cultural Events. Can you please update the Assembly on how the ACT government has responded to support the arts and artists during the coronavirus pandemic?

MR RAMSAY: I thank Ms Cheyne for the important question. I am indeed pleased to note that the ACT government is widely recognised as the jurisdiction that has moved the most quickly and decisively to support our artists, whose livelihoods were so suddenly and negatively impacted by the ongoing COVID-19 pandemic.

Overall, the ACT government's additional support for the arts in response to this devastating impact of COVID-19 on the sector has now reached just over \$6 million. That is on top of more than \$10 million that is provided annually to the sector in the arts fund and the \$9 million in ACT government funding annually that supports the Cultural Facilities Corporation.

Our initial response to support artists was announced on 24 March, just eight days after the public health emergency declaration was made. We were able to quickly provide financial support for 66 artists through the very well received first round of

the homefront grants. I am pleased to advise that a further 59 homefront applicants have now also been funded, taking the total amount of direct additional support to our artists to over \$950,000 this year. This is in addition to the usual annual arts activity grants proceeding as normal, which is another \$860,000 directly to our artists in 2019-20.

This is just one part of the ACT government's swift and comprehensive response in supporting our arts sector to assist artists and arts organisations to continue their valuable work in our community during this ongoing global pandemic.

MS CHEYNE: Minister, can you please advise the Assembly how the government's innovative support for events during the coronavirus restrictions has both supported local artists and events producers and helped to contribute to community wellbeing?

MR RAMSAY: I thank Ms Cheyne for the supplementary question. An important part of the ACT government's response has been to swiftly re-orient our events funding and calendar to support the innovative approaches which allow events to be run in COVID-safe ways. This allows performers and event producers to keep working and provides ways for Canberrans to continue to have great experiences and foster community in these difficult times.

Madam Speaker, you are aware that we have re-imagined Floriade from a centralised format to one of distributed plantings right across our city and our suburbs, at town centres, parks, shopping centres, community organisations, hospitals, public art sites, historic homes and national cultural institutions. We have also created the Rise Canberra program to support the arts and events industry throughout the pandemic and to encourage the sector to use new and innovative methods to continue delivering social and economic benefits from events. This has included establishing the Rise Canberra calendar as a central point of contact where event organisers can promote their activities.

Our Where You Are Festival provides different event experiences both offline and online by a wide range of local organisations, creators, event organisers, artists and businesses while restrictions on mass gatherings are in place. The festival is running now and it includes streamed performances, community art-making and TEDx Canberra.

Of course, we have also provided Canberra theatre's CTC at home program, which has provided Canberrans with free access to performances from over 25 local professional artists. This swift, innovative response has allowed Canberra creatives to keep working, while also providing a sense of connectedness for our community.

MR PETTERSSON: Can the minister please update the Assembly on how the ACT government has been supporting Canberra arts organisations so that they can continue to keep staff employed and offer creative programs for the communities they serve?

MR RAMSAY: I thank Mr Pettersson for the supplementary question. Arts organisations are an important part of our arts ecology in the ACT. We have acted quickly to provide additional funding this year to support them, as many have

experienced significant income loss from cancelled venue hire and not being able to run workshops and classes. We have provided over \$1 million to ensure that any government-funded arts organisation concerned about their financial viability because of COVID-19 can keep running with confidence until there is a full budget in 2021. This is in addition to over \$5.5 million in ongoing core funding that the ACT government provides annually to those organisations.

We have also provided just under \$360,000 in rent relief to tenants in ACT arts centres and \$326,000 to 14 screwdriver-ready capital works across nine arts facilities sites, engaging over 50 Canberra workers from seven local businesses. Rent relief benefitted, directly and indirectly, over 60 Canberra arts organisations and artists.

The ACT government has also provided an additional \$2.5 million in funding to the Cultural Facilities Corporation in 2021 to enable it to continue its operations and to keep employing its staff during the COVID pandemic, in recognition of the major downturn in income through the loss of theatre revenues.

Finally, as we move beyond our emergency response in the near to medium future, I am working with artsACT and with my advisory creative council to look toward recovery and resilience for a sector that gives so much to our people in this city. I have recently announced a further \$375,000 to develop a creative recovery and resilience program which will be developed in consultation with the arts sector to help rebuild, celebrate and strengthen our Canberra creatives into the future.

Schools—hazardous materials

MISS C BURCH: My question is to the Minister for Education and Early Childhood Development. Minister, in the last 12 months, hazardous material has been discovered in classrooms, school buildings and outside areas in at least four ACT public schools, leading to disruption, dislocation and school closures. When the first of these schools was identified, what actions did you take to satisfy yourself that this was an isolated incident?

MS BERRY: There are 69 schools in the ACT that contain hazardous materials like lead paint and asbestos that are being managed, with expert advice. They are managed appropriately, with expert advice. When situations are brought to my attention, I visit the school and seek assurance for myself and get expert advice given to me in person so that I can be assured that the action that is being taken is appropriate. I depend on that expert advice to ensure that I can provide that reassurance in a frequent, up-to-date and honest way to families and those school communities to ensure that they have everything that they need, that they are provided with all of the information up-front and that they can get the supports that they need, offered by the Education Directorate and their school communities.

MISS C BURCH: How many schools of a similar age to Yarralumla have, in the last six months, had an environmental assessment to ensure that any hazardous materials are stable?

MS BERRY: There are 69 schools in the ACT that have hazardous materials in their schools because they are older schools. They are being managed, remediated and maintained appropriately under the expert advice of organisations like Robson, and they have hazard management plans that are available for school communities to access, at the front office of every school.

MS LEE: Minister, how much funding has been available in the last year specifically to undertake environmental assessments in schools built before 1990?

MS BERRY: Madam Speaker, I am not sure if there is a breakdown or if that kind of detailed information is available. I will check with the Education Directorate and see if it is available easily and is accessible. If it is, I will provide it to the Assembly.

ACT Health—child sex offences

MRS DUNNE: My question is to the Minister for Health. Minister, has the ACT Health WhatsApp page of which convicted sex offender Bradley Burch was a member been shut down?

MS STEPHEN-SMITH: For the reasons I have provided previously, I am going to take that question on notice.

MRS DUNNE: Minister, has ACT Health been able to determine whether any of the images shared on the page have been forwarded or shared with anyone outside the WhatsApp group?

MS STEPHEN-SMITH: I will take that question on notice.

MRS JONES: Is WhatsApp an approved method of communication for public servants in the Health Directorate or Canberra Health Services, given that such messages are not discoverable under the FOI Act?

MS STEPHEN-SMITH: I will get some advice. I will take that question on notice and come back to the Assembly.

Community services—wellbeing calls service

MR PETTERSSON: My question is to the Minister for Community Services and Facilities. Minister, can you please update the Assembly on the ACT government's recent partnership with the Red Cross to deliver the wellbeing calls service?

MS ORR: I thank Mr Pettersson for the question. On 4 August I had the pleasure of launching the new wellbeing calls service. The ACT government has partnered with the Red Cross to deliver this service, which forms an important part of the ACT community recovery plan.

This year we have experienced unprecedented challenges, with the bushfire crisis, the hailstorm and now COVID-19 all having a significant impact on our community and affecting each of us differently.

The service aims to help people who are self-isolating to feel safe, calm and connected to others, as well as to ensure that they are able to access the services and supports that they need. Through this program, Canberrans can register to be connected with a friendly Red Cross volunteer who can call them as required to check in and see how they are doing. All volunteers are trained and experienced in supporting people. Since commencing, the wellbeing calls service has already been shown to be impactful and beneficial, especially for isolated members of our community. Sometimes these calls may be the only contact people have in the whole day.

I am very pleased that we are able to offer this service during such a difficult time, and I would like to take this opportunity to thank the Australian Red Cross for delivering this service and helping us to support Canberrans when it is so important for everyone to feel connected.

MR PETTERSSON: Minister, can you please inform the Assembly how Canberrans can access the wellbeing calls service, and whether there are any eligibility requirements?

MS ORR: I thank Mr Pettersson for his supplementary question. The wellbeing calls service is available to all Canberrans. Eligibility for this service is extended to all residents in need. This includes Canberrans from culturally and linguistically diverse backgrounds, with the service equipped to conduct calls in a variety of languages other than English. The service can also be tailored according to the needs of the individual accessing the service. Registered Canberrans can ask to receive a call as often as they would like, whether that is once a week or once a day. I highly encourage anyone in the community who is feeling isolated or just needs a check-in to access this service.

This is just one initiative being delivered by this government to ensure that Canberra remains an inclusive community where all Canberrans feel they belong, are valued and can contribute. Canberrans who would like to register for this service can do so by calling 6234 7630 between 8 am and 4 pm on any day of the week. You can also register for a call online through the connect in Canberra website.

MS CODY: Minister, how else is the ACT government working with community service providers and volunteers to support Canberra's community recovery?

MS ORR: I thank Ms Cody for the question. Crises often have the power to bring out the best in us and to bring communities together. 2020 has been no exception. Canberrans have really stepped up to support each other during this difficult time. Our community services partners and volunteers have been playing a critical role, alongside the ACT government, in Canberra's community recovery.

As well as the amazing volunteers at the Red Cross, we have had many Canberrans come forward to assist in the delivery of the Canberra Relief Network, a service that provides essential support to Canberrans in need. The feedback we have heard from our Canberra Relief Network volunteers is that many of them have enjoyed the opportunity to connect with others and to volunteer in a safe and meaningful way.

Volunteers have also contributed to the successful delivery of numerous other programs and initiatives across the ACT to support Canberrans through this difficult time, many through Volunteering ACT, Canberra's peak body for volunteering and community information. I encourage anyone who would like to get involved to contact Volunteering ACT via their website or by calling 6248 7988. Volunteering ACT will be able to assist you in finding the perfect volunteering opportunity for you.

I would like to take this opportunity to express my sincere thanks to all the amazing volunteers across the ACT for their outstanding generosity and contribution to Canberra's community recovery.

Trade unions—picketing

MR WALL: My question is to the Minister for Employment and Workplace Safety. Minister, late last month the Chair of the ACT Work Safety Council was fined by the Federal Court for unlawful picketing, in what the Federal Court judge described as "unremorseful law-breaking". The operation and accountability guidelines for the Work Safety Council outline the grounds for you, as the minister, to terminate a council member's appointment for contravention of a law or misbehaviour. Minister, when will you act to maintain the integrity of the Work Safety Council and terminate the chair's appointment?

MS ORR: I refer Mr Wall to my answer in the previous sitting week to the same question.

MR WALL: Minister, what is your threshold of tolerance for law-breaking and misbehaviour by members of the Work Safety Council before you will act to terminate their positions?

MS ORR: Again I refer Mr Wall to my answer in a previous sitting.

MR PARTON: Minister, do you believe you have a conflict of interest in relation to determining whether or not to terminate the appointment?

MS ORR: No.

ACT Ambulance Service—staffing

MRS JONES: My question is to the Minister for Police and Emergency Services. Minister, I have been made aware of an ACT Ambulance Service paramedic who has suffered post-traumatic stress. The paramedic has been cleared for work but their request to work part-time hours has been refused. Minister, why is a paramedic who wants to work and who has been cleared to work part-time being refused rostering?

MR GENTLEMAN: I thank Mrs Jones for the question. I am not aware of the details; it is an operational matter. I will take the question on notice and seek advice from the chief ambulance officer.

MRS JONES: Minister, are you aware of this happening and are you concerned that refusing to roster a paramedic who has PTS and has suffered that on the job and because of the job may make the condition actually worse?

MR GENTLEMAN: What we do in emergency services agencies is try to ensure the wellbeing of every officer. There are of course incidences of PTSD. We know that from the feedback from our members and from the ongoing engagement from the chief ambulance officer and other chief officers in our frontline services. It is a stressful job; there is no doubt about it. You were involved previously, Madam Speaker, in launching support services for those—

Mrs Jones: I raise a point of order, Madam Speaker. The question actually went to whether the minister realises that the refusal to roster can in fact make the condition worse, in what is what is sometimes referred to as systemic—

MADAM SPEAKER: The minister was 30 seconds into his answer. I will let him continue. I think his response is in order.

MR GENTLEMAN: As I said earlier, it is important that we look after our staff as best as possible. I am certainly not a medical officer, so I will not make any judgement on whether a condition can be made even worse from the work that they do. I will take it on notice, as I said, and get advice back from the chief ambulance officer.

MISS C BURCH: Minister, what will you do to resolve this issue?

MR GENTLEMAN: I do not involve myself in operational matters with the ACT Ambulance Service. I will leave that for the chief ambulance officer. I am confident in the work that he does and I am confident in the service—

Mrs Jones: What if he is actually wrong?

MADAM SPEAKER: Mrs Jones, enough.

MR GENTLEMAN: of the ESA. I will seek advice from the chief ambulance officer on this particular situation. If he needs further assistance from me, I am certainly happy to give it.

Housing ACT—shared equity arrangement

MR PARTON: My question is to the Minister for Housing and Suburban Development. How many community housing properties does Housing ACT have a shared equity arrangement with and does the financial value of the government's share exceed half a billion dollars?

MS BERRY: I just do not have that detail on me, Mr Parton, but I will get that advice and I will provide that to you.

MR PARTON: Minister, is the ACT government's equity share in these properties recognised on the ACT government's balance sheet?

MS BERRY: I will have to take that question on notice too, Mr Parton.

MR WALL: I imagine this one will also be on notice: if the properties are not recognised on the ACT government balance sheet, how is this consistent with the applicable accounting standards?

MS BERRY: Yes, I will have to take that question on notice as well.

Mr Barr: Madam Speaker, I ask that all further questions be placed on the notice paper.

Supplementary answers to question without notice Business—fair trading

MR RATTENBURY: Last Thursday I was asked a question by Ms Lawder relating to an investigation of complaints about a business, Pink Frosting. I am advised by Access Canberra that it has concluded investigations of Pink Frosting. While evidence obtained by Access Canberra indicates that Pink Frosting is likely to have breached Australian consumer law, on this occasion a full enforcement outcome was not pursued since Pink Frosting has ceased its operation, and the business is currently being deregistered.

Ms Lawder also asked me about the number of complaints received by Fair Trading on this particular matter. I can inform the Assembly that Access Canberra has received 53 complaints about Pink Frosting since 2017. Consumers who paid for goods that were not supplied were encouraged to contact their credit card issuer to obtain a chargeback of the purchase price.

Papers

Mr Gentleman presented the following papers:

Annual Reports (Government Agencies) Act, pursuant to section 14—Extension of time for presenting Annual Reports—2019-2020—Statement of reasons, dated August 2020.

Auditor-General Act—Auditor-General's Report No 2/2020—2018-19 Financial Audits—Computer Information Systems—Government response.

Climate Change and Greenhouse Gas Reduction Act, pursuant to subsection 19(4)—ACT Climate Change Council—Annual report 2019-20, dated 28 July 2020, together with a statement from the Minister for Climate Change and Sustainability responding to the advice/recommendations made in the Report.

Coroners Act, pursuant to subsection 57(4)—Report of Coroner—Inquest into the death of Joanne Lea Lovelock—

Report, dated 24 February 2020.

Government response, dated 20 August 2020.

Education and Care Services National Law as applied by the law of the States and Territories—Education and Care Services National Amendment Regulations 2020, dated September 2020, together with an explanatory memorandum.

End of Life Choices in the ACT—Select Committee—Report—Recommendation 12: Timetable and progress of actions to achieve the implementation of the proposed reforms advocated by the Productivity Commission report on End-of-life Care in Australia—Update, dated 20 August 2020.

Environment and Transport and City Services—Standing Committee—

Report 10—*Inquiry into Nature in our City*—Government response.

Report 11—*Inquiry into the Supply of Water to the Tharwa Community*—Government response.

Learning from Canberra’s Climate-Fuelled Summer of Crisis—A report with recommendations submitted to the ACT Minister for Sustainability and Climate Change by the ACT Climate Change Council on 26 June 2020, prepared by the ACT Climate Change Council.

Planning and Urban Renewal—Standing Committee—Report 12—*Inquiry into Engagement with Development Application Processes in the ACT*—Government response.

Public Accounts—Standing Committee—

Report 10—*Inquiry into the Appropriation Bill 2019-2020 (No 2)*—Government response, dated August 2020.

Report 11—*Tender for the sale of Block 30 Dickson*—Government response.

Yellow Box Woodland Ecosystems—Protection—Response to the resolution of the Assembly of 20 February 2020, dated August 2020.

Coroner’s report—government response

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (2.40): Pursuant to standing order 211, I move:

That the Assembly take note of the following papers:

Coroners Act, pursuant to subsection 57(4)—Report of Coroner—Inquest into the death of Joanne Lea Lovelock—

Report, dated 24 February 2020.

Government response, dated 20 August 2020.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (2.40): I will speak briefly to the ACT government’s response to coronial

recommendations from the inquest into the death of Joanne Lea Lovelock. I acknowledge Joanne Lovelock and her life and offer my sincere condolences to her family and friends for their tragic loss.

Acting Chief Coroner Theakston found Ms Lovelock died on 25 December 2015 from the combined effects of alcohol, and the prescription medications amitriptyline and methadone. The government has considered the coroner's report and supports the recommendation for national real-time prescription monitoring, with auditing functionality. I can advise that work is already underway to implement the national real-time prescription monitoring system in the ACT in 2021, which will address the coroner's recommendation. The ACT government is also working to address the coroner's desire to see a broader range of medicines in the ACT's online remote access real-time prescription monitoring website, DORA. The Government is already committed to commence the monitoring of some schedule 4 medicines through national real-time prescription monitoring by June 2021.

Monitoring the dispensing of controlled medicines is only one piece of the puzzle. We also need to focus our efforts on harm reduction in the community and the delivery of alcohol, drug and mental health services. The ACT government has a comprehensive plan to tackle the issues associated with drug and alcohol harm. The ACT government met action 16 of the ACT Drug Strategy Action Plan 2018-2021 by implementing the DORA real-time prescription monitoring system for practitioners in 2019. Our focus has now moved to upgrading to nationally consistent prescription monitoring next year, as agreed to by the Council of Australian Governments Health Council in April 2018.

Consultation will also soon be undertaken to determine the list of schedule 4 medicines that will be monitored by the ACT's prescription monitoring system. These measures will further improve oversight of prescriptions and the dispensing of medicines that may cause harm in the ACT due to abuse, misuse or diversion. In accordance with the ACT government's obligations under the Coroners Act, I commend the response to the ACT Legislative Assembly.

Question resolved in the affirmative.

Environment—climate change

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (2.42): Pursuant to standing order 211, I move:

That the Assembly take note of the following paper:

Learning from Canberra's Climate-Fuelled Summer of Crisis—A report with recommendations submitted to the ACT Minister for Sustainability and Climate Change by the ACT Climate Change Council on 26 June 2020, prepared by the ACT Climate Change Council.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (2.42): Madam Speaker, I am pleased to table the ACT Climate Council's report *Learning from Canberra's Climate-Fuelled Summer of Crisis*. This report was developed by the independent ACT Climate Change Council in response to the extreme events that we experienced over the summer, including smoke, fires, extreme heat and the January hailstorm. Over summer, the ACT simultaneously experienced multiple climate-related events, leading to unexpected impacts. For example, the extreme heat, combined with smoke pollution, meant that many people, even those whose homes are usually relatively comfortable, found their homes did not protect them adequately. Renters and low-income households were particularly vulnerable due to poor quality rental housing, lack of air-conditioning or inability to use air conditioning due to running costs.

As we experience climate change, such extreme weather events will unfortunately become more frequent and more severe. It is critical that we learn from the experience of the summer to ensure that we are better prepared in future. It is for this reason—so that we can increase our resilience to climate-driven emergencies—that the council prepared the report. As we know, the summer of 2019-20 brought extreme heatwaves, drought, bushfires and storms in the territory. The council's report highlights the economic, social and environmental impacts of these events. To summarise these impacts: the ACT had its hottest day on record on 4 January at 44 degrees Celsius. Records were broken across the country that day, with Penrith recording 48.9 degrees Celsius.

In 2019, the ACT's rainfall was 40 per cent below the long-term average. The drought, combined with extreme heat, put pressure on ecosystems and created dangerous fire conditions. The extent and severity of the bushfires across the country were, in a word that has been used a lot in 2020, unprecedented. The Orroral Valley fire burned 80 per cent of Namadgi National Park, including sensitive areas such as alpine bogs and fens. For many weeks thick smoke pollution hung over our city. On several days Canberra had the worst air quality of any city in the world, recording extremely hazardous levels of particulate pollution. Research published in *The Medical Journal of Australia* in March 2020 suggests that smoke pollution during the bushfire crisis may have killed more than 400 people across Australia, including around 30 in the ACT. On 20 January a severe hailstorm caused extensive damage to buildings and vehicles. More than 87,000 insurance claims were lodged in south-eastern Australia, with estimated losses of \$894 million. Around 50,000 of these claims were in the ACT, equating to potential estimated losses of over \$500 million.

In this context, the council undertook to study these events through the experience of Canberra residents and the expertise of various disciplined specialists. To inform the report, the council ran community engagement activities during March 2020, including three community fora and a survey of relevant experts. The report also draws on the expertise of council members, who are all well regarded experts in their fields. The council's engagement with the community through these three workshops identified recurring themes, suggestions and concerns in the areas of mental health and wellbeing, access to information, community connection and the built environment.

Regarding mental health and wellbeing, workshop participants identified strong and negative physical health and mental health and wellbeing impacts of the extended period of smoke pollution, extreme heat and fire risk. Many people reported experiencing fear, frustration, uncertainty, grief and panic during this time.

Regarding access to information, access to timely and accurate information was identified as a high priority. In general, there was positive feedback on the availability and quality of fire mapping and the communications by the Emergency Services Agency and ESA Commissioner Georgeina Whelan. Suggestions were made about improving availability of first-hand citizen reports, better information on road closures and improving the timeliness and resolution of air quality data. Another recurring theme at the workshops was the importance of community connections during times of crisis. Attendees suggested that community members would have benefited from being more actively involved and empowered to assist. Community members also highlighted the need to improve the quality of existing and new buildings, both for resilience to extreme heat and air tightness for smoke pollution.

The council drew on these community insights along with the experts' survey and their own expertise to develop 22 recommendations across five themes. The report and recommendations reflect the all-pervasive effects that climate change has on government operations and the broader community, and our built and natural environments. Key recommendations of the report include, first, under the theme of the "pathway to healing", to learn from community members and organisations to understand how to better support residents to prepare for disasters and extreme events and work with business to plan for crises to minimise economic and social impacts.

Under the theme "communication", the recommendation was to create an emergency information dashboard to provide clear and timely information to the community and support the provision of independent information on climate change.

Under the theme of "natural habitat", the recommendation was to undertake a natural landscape inventory to record the status of ecosystems and habitats; actively diversify the landscape to produce a mosaic of different environments to increase landscape resilience, using hazard reduction burns and other methods to manage fire risk; a plan to exclude fire from sensitive areas; and establish a seed bank to enable regeneration of species impacted by more frequent and severe fires.

Under the theme of "urban canopy", the recommendation was to work to ensure equity of access to trees between old and new suburbs and that street trees are suited to the future climate; to build public understanding of living infrastructure through ongoing communication; establish a fund for the maintenance of trees and gardens in new developments; and address regulations that inhibit roof and vertical gardens.

Under the theme of "built environment", the recommendation was to address insulation, glazing, sealing and the adequacy of heating and cooling equipment in the new energy performance standards for rental properties; conduct an active program to improve the energy efficiency of existing buildings; introduce a best practice scheme to ensure compliance with the national construction code; and identify and publicise crisis refuges for extreme heat and smoke events, well ahead of an approaching crisis.

I consider the recommendations in this report valuable and I am pleased to say that the ACT government is already working with the community on many of the issues raised in the report. Since receiving the report, the government has made decisions and announcements, particularly in addressing urban canopy and our urban forest. The recovery work we have already seen in Namadgi picks up many of the themes raised in the report, and I wish to acknowledge the work done by the park care and catchment groups as part of the recovery.

In conclusion, this report is a timely reminder that we cannot afford to lose momentum in response to the climate emergency. We can be proud of everything that we have achieved so far in reducing our emissions and adapting to climate change but there is much more that we need to do, and the recent summer is evidence that we have no time to waste. I would like to thank the members of the Climate Council for their work on this report. I believe it is very valuable for them to have brought both their own expertise to this but also to have engaged the community at a time when the community was feeling that it had been quite a bruising summer. I think that that in itself was a valuable exercise in part of the healing process. So I commend the council's *Learning from Canberra's Climate-Fuelled Summer of Crisis* to the Assembly and encourage members to take the opportunity to look through the findings.

Question resolved in the affirmative.

Environment—yellow box woodland

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (2.51): Pursuant to standing order 211, I move:

That the Assembly take note of the following paper:

Yellow Box Woodland Ecosystems—Protection—Response to the resolution of the Assembly of 20 February 2020.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (2.51): This will be a much shorter set of comments. I welcome this report back to the Assembly. This area in the north of Watson is an area that, obviously, sits between Antill Street and the Mount Majura and Mount Ainslie nature reserve areas. The reason I brought on this motion earlier in the year was to ensure that we protected this area and looked to make it a contiguous part of the nature reserve, rather than seeing development in that area which, under the CZ6 zoning, could be a possibility. To take this opportunity to look at the area which does contain yellow box, Blakely's red gum and endangered woodland communities, I think, is very valuable.

I understand that the assessment has indicated that the site is a key habitat area for many woodland bird species and many invertebrates. Several species of micro bats utilise the linkage that the area provides between Mount Majura and the Watson woodlands. Other significant species observed in this area include the golden sun moth and Rosenberg's monitor. It is an area that does provide important habitat.

Overall, the investigation indicates that the site has ecological value and there is potential for regeneration of the woodland's community. Having made those findings, I think that the work should now continue to progress the potential rezoning of this land to incorporate it into Canberra's network of nature reserves so that we can make sure that we give these threatened ecological communities and the species that are reliant on them the best possible chance into the future.

Question resolved in the affirmative.

COVID-19 pandemic response—health workers

MRS DUNNE (Ginninderra) (2.53): I move:

That this Assembly:

- (1) notes the tireless and dedicated work of health workers in Canberra during the COVID-19 pandemic;
- (2) further notes the neglect by the ACT Labor/Greens Government of the basic rights of Canberra's tireless health workers to:
 - (a) a safe workplace culture;
 - (b) proper leave provisions;
 - (c) proper breaks; and
 - (d) ensure that Canberra's health staff receive their proper remuneration;
- (3) thanks health workers for their service to the Canberra Community; and
- (4) calls on the ACT Government to immediately commence an independent audit of the Canberra Health Services' pay system, over the last six years, to:
 - (a) determine if the staff have been underpaid; and
 - (b) pay staff any back pay owing or recover any overpayments.

I am very pleased today, as we come to the end of the parliamentary year in what has been an extraordinary year, that we take time to pause and note the work that has been done by Canberra health workers during the COVID-19 pandemic. To pick up on the themes of Ms Stephen-Smith and me earlier today when the minister made her COVID-19 update, it is very important in this situation that we do take time to acknowledge our health workers. One of Australia's great strengths is to come together when the chips are down and to support each other when times are tough and to be one community for the benefit of all when we are facing a challenge or a foe.

We have seen this many times before: in the devastating bushfires last summer and countless times before, including, perhaps, Canberra's darkest hours in 2003 when we

saw Australians get out there and help each other, both practically and emotionally; and we have seen this happen in different ways during the COVID-19 pandemic. On the whole, the community has embraced the calls “we are in this together”, “together we are strong” and “staying apart keeps us together”. In Canberra’s case, the catchcry has been “be strong together”, cleverly taking the middle two letters from Canberra’s name and linking them and Canberra to a statement of resilience.

Our emergency services and defence people have gone above and beyond, often in the face of dangers themselves. Even our political leaders have largely put aside political differences to work together against an especially vicious virus.

While I am about giving shout-outs, I pay my particular appreciation to the ACT’s Chief Health Officer, Dr Kerryn Coleman, for what she has been doing with her staff through this very difficult time. Her calm and measured but supremely expert advice and decisive actions have been exemplary. Yes; there have been criticisms but, in the end, the ACT’s excellent record of COVID safety in our community is, in large part, thanks to her good officers.

I pay special tribute today to the people working in our health system: the frontline workers who have done nearly 70,000 COVID tests; the people who have counselled families who have lost loved ones to this insidious disease; the people who have kept our stocks of PPE in supply or testing equipment in supply; the people who have provided mental health support; the people who have kept our health facilities clean and operational; the doctors and nurses who have cared for COVID sufferers, especially in the early days; and all those who worked above and beyond to keep Canberra safe through this crisis. I pay tribute to these people because they are the source of our safety at the moment and they are our defence in maintaining our safety into the future.

I was disappointed that I was forced—not “forced” but decided to update—

Ms Stephen-Smith: No, you were not forced. No-one made you. You could have asked the question in question time.

MRS DUNNE: My motion yesterday was on the basis—and I think that the minister will get her time to speak—of ongoing discussions that I have had with staff at various levels across Canberra Health Services and elsewhere, and it prompted me to amend the motion. It is simply not good enough to utter banal words about how we thank these people if we do not follow it up with actions.

Actions speak louder than words, which is why the motion was amended to take into account the fact of almost a resurgence in the last little while of staff coming to the opposition about concerns about salaries and conditions that they work in in Canberra Health Services—people not getting proper breaks, people working 12-hour shifts, seven days on, seven days off, who are supposed to have statutory breaks and they are not getting them. They are not getting them because they have to keep a pager with them at all times because the staffing is so thin that they do not have the time to have a proper break.

If you are working 12 hours on and you do not get your two statutory half-hour breaks and then you work seven days, you are a bit of a basket case at the end of it. I am hearing from people like that that, at the same time, it is increasingly difficult for them to be paid their salary that they are supposed to be paid and their overtime and that if they do not get that break, they are entitled to overtime and they are not getting their overtime.

In addition to that, I am hearing from junior doctors who work in Canberra Health Services, not at Calvary, about the problems that they are having in relation to their payroll. First it was a small number of doctors, but I have become aware that this is a wide-scale problem. What we are seeing is that junior doctors say to me that they are rostered on for long hours anyhow and then they might do 10 or 20, or even 30 hours extra time in the week; and for every one of those hours, they have to sit down and apply electronically online for overtime, accounting in 15-minute blocks for what they have done in that time.

That does not happen to Calvary doctors because they have a much simpler system for accounting for the hours that people work. This is not a problem across both hospitals. It is a problem for Canberra Health Services.

I took the opportunity of this motion, where we were saying that we really appreciate health workers, to bring to the attention of the Assembly the significant gaps that we have in relation to what we say and what we do. In doing that, I draw to the Assembly's attention the problems that we have and how they have not been addressed by this Labor-Greens government.

We have seen that the safety and security of health workers continues to be under serious threat under this government. We have seen our health workers having to go to work around infrastructure and equipment failures under this government. We have seen our health workers having to fill gaps and work ridiculous hours simply because this Labor-Greens government cannot attract people to come to the ACT and work in the health system and retain them. They cannot attract them to come here because, as employers, their reputation is appalling.

If you hire 100 junior doctors a year and then you do not pay them according to their entitlements and they have to constantly run after their back pay and their overtime pay, what are they going to do? Are they going to settle in Canberra and say, "This is a great place to work"? No; they are going to take the first opportunity they can to get out of working in the ACT health system and they will tell their friends not to bother to come. When they become senior specialists, they will not take up opportunities to come and work in the ACT because they remember how badly treated they were when they were junior doctors.

Now we are seeing under the Labor-Greens government health workers who are not being paid properly; and this is not a surprise to the minister. I heard some of the minister's comments at lunchtime. She was sounding very flustered and somewhat surprised by these revelations and then tried to say, "But we are doing so much about it." This minister, before she was the Minister for Health, was the minister for the

secure jobs code in the ACT, making sure that people were not underpaid. This is the minister who instituted the secure jobs code, who became the health minister and has been lobbied about the pay system for the doctors. Basically, from day one she has known about this but she has done nothing about it.

Young doctors who are working up to 90 hours a week often do not get their pay for weeks after they have earned their pay. They have to chase up the pay system. They say to me that this is not a criticism of the pay clerks who are under just as much stress as they are, it is a symptom of the outmoded system that the government has imposed upon them and is not doing anything about.

There is considerable evidence, but I will leave the evidence of what I understand—I have seen that the minister is going to move an amendment which I find, frankly, fairly concerning—to talk about further when she has moved her amendment.

I think that what we need to do is recognise that the stories of the junior doctors and other workers are real and they are matters of concern. I also have to say, in all fairness, I think that it is a failure of representation of the industrial organisations who represent junior doctors and other health workers if this system has been going on for as long as I understand it has been and it has been unaddressed.

Just one of the issues that came about, and that I became aware of, is material that was circulated on a junior doctors forum where one of the junior doctors did an audit of some of the wage records of some of that doctor's colleagues over a three-month period. The recent audit was of 27 health workers and it found that thousands of dollars were owed to those 27 health workers. There were also instances of overpayments having been made but, for the most part, they were underpaid.

Of course, the problem is that the system is not automated. You would think that in a city like Canberra, a first-world city in the 21st century, that the pay system of the hospital would be automated. It is not and herein lies the problem. The administrative processes are so complicated and so bureaucratic that the already stretched junior doctors, who have already clocked up 80 or 90 hours a week, have to then sit down and manually claim each extra quarter hour of overtime. Then the overstretched pay clerks have to manually process that after somebody gives them approval. The processes involved in this and the auditing and the checking of this actually add to the cost.

The health minister, as I have said, has known about this for some time and she has been complacent. At the very best, she has been complacent. I think that that is absolutely and utterly abhorrent. I note that the minister is proposing to remove two paragraphs from my motion that talk about the poor conditions and the call for an audit. I think that what that does is confirm for the people of the ACT, for the young doctors, for the other health workers who are trying to just get a fair day's pay for a fair day's work, that this minister is complicit and colluding in wage theft in the ACT health system.

While this minister is complicit in wage theft in the ACT health system, her words of support and thanks for frontline health workers sound pretty shallow because, as I said

at the outset, actions speak louder than words. The actions of this minister should be to stand up for the workers who are not getting their pay and should be to stand up and account and be prepared to account to the ACT taxpayer why the pay system at the hospital is so bad. Why is the pay system so bad? Why is it that year on year young doctors have to scrounge to be paid the hours that they are due?

This is an important motion. It is an important motion to show just how we support our health workers. How we support our health workers is not just by kind words, which they deserve in abundance. In addition to kind words, they deserve a working environment that is safe, where they are not harassed and where they can be sure that when they get their payslip, the payslip represents the amount of time that they have worked and the proper wages that they have earned in that period.

I commend the motion and I commend to the Assembly the audit of the pay system for Canberra Health Services.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (3.08): For the information of Mrs Dunne, I will not, in fact, be moving the amendment that was circulated earlier in my name because Minister Rattenbury has circulated a further amendment that Labor members will be supporting. Minister Rattenbury's amendment that has been circulated notes the government's ongoing commitment to ensuring that all staff are treated with respect and paid fairly and accurately, and that is indeed part of our commitment.

Mrs Dunne noted that I was, indeed, the Minister for Workplace Safety and Industrial Relations when we introduced the Secure Local Jobs Act and the code, which those opposite absolutely failed to support, opposed at every turn, delayed, obfuscated about and, ultimately, did not want another mechanism in place to ensure that the organisations that the ACT government contracts with are bound to pay their workers fairly and treat them fairly and uphold workers' rights.

Mrs Dunne also says that she has been hearing about this for some time but, bizarrely, as far as I am aware, she has never raised it; not with me, not in the regular briefings that she has with Canberra Health Services, which include, often, the CEO and/or the Deputy CEO, and I do not believe that she has ever written to me about it—these issues, raised for some time but never, ever, ever been raised with me until the 11th hour, where I did say, in the press conference, that I was disappointed about the way that Mrs Dunne has raised this issue.

This is an important issue and if Mrs Dunne wanted to raise it, she could have. She has been hearing about it for all this time? She could have included it in her motion that she submitted on Monday, but she did not. She put forward a motion which I thought, "This is great. Going to stand up, tripartisan, thank our health workers for all the really important work they have been doing, not just during COVID-19 but the work that they do all the time." If Mrs Dunne had asked the question, we could have given her some information.

Of course, the government and Canberra Health Services, as I have said, are absolutely committed to ensuring that our junior medical workforce is paid appropriately for the work they undertake in caring for patients, and we are aware that some concerns have been raised, particularly about the interface between the payroll system and the rostering system, and those issues have been acknowledged. We are committed to ensuring that all medical staff are paid their entitlements in an appropriate and timely manner under the ACT medical practitioners enterprise agreement and we are reviewing systems. Canberra Health Services and Shared Services are working with affected individuals to ensure that all pay-related issues are addressed and resolved as soon as possible.

Of course, if Mrs Dunne paid attention to some of the other things that are going on across government, she would be aware that the current payroll system is, in fact, being phased out and its replacement, the whole-of-government HRMIS, or human resources information management system, is being implemented following extensive consultation across the directorates to ensure that these issues are addressed—issues such as the interface with other systems and the ability to produce simple, easy to read payslips.

I was, in fact, the minister for government services when that went through the budget in 2018-19. Yes; there are issues and there have always historically been issues with doctors working long hours. We understand that overtime for doctors, both rostered and unrostered, is sometimes a necessary requirement for running a busy hospital safely, and managing sick patients independently in the after-hours period is an important training experience for junior doctors. We also recognise that working excessive hours does not promote a healthy lifestyle and impacts the time available for spending with family and friends and, indeed, for study.

We also know that excessive overtime can lead to fatigue, burnout and can affect mental and physical health and, indeed, patient safety. That is why CHS asks medical supervisors and clinical roster managers to keep overtime to a minimum, without compromising patient care or the training experience.

Mrs Dunne has referred to a particular matter that has been raised by junior medical officers, and it is true that on 28 June 2020 the Medical Officer Support, Credentialing, Employment and Training Unit received an email that an audit had been undertaken of some public holiday pay for 28 JMOs across six months. A portion of those were paid correctly, a portion were underpaid and a portion were overpaid. I am advised that it was about one-third, one-third, one-third, and Shared Services payroll has acknowledged it. The following day, the Medical Officer Support, Credentialing, Employment and Training Unit got in touch with Shared Services payroll and they are looking into this issue.

As I have indicated, there are some complexities around the rostering system and the existing payroll system and that is why we are investing tens of millions of dollars in a new human resources information management system, in part, to address those issues, and I can advise the Assembly that the procurement progress for HRIMS was concluded in April 2019 and the release of the first part of this major project is

expected in the first quarter of next year: payroll, workforce, administration, recruitment and onboarding. We are, in fact, addressing the issues and Mrs Dunne's constant claims of not doing anything are completely and utterly baseless.

There are also issues that have been raised in our culture review oversight group meetings, which are addressed by Canberra Health Services, and need to be addressed as a cultural issue as well, because we know that there are longstanding cultural issues about junior doctors being expected to work long hours. We are trying to move towards a system where that is not the expectation, where supervisors and roster managers are clearly expected not to require significant overtime and for staff to be paid for the time that they work.

That is what the ACT Labor government is committed to, that is what Labor governments commit to: treating their workers with respect, paying them fairly for a day's work and providing them with leave for time away from work. It is a far cry from the way that Liberal governments treat their workers. Commonwealth public servants under a Liberal government have seen their pay and conditions slashed in real terms, going years with no increases in pay. On top of that, the commonwealth Liberal government announced on 9 April this year that it would freeze pay rises for commonwealth public servants for the next 12 months. That is what Liberal governments do.

If anybody in this city believes that an ACT Liberal government would be any different, tell them they are dreaming. Everybody knows how Liberal governments treat public servants, and it is not what we do on this side of the chamber. Liberal governments cut public services, cut wages, cut hard-won conditions and weaken the ability of public servants to deliver critical public services.

Mrs Dunne: No; you just steal their wages.

MS STEPHEN-SMITH: Mrs Dunne likes to interject and intervene, because she is actually a bit confused about the fact that we are onto this. We are introducing a new system; we are addressing the issues that have been raised; we are already investigating. Her call for an investigation is completely redundant because that work is already underway. Every time a payroll issue is raised with us we address it and we are now implementing a new system, a new system across government, to address the issues that Mrs Dunne is raising.

Mrs Dunne: In 2023.

MS STEPHEN-SMITH: In 2021, Mrs Dunne—I do not know if you were listening—quarter one, 2021. That would be within the next six months.

Mrs Dunne: That is not what the junior doctors were told. They were told 2023.

MS STEPHEN-SMITH: That is nice, Mrs Dunne, and I will follow that up.

MADAM ASSISTANT SPEAKER (Ms Cody): Mrs Dunne, we did listen to you in silence.

MS STEPHEN-SMITH: I will follow up that we are getting the right information to our junior doctors in relation to that.

Also, the ACT Labor government has provided fair pay increases, increases to superannuation, increases to parental leave and has genuinely worked with our workforce to ensure that they are able to deliver the critical services that they provide for our community.

Madam Assistant Speaker, as you know, we have not shied away from the fact that we must do better on culture in ACT public health services. That is why we invested, in the implementation of the *Final Report of the Independent Review into the Workplace Culture within ACT Public Health Services*, known as the culture review, \$12 million over the period. In June this year I made a statement in relation to the inaugural review of the work in this space and it highlighted that there have been significant positive early signs of change in the culture. Anecdotally, most members of the culture review oversight group, of which I am chair and Minister Rattenbury is deputy chair, identify an improvement on the ground and, while some challenges identify themselves, we will work together to address them. Everyone around that table is taking joint responsibility for that, as they should, and are leaders across the health and industrial systems.

I will actually go to what was originally Mrs Dunne's substantive motion because I think that is where it would have been really nice to be focusing today, on the incredible contribution that our healthcare workforce has made over the last few months and, indeed, the ongoing contribution that they make to our city and to the wellbeing of our community. We know that COVID-19 continues to impact every aspect of life, including our ACT public health system, but, equally, COVID-19 highlights how adept our system is at pulling together during this health pandemic to best serve our community's needs. It was nice to hear Mrs Dunne, at the beginning of her speech, talking about how we all have been pulling together.

I cannot mention in the time that I have got left all the programs and areas of work that have been underway but I can confidently say that every member of ACT's health system has likely been involved in some way, shape or form in the government's COVID-19 response efforts and, indeed, the community's. Our healthcare workers, frontline and behind the scenes, across a broad range of professions and roles, have been instrumental in keeping the ACT community safe while we face the challenges and uncertainties of this pandemic. As a workforce, they have addressed challenges head-on, they have moved swiftly in response to the evolving situation and, indeed, we have seen such significant innovation on the ground and we have seen them supporting one another in a time of great uncertainty when they have really, again, pulled and worked together. This extraordinary collaborative effort enables us to continue to meet the challenges of this very strange year in which we are living.

Our COVID-19 emergency response coordination centres are staffed by representatives from across the health system and, indeed, other parts of government as well. Located in our ACT Health Directorate, they have provided a whole-of-government response to keep our community safe. The health emergency

control centre manages and coordinates ACT's Health's response, bringing together experts in emergency management, public health, planning and logistics, including first-response contact tracing and worst-case scenario preparedness. The clinical health emergency control centre coordinates the territory's clinical response—the first time that our public and private hospitals and stakeholders have come together in this way, preparing the system as a whole to meet any surge in COVID-19 cases.

I pay tribute at this point to Bernadette McDonald, the CEO of Canberra Health Services, who has also operated as the clinical health controller for the COVID-19 response. I think that it is disappointing that a lot of the criticism that Mrs Dunne has made—and she blames the government and ministers for everything—is actually administrative criticism. She is thanking health workers on one hand but she is criticising our health leaders on the other. She is criticising our health leaders at a time when they are doing everything that they can to keep their workers safe, to ensure that they are well supported and to keep our community safe and protected from COVID-19.

Ms Lawder: You are blaming them.

Mrs Dunne: Yes, because this is the system—

MS STEPHEN-SMITH: No, you are blaming them. The public information coordination centre, of course, has also been delivering the most significant coordinated communications they have ever undertaken across the ACT public service, covering the health, social and economic impacts of the pandemic and ensuring that the ACT community, including priority and minority groups, always has access to the latest COVID-19 information.

I extend my gratitude and my thanks to everyone who has cared for and continues to care for Canberrans: our doctors, nurses, all our frontline workers and clinicians who have gone above and beyond during this challenging time. I also thank and acknowledge the many staff who have been redeployed from their usual positions to provide much-needed clinical and administrative systems to support our ongoing response to the pandemic.

We can be proud as a community of all our ACT public health staff who are ensuring that our territory continues to provide exceptional healthcare during the COVID-19 pandemic. Our doctors, nurses, allied health professionals, pathology staff who have been working incredibly hard, and administrative support workers—they have all worked tirelessly to keep the Canberra community safe during this difficult time. They have adapted swiftly to offer new models of care; and we will continue to support them, as we always do as a Labor government, ensuring that their rights are upheld and that they are paid fairly and appropriately. We will continue to do that because we are Labor.

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (3.23), by leave: I move the following amendments together:

1. Omit paragraph (2).
2. Omit paragraph (4), substitute:
 - “(4) notes the ACT Government’s ongoing commitment to ensuring all staff are treated with respect and paid fairly and accurately; and
 - (5) calls on the Minister for Health to report back to the Assembly on the collaborative work underway between Canberra Health Services and Shared Services to examine payroll issues by the end of April 2021.”.

I would like to start by talking about Mrs Dunne’s motion, as originally presented, which is to acknowledge the considerable and outstanding effort of our health staff on an ongoing basis, but particularly during the COVID-19 pandemic. It has been an extraordinary time, and I often sit and reflect on the experiences of health workers. We have seen a lot of coverage, particularly out of Victoria in recent weeks, where the pressure has really been on.

At the start of this pandemic health workers were really stepping into the unknown. Like the rest of the community, they did not know what was coming, but they were very much at the front lines of it. They work hard at the best of times, but to combine that level of hard work with incredible uncertainty would have been particularly challenging for our health staff.

We have obviously been relatively fortunate in the ACT in that our caseload and our fatality rate have been much smaller than in many other places. We have not needed many of the preparations that have been put in place, but I know that during the early phases of the preparation people were working incredibly hard to create new systems to try and think through all of the potential scenarios—at a time when there was a lot of uncertainty and a lot of unknown—to make sure that as many contingencies were being prepared for as possible. I am very grateful for that.

I had the good fortune to be at many briefings where we were taken through those preparations. The Canberra community will probably never know all the steps that were put in place just in case they were needed. They may still be needed, but we can all hope that the steps we have taken will ensure that that is not the case. There was an extraordinary amount of work done to make sure that this city was as ready as possible in the event of some of the scenarios that were being contemplated.

Having been the Minister for Mental Health over the last nearly four years, I am very aware of the work that our mental health staff put in. I have had the really good fortune to have a lot of the staff talk to me about things that are going on, to have had the opportunity to visit sites, to be walked through the work that is going on, to have models of care explained to me, to have innovations explained to me, and to have had people putting forward ideas. So I am also very aware of how our mental health staff make a very significant contribution; and that has been amplified during the COVID-19 period.

It is no secret that the pressure on mental health capacity has gone up during this period. There are a range of reasons for that. Today is not the day to speculate on

those. I know that this already very challenging work—working with some of the most vulnerable people in our community at the worst points in their lives—has been made even harder by the COVID-19 period. Our mental staff have been under more pressure than ever. I am very grateful for their work.

In talking about our mental health staff, the focus tends to be on areas like the emergency department, where mental health staff are present, and the inpatient units, but it extends right through the system, including to our community mental health centres, where staff have had to support the members of the community who have gone through a range of emotions during this period. I also want to take this opportunity to reflect on our community sector partners, because certainly in the mental health space—and I know that it is the same in the health space—community partners do a lot of the work in the system and are very integrated. They have been an important part of this story, as well.

Organisations such as Lifeline, Menslink, MIEACT and the group now known as the Perinatal Wellbeing Centre—it used to be PANDSI—have spoken to me about the pressures on them during this period. Staff at headspace and at Marymead have had to step up during this period, as well. They play an incredibly important part in our system. So whilst today's motion is formally about the public service, as we reflect on staff in our healthcare system it is important also to reflect on the staff, and in some cases volunteers, who work in our community sector organisations that so importantly integrate with government service providers. I feel that I could make these points for some time. One of the great privileges of playing the role that I play now—a privilege all MLAs have—is that I get opportunities to step into spaces that I might not otherwise be able to. We get invited to go to some of these things and to talk to people, and we get real insights that give us opportunities. Having a day like today to reflect on that is very welcome.

In terms of the other part of Mrs Dunne's motion—the amendments that were made after the close of business yesterday, around pay issues—it is obviously of great concern to us to have these issues raised. I was surprised to see the changes so late, but also to hear Mrs Dunne say today that she had been working on this for some time. It did feel a little incongruent; but the bottom line is that this is a question that we need to take very seriously. I was pleased to hear today the remarks from the Minister for Health that this has already been identified, and pleased to hear some of the details she provided about the work that is being done to make sure that staff are paid fairly, appropriately, and accurately, for the work that they have done. I have circulated an amendment which picks up that point. Certainly, for me, it is incredibly important that, given how hard our staff work, and just as a matter for decency and integrity, they are paid fairly and accurately.

Also, in light of the questions that have been raised by Mrs Dunne, and the information I was given by the health minister earlier today, and the further comments she has made in the chamber now, I think it is appropriate that the Minister for Health report back to the Assembly on the work that is being done. I am pleased that that work is already underway—that it did not take an Assembly motion. I would expect that our health service would get on with this work. Mistakes will happen in payroll from time to time, whether it is in the private sector or the public sector. We wish that

they did not, but things will happen. The important part of the story here is that once the information was identified, Canberra Health Services got onto looking into it and making sure that it was sorted out.

In light of that, it is appropriate that, as members of the Assembly, we ensure that this is adequately dealt with. That is why my amendment also calls on the health minister to report back in the early part of next year on what has been done to overcome any concerns that have been identified and the actions taken to address them. I commend my amendment to the Assembly today.

MRS DUNNE (Ginninderra) (3.31): Madam Assistant Speaker, it is gobsmacking, when you think about it. You have the unity ticket of ACT Labor and the Greens talking about decency and integrity, and saying, “We’re Labor, and what we stand for is wage justice for our workers.” It does not look like it here. It is interesting; I can remember the number of times that Mr Pettersson, you, Madam Assistant Speaker, and various other people have had “stacks on” here and accused people of wage theft—Woolworths, 7-Eleven, George Calombaris and Coles; but when it comes to one of their own, they are amazingly silent. They run an amazing protection racket.

The minister stood up here and said, “How dare Mrs Dunne. She’s never asked for a briefing. She’s never asked my permission to do something in this space.” The minister said that I have had lots of opportunities to have a briefing on this, and referred to all the briefings that I have had over the last little while. They were briefings about our COVID preparedness. It would be entirely and completely inappropriate, and I never ask anything in those briefings which is not pertinent to our COVID preparedness and our COVID recovery. If I ask about what is happening in elective surgery, I am asking about elective surgery because we had shut it down because of COVID. It would be completely and utterly inappropriate.

How dare the minister assume that the only gateway for action in this Assembly is through her. You have seen, Madam Assistant Speaker, just how strongly she stood up for junior doctors here today. She is sitting there and saying, “There’s nothing to see here.” This motion is not about an investigation into how we fix the pay system. We know that the pay system is broken. This motion calls for an audit to ensure that not just the current crop of young doctors, junior doctors, but their predecessors for six years—because that is the statutory time frame that we are working in—have not been underpaid. If they have been underpaid, they should be reimbursed. If they have been overpaid, knock yourself out; go and seek people to pay it back, where they have been overpaid.

That is what this motion is about. Mr Rattenbury is trying to create a fig leaf of respectability because he has to stay in the Labor Party camp by coming up with his version of things, which says, “We’re being respectful; we have an ongoing commitment to ensuring that staff are treated with respect and are paid fairly and accurately.” At this precise moment there are wardsmen, other health professionals and junior doctors who are not being paid fairly and accurately. It is not happening now.

Ms Lawder: It is called wage theft.

MRS DUNNE: It is called wage theft, as Ms Lawder said. This has been perpetrated by the ACT government with the support of the Greens. Anything short of an audit of the current pay system to see who has not been paid correctly and who has been paid correctly, whether they have been underpaid or overpaid, is a dereliction of this minister's duty to the people that she and Mr Rattenbury say they have an ongoing commitment of fairness to. This is laughable. It is very interesting when you look at it. Minister Stephen-Smith's first response to my motion was to seek to omit paragraphs (2) and (4), which are the operative ones that call for them to say something other than just nice words.

Ms Stephen-Smith: Just go back to what you put in on Monday, only three days ago. It was what you wanted.

Mr Rattenbury interjecting—

Mr Hanson: That was a snide little comment.

MRS DUNNE: Yes, that is right. Madam Assistant Speaker, as a member of this place, I am entitled, under the standing orders, to amend my own motion. I am entitled, under the standing orders, to amend my own motion, and that is what I did yesterday morning. As a member, I have an entitlement and I exercised it—in the same way that junior doctors have an entitlement to be paid fairly and on the due date. They should not have to chase their overtime week in and week out. They should not have their partners say to me, almost in tears, “She shouldn't have to put up with that.” She should not, after working for 90 hours in the ACT health system, have to chase her wages.

You should not have to look in people's eyes and see the pain that they feel for their partners. That is the entitlement that I am talking about, Mr Rattenbury, and just as is the case on most other occasions, you overreach. You do not understand; you have no empathy. You do not understand what is happening to these doctors. They work for 90 hours a week. They do it week in and week out. The minister says that it is bad for them. They know that it is bad for them. They are sitting there and telling Mr Coe and I just how bad it is for them, and how they fear for patients' safety; then these people cannot even pay them properly.

When you explore this, you see what doctors are being told. This is what they were told on 11 August: “There is a process in place, the Canberra Hospital has been scoping out a new digital platform and are sourcing a task force to smoothly transition towards a goal. This will take one to two years to come to fruition.” But at least change is on the way; these are positive people. “At this stage it looks like we will be moving to the Epic software, which has already been rolled out to the Royal Children's Hospital and to the expanded Royal Melbourne Hospital, in financial year 2022-23.”

The current doctors do not have a system that helps them to get paid fairly. The previous doctors and two more generations of junior doctors—the ones who are employed next year and the year after—will not have this system. All that these doctors want is an audit of the system. As employers, ACT taxpayers have a responsibility. We act on behalf of ACT taxpayers; we take on that responsibility.

Minister Rachel Stephen-Smith, as the health minister, is directly responsible for this pay issue. I do not want to blame pay clerks. They have a terrible system to work with. They are just as ground down as the junior doctors. It is not the problem of the pay clerks.

Mr Hanson: Come on, comrades; support the workers, comrades.

MRS DUNNE: Thank you, Mr Hanson. It is ironic that in the week that I have been talking about the use of the workers' symbols, the hammer and sickle, the party that purports to support the workers comes in here and will not agree to an audit to see whether people are being paid.

I will tell you what, Madam Assistant Speaker, if we had an audit and it came back and said, "The junior doctors are wrong; everybody has been paid and it is all tickety-boo," I would be overjoyed. My colleagues would be overjoyed. But we do not think that that is the case. We think that there needs to be an audit and we need to be prepared to face up to a very big bill in back pay.

It is a serious matter. There are lots of doctors in the system—probably 500 or 600 over the period—all of whom have suffered in this way and all of whom are probably entitled to some back pay. The performance here today of these ministers in this coalition government—the coalition of the left, the workers' friends—has been utterly appalling.

I look forward to Mr Petterson standing up and talking about wage theft in the debate on this motion. I dare him. With many of the people who have come to me and who talk about their issues at ACT Health, I refer them to the Fair Work Commission, because that is the only recourse they have, because this government does not care about them. Do they think that because they are doctors, they are not worthy of support?

They are junior doctors and, as somebody said to me in relation to the junior doctors, they treat them like fodder. They employ them, they come here for a year or so, they burn out and they go somewhere else. That is why the ACT health system cannot attract doctors. That is why the ACT health system have a culture problem. That is why the ACT health system have found it difficult to get locums to come here, even before COVID. That is why the ACT health system have doctors who are desperate for leave and who cannot take leave because there is no one to backfill. They will not just walk away; they will not leave their patients.

The Canberra Liberals will not support Mr Rattenbury's amendments. We stand by our call for an audit. We will demand an audit, and we will keep demanding an audit until there is one.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (3.41): Very briefly on the amendments, and for the information of the Assembly, my understanding is that Epic is the digital health record. It is about patient health records.

It is not about the pay system, which is HRIMS, and is due for delivery of payroll in the first quarter of next year. Again, if Mrs Dunne paid more attention to her shadow portfolio, she would know about that digital health record.

Question put:

That the amendments be agreed to.

The Assembly voted—

Ayes 12		Noes 9	
Ms J Burch	Mr Pettersson	Miss C Burch	Mr Parton
Ms Cheyne	Mr Ramsay	Mrs Dunne	Mr Wall
Ms Cody	Mr Rattenbury	Mrs Jones	
Mr Gentleman	Mr Steel	Mrs Kikkert	
Mr Gupta	Ms Stephen-Smith	Ms Lawder	
Ms Le Couteur		Ms Lee	
Ms Orr		Mr Milligan	

Question resolved in the affirmative.

MR WALL (Brindabella) (3.47): I will speak to the motion. What we have just seen here today on the other side of this chamber is quite the astonishing cover-up exercise by the champions of the worker. Just paint the picture for a moment, if this was a private employer that was alleged to be doing this, what they would be doing and what they would be screaming about in this place and publicly, in the name of standing up for a worker and trying to prevent wage theft. When they preside over it themselves, they are absolutely comfortable with covering up their actions, saying, “Nothing to see here, move along people, this is not an issue.” But say that to the doctors that are not being paid adequately, say that to the doctors who are working 90-plus hours a week and are not being paid accordingly for it. This is what we are seeing from Labor.

It is sheer hypocrisy that they will stand up for the worker in the private sector, but they fail to do so when it is their own employee in the government sector. That is just Labor in a nutshell.

I think it would be remiss of me, as well, not to mention the Greens in this. It would be remiss not to mention Mr Rattenbury and Ms Le Couteur, who are aiding and abetting this wage theft that is being presided over in ACT Health. The Greens are complicit. I think Unions ACT may have put a piece of material out earlier in this term, our partners in crime. If I am not mistaken, I believe that it was featuring your favourite, Ms Rachel Stephen-Smith.

Ms Stephen-Smith: It featured on television recently, yes.

MR WALL: Yes, partners in crime, when it came to claims of wage theft.

MADAM SPEAKER: Mr Wall, I ask you to resume your seat. I might seek some advice. There has been some quite colourful language: partners in crime, accusations of wage theft.

MR WALL: That was a quote.

MADAM SPEAKER: You have still used it in this chamber and referencing that to the Minister for Health. I will seek some advice. I believe it verges on being unparliamentary.

I will take time to review *Hansard*. The clock will start again, Mr Wall, and you can resume; but you should be very mindful, in the heat of debate, we are still here to represent our community and not here to have a slanging match across the chamber. Mr Wall, you have the call.

MR WALL: Thank you Madam Speaker. I will continue by saying that there is a complete double standard. The minister is not willing to review the financials and the pay records in ACT Health to determine unequivocally, once and for all, if there is an issue. I interjected before, “Why do not you apply for a secure local job certification on this?” That is what would unequivocally determine whether or not they are meeting their requirements. That is the bar that they have set for the private sector in the ACT to work with government. That is the bar that ACT Labor, in this term of government, has established. That is the minimum standard that you must adhere to as an employer—

Ms Stephen-Smith interjecting—

MADAM SPEAKER: We do not need any encouragement across the floor.

MR WALL: Here we are with an allegation that they are failing to do that in the government departments that they oversee on behalf of the ratepayers of the ACT. They are clearly sweeping this under the carpet, dodging the serious issue and continuing to preside over doctors being underpaid in the ACT health system. This is a disgrace. It is an absolute, unrelenting disgrace that, in the midst of a pandemic, the chief officer in charge of health, the minister who is responsible for health, is failing to even stand up for doctors and the issue of whether or not she is paying them correctly. This is outrageous. It should not be accepted. In about 60 days the people of the ACT will have an opportunity to cast their vote and move past it accordingly.

MRS DUNNE (Ginninderra) (3.51): I was waiting for Ms Stephen-Smith to stand up and speak in relation to wage theft. What we have seen here today is just how hollow the promises of ACT Labor are.

It is really interesting to go back over some highlights of the last little while. I recall a motion from Ms Cody on 13 February 2019 about the secure local jobs code and the “calls on” are really interesting. I will not quote them all. I will just quote the pertinent bits. It calls on the Assembly to pass on the thanks of the Assembly to ACT government employees who worked unsociable hours over the summer. We agreed.

We should do that; but remember that junior doctors work unsociable hours 365 days a year, not just over the summer, all the time. In (c) she called on the government to continue to implement the local jobs code and to ensure that ACT government works only go to businesses with the highest labour and ethical standards.

But the ACT government, when it comes to Canberra Health Services, has traduced those highest labour and ethical standards.

Mr Hanson interjecting—

MADAM SPEAKER: Mr Hanson, I will come back to you with a warning next time.

MRS DUNNE: In another debate, about a year earlier, there was this little gem. I like to have a bound *Hansard*. It makes you feel like you have got something of real gravitas to say. There was real gravitas on this occasion:

... we ... as a nation must ask the question, At what point do we say no to wage theft and exploitation? Is it a small mum and dad business trying to make ends meet? Is it a bustling cafe not paying penalty rates? Is it a celebrity chef with their own personal brand? Or is it a multinational company employing hundreds of Australians? Regardless of who does it and for what reason, wage theft is just that—*theft*. The key problem with failing to enforce employers to pay employees what they are owed is that if you ignore it at one level, it only makes it harder to enforce the rules on other employers.

Thank you, Ms Orr. You had better have a word to your predecessor, who is currently the health minister, because—

Mr Gentleman: On a point of order, Madam Speaker, comments are supposed to be directed through the Speaker, not to individual members.

MADAM SPEAKER: On the point of order, you will refer to people by their full name, Mrs Dunne.

MRS DUNNE: If that is the best Mr Gentleman can do, I am happy to talk to him. Through you, Madam Speaker, Ms Orr should speak to her predecessor in the job that she has and—

Ms Orr: On a point of order, I believe that Mrs Dunne—and I seek your clarification on this—started off by saying that it was Ms Cody she was quoting.

MRS DUNNE: No, I did not.

MADAM SPEAKER: No, it was Ms Orr.

Ms Orr: Sorry, I did say that I sought your clarification.

MRS DUNNE: From the big book, it is you, page 522.

MADAM SPEAKER: Have you concluded, Mrs Dunne?

MRS DUNNE: No; I have not. I was waiting for the point of order to finish. The thing about this is that this is not the first time. In a moment I will seek leave to table this pamphlet, but I will read from it first.

You have probably heard about the high-profile cases of wage theft at 7-Eleven, Caltex, and Domino's. Did you know that wage theft happens right here in Canberra on ACT government jobs? For example, workers in the ACT government's light rail project have been underpaid more than \$700,000 just in 2017 alone.

It goes on. It does reflect on the minister at the time. She is characterised as a partner in crime.

I think it is very unusual that after nearly 19 years in this place, when I have been on a number of unusual unity tickets, on this occasion I am on a unity ticket with the CFMEU. I seek leave to table this pamphlet for the information of members.

Leave granted.

MRS DUNNE: I present the following paper:

ACT Government & bad bosses—Partners in crime—Copy of leaflet.

The Canberra Liberals stand, as they did at the beginning of this motion, and call for an audit. The record will show that the Labor Party and the Greens today connived to deny the young doctors that audit. They colluded. They could have said yes, and the problem would have gone away.

Ms Cheyne: In response to your duplicity.

MRS DUNNE: I will come to that in a moment. I will conclude. What the doctors have seen here today is this crew over here, on the government benches, colluded to ensure that there is not an audit of their pay, to ensure that they do not get just payment. The Canberra Liberals will continue to campaign for just pay for people at the Canberra Health Services while ever we have breath.

On the subject of my duplicity, I amended the motion, in accordance with the standing orders, and sought the advice of the Clerk on whether it was appropriate. That is what I did and that is what has happened on a number of occasions. Members use the standing orders to amend the motion. That is what I did, within the standing orders.

Original question, as amended, resolved in the affirmative.

Government—drug and alcohol harm minimisation policy

MR PETTERSSON (Yerrabi) (3.58): I move:

That this Assembly:

- (1) notes the nation leading approach taken by the ACT Government in advancing a harm minimisation approach to alcohol and other drug policy, including through:

- (a) implementing the actions outlined in the ACT Government's Drug Strategy Action Plan 2018-2021;
 - (b) the passage and implementation of the Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019, allowing for the possession and personal use of small amounts of cannabis;
 - (c) the development of a Festival Pill Testing policy following the pilot of festival pill testing in 2018 and 2019 at the Groovin' the Moo festival; and
 - (d) the release of an independent evaluation by the Australian National University Medical School in December 2019 showing pill testing was an overwhelming success in providing "effective, relevant and good health information to people who plan to use illicit drugs" and encouraged users to discard tainted pills, potentially saving lives;
- (2) recognises the challenge of co-occurring mental illness and alcohol and other drug use, particularly for young people and people with a trauma background; and
- (3) calls on the ACT Government, and whichever party or parties in the Assembly that form government following the October 2020 election, to:
- (a) continue to take a harm minimisation approach to alcohol and other drug issues;
 - (b) continue to invest in community and hospital-based alcohol and other drug and mental health services;
 - (c) work to better integrate mental health and drug and alcohol services across primary health, community-based services, and acute hospital care;
 - (d) investigate the feasibility of a simple offence notice for other drugs of dependence to ascertain the legal, social and health impacts; and
 - (e) report to the Assembly no later than November 2021 on progress.

I rise today to call on the ACT government to continue implementing a harm minimisation approach to drugs of dependence. A simple drug offence notice is a common-sense step forward that will continue the territory's standing as a nation leader in forward-looking drug policy. It is time for further changes to our drugs of dependence legislation to make sure that this government continues to put the health and wellbeing of all Canberrans first.

Since the recent amendment to the Drugs of Dependence Act there has been widespread community support for further sensible reform of our drug laws. When you look at community views on drug use it is pretty clear that our current laws do not align with community values. Just look at the national drugs strategy household survey 2019. Overwhelmingly people want to see drug users either given a warning, referred to treatment or education programs, or given a fine. When it comes to ecstasy, 80.2 per cent of people support this course of action. When it comes to heroin, 70.8 per cent of people want to see this happen. When it comes to meth, it is still 68.1 per cent.

The Standing Committee on Education, Employment and Youth Affairs even recognised this, and recommendation 46 of the report into youth mental health in the ACT was to consider further criminal justice diversion for young drug users by investigating a simple drug offence notice. This is not a majority Labor committee. In fact, I am the one Labor member on it. This is a majority Liberal committee. It is obvious to me that when you take the partisan politics out of it, when you talk to families experiencing crisis, everyone can see that our current drug laws do not do what we want them to do. We know that the “just say no” approach does not work. It does not deter people from using drugs, nor does it do anything to tackle the often serious and complex reasons behind why a person consumes drugs in the first place.

In 2017-18, 609 Canberrans were arrested for possession of illicit drugs. That is 609 community members who, instead of receiving physical or mental health support were shamed for their behaviour by the criminal justice system. Compare that to the 88 drug provider arrests. I think most people would agree that the drug provider arrest number needs to be higher and the drug possession arrest number should be zero.

I am not saying decriminalisation is a perfect model in and of itself. Drugs still pose incredible health risks to users, ranging from temporary illness to overdose and lifelong health effects, and this is magnified by the supply chain that exists through organised criminal gangs and drug dealers. It is difficult to quality control these drugs. At Groovin’ the Moo last year, through pill testing, at least seven pills were found to contain potentially deadly additive substances. Pill testing will help, but it will not stop every bad pill in a decriminalisation model.

The harm minimisation approach acknowledges and responds sensibly to these risks. A hard minimisation approach advocates for implementing a holistic drug rehabilitation system that prioritises the welfare of the individual. If a person is addicted to alcohol or tobacco we send them to a doctor, not to the police. Other drugs of dependence should be treated no differently.

If a community member is struggling with addiction, our response as a progressive government should be to find out how to help them, rather than put them through the criminal justice system. As seen previously with cannabis decriminalisation in the ACT, a simple offence notice system can strike a balance between sending a message that the consumption of drugs is dangerous but not shaming an individual for the reason they consume drugs, which is sometimes out of their control.

The Assembly has come a long way in recent times. I think we have learned a lot about the views of everyone in this place when it comes to drug use. We have all seen the media articles about the historical use of drugs by ACT politicians. The one I have enjoyed the most over the past year or so has been watching the Canberra Liberals extol the virtues of cannabis decriminalisation. It seems to me that we might be able to find common ground and all agree that a simple offence notice for illicit drugs in the territory is not only a sensible suggestion but the right thing to do. This motion is not about virtual signalling. This government has showed in the past that it can get things done, and this motion seeks to continue that for the benefit of all Canberrans. So let’s get this done.

I have heard harrowing stories when it comes to drug use in our community. When I first started talking about cannabis legalisation, the outreach from those in that community that have lived in the shadows and feared for their future because of their drug use was profound. I heard stories of those suffering with addiction for years on years who were too scared to seek help, and Canberra families in crisis after a son, a daughter, had taken illicit drugs and they were too scared to call an ambulance or the police due to the fear of them being arrested for drug possession. I have heard these stories time and again, and it never gets easier.

Currently, alcohol accounts for 4.6 per cent of all disease burden in Australia, and over one-third of road fatalities. When it comes to alcohol we can have a sensible discussion about how to limit its consumption and the horrors it causes on our roads. But when it comes to illicit drugs we politicise and criminalise users when we should be talking about how to reduce the total disease burden—which, for the record, is about half that of alcohol—as well as how to reduce the number of overdoses.

If we look at the burden illicit drug users place on the health system, it paints a grim picture of the way we fail drug users in this country. Suicide and self-inflicted injury is the top fatal burden, while depressive disorders and anxiety were flagged as the most non-fatal cause of burden in drug users. For those who would say this issue is a minor or a fringe one, let's look at the numbers: 42.6 per cent of Australians will use what is considered an illicit drug. If you take cannabis out of the picture, due to the recent change to cannabis laws in the ACT, it is still a stark picture: 11.2 per cent of us have used ecstasy in our lifetime; nine per cent of us have used cocaine; and 6.3 per cent of us have used meth or an amphetamine. These Canberrans are all criminals under our current laws—most just never get caught.

What I find quite telling is that even judges say our current laws do not make sense. Former ACT Supreme Court Justice Richard Refshauge, in a 2019 paper, argued that criminalising drug consumption actually piles prejudice upon prejudice upon prejudice. He goes on to say that Australia needs to transition from a criminal-based to a health-based approach. Members of this place have a role to play in making sure that those who have struggled with addiction are able to get rehabilitated, go on to be employed and lead the normal life any other Canberran would expect. Currently, as Mr Refshauge states, what we are doing by criminalising these people is reducing their capacity to try to manage the harm the drugs are doing.

If we want to be serious about caring for the health of Canberrans we need to undertake a genuine investigation into the use of a simple offence notice in the ACT. Let's stop criminalising Canberrans for minor drug offences. It is unnecessary and it is a flawed policy model. I challenge any member of this place to stand here and say that a person should be placed in jail for the possession of drugs for their own personal use, but I do not think any will. That says so much about how far we have come.

MR HANSON (Murrumbidgee) (4.07): It is probably going to surprise Mr Pettersson—and maybe a couple of others who like to characterise the Liberals' view of drugs as akin to that in the Philippines, as I think the former health minister

said—but we will be supporting this motion. That is not to say that we support all of the “notes” section, which typifies some aspects of law reform that the government has done in a certain way. But when it comes to the nub of the issue, we will be supporting it. I will explain in more detail.

The motion recognises the challenge of co-occurring mental illness and alcohol and other drug use. That is important. When I compare it to the original bill that Mr Pettersson brought into this place some time ago, on cannabis, which perhaps did not recognise some of the other sides of the argument, I think that is a good step forward, and I welcome that as part of this debate. I think it is important. There is a criminal aspect but there is also a health aspect to what we are debating here today.

It is good also that the motion calls for the government to continue to take a harm minimisation approach to alcohol and other drug issues. We support that. From time to time in this place we have disagreed on the nuance of policy as to how that should take form—as we did with cannabis, removing the simple offence notice, and as we have with pill testing—but that is not to say that we do not share that intent: the harm minimisation approach to alcohol and drugs.

The motion also calls on the government to “invest in community and hospital-based alcohol and other drug and mental health services” and to work to better integrate mental health and drug and alcohol services across primary and community health services and hospital care. That is something that we absolutely support. I am glad to put on the record that the Canberra Liberals have campaigned for many years to see an improvement in those sorts of services. I am glad that Mr Pettersson recognises that that is an important part of responding to issues caused by illicit prescription drugs and alcohol.

The nub of the motion is a call to investigate the feasibility of a simple offence notice for other drugs of dependence to ascertain the legal, social and health impacts. This is a little ironic. It was not that long ago that Mr Pettersson argued for the removal of simple offence notices for cannabis. At that point, we argued that they had proved to be very effective. In striking that balance that we are trying to achieve between the justice issues and the health issues—and trying to deter people from using drugs, particularly young people, but also making sure that they do not end up tied up in the criminal justice system—the simple offence notice has proven very effective over many years for the use of cannabis. We have debated that at length in this place, so it would be disingenuous for me to then say that we should not look at the simple offence notice when it applies to other drugs.

That is not to say that, after looking at it, we will necessarily say that it should occur. There may be some drugs and some situations where we would never support a simple offence notice being applied. But I can envisage circumstances—it might be at the music festivals, for example, that we have talked about in this place on many occasions, where young people take a drug and find themselves in the criminal justice system facing criminal sanctions—where a simple offence notice may be a better way of proceeding for all concerned. I can envisage that. I welcome a debate, an examination, a look into the feasibility of how this would play out.

We should all resist the temptation—as we proceed with this debate in the lead-up to an election and the temptation is there—for my side of politics to say that Mr Pettersson wants to legalise all drugs and for the Labor Party to say that the Liberals want to roll out Philippines-style drug policy. I do not think that would be helpful. We have found ourselves in those sorts of circumstances before, on both sides; let us not do that.

We are supporting this motion today, and we are doing so because the evidence—demonstrated over a large number of years as to how these simple offence notices apply to cannabis—demonstrated that that was an effective system that achieved a good balance in relation to harm minimisation for cannabis. If that model can be applied to certain other drugs in certain circumstances, as it was to cannabis, that is worth having a look at.

It is not that I agree with everything in Mr Pettersson’s motion, but when it comes to the crucial issues—the recognition of the health impacts, the need to better integrate health services and the potential for a simple offence notice to be applied more broadly—we need to make sure that when we as a community work to reduce the amount of drug taking in our community, we do not do so in a way that unnecessarily harms people who may be caught up in the criminal justice process.

I thank Mr Pettersson for bringing this debate before us today. We will support the motion. Should the government change in October, we will be happy to continue to look into this issue to see whether the simple offence notice is something that we can broaden and apply to limited numbers of illicit drugs in certain circumstances.

MR RATTENBURY (Kurrajong) (4.15): The ACT Greens will be supporting this motion. I will later move the amendment that I have circulated that I think represents very tangible proof of the intention of Mr Pettersson’s motion.

Mr Pettersson quipped that the Assembly has come a long way, and indeed, it has. In March 2016 I put forward a motion in this place calling on the ACT government to “focus its drug policies to prioritise treatment and harm minimisation and emphasise a policy approach that treats personal illicit drug use as a health issue, rather than a criminal issue”. We had a 17-member Assembly at that time, and I lost that vote 16-1, receiving no support from anybody in the place. It is brutal when you lose a vote 16-1, but it underlines that both Mr Hanson’s speech today and where Mr Pettersson’s speech came from are a vast improvement on that situation just a few years ago.

I also note that during debate on Mr Pettersson’s cannabis legislation last year, I was unsuccessful in introducing a set of objectives for the Drugs of Dependence Act 1989 to reflect a commitment to harm minimisation and the treatment of drug use as a health issue. These objectives were, and remain, aligned with the COAG-agreed national alcohol and drug strategy, which addresses supply, demand and harm minimisation, but at that time we could not get support in this place for that proposal to get harm minimisation into the act, in the objectives.

I am very pleased, therefore, to find that today we have got to a place where we are able to discuss a motion that embodies the notion of harm minimisation. It is a welcome step forward. This is a health issue. That is the conversation we need to be having. How do we support people who find themselves taking drugs, for a range of reasons? Our response needs to be one driven by compassion, by evidence and with a health focus.

The Greens want to create a safe, healthy and connected community by ensuring that people are not impacted by significant health, social, legal and economic harms associated with drugs. We want to ensure that people can access the services and the support they need for substance use, including legal substances such as tobacco and alcohol. That is often lost in this discussion: that the impact of drugs includes the very significant impact of both tobacco and alcohol.

The current approach needs revision to better reduce the harm caused by drug use. We need to stop the head in the sand approach of previous times, which failed to recognise the reality that many people will experiment with illicit drugs throughout their lives, and criminalisation can unfortunately see many people miss out on the treatment and support they need.

We also need to recognise that negative consequences of drug use are felt differently due to stigma, discrimination and the uneven treatment of people caught up in the justice system. Social and economic inequalities in our society contribute to the harm caused by drugs. Some people are given a warning from the police when they are caught in possession of drugs. Others are not: they are taken into the criminal justice system; they do not get the diversionary opportunities that others do. Where some are able to afford early intervention and rehabilitation services, others cannot; they simply cannot access them. This is not a just system; it is a system that reinforces existing inequality.

Instead, we Greens, for a long time, have taken a harm minimisation approach, which works to reduce the adverse health, social and economic consequences of drug and substance use in our community. This means treating drug use as a health issue. We want to see more money in treatment and rehabilitation services and improve safety for young people, and we continue to want legal reforms that will keep people out of the justice system.

The ACT Greens have a clear and strong drug and alcohol harm reduction plan. I recently announced our initiatives for this election on what we see should be done over the next four years. As somebody said, that is really what an election campaign talks about. Having read Mr Pettersson's motion today, I am confident that he has read our policy. This package of reforms ensures that people who use drugs, their families and the ACT community are in the best position to address the health, economic and social harms caused by drugs.

By shifting to a public health approach towards drug use, we will see reduced stigma, so that people who use drugs feel comfortable disclosing their drug use and can seek help. This enhanced ability to access support will reduce demand on the criminal

justice system. We believe the use of any drug, including alcohol, tobacco and pharmaceuticals, has the potential to be of harm to the person and their community. The most harmful drug in our society is alcohol, which is legal, accessible and actively promoted if one opens any media outlet any day of the week.

The Greens seek to apply similar policies to drug use and minimise the harm caused by all drugs, by treating people with illicit drug dependency with care and compassion, focused on improved health outcomes rather than criminalisation.

We know that, despite security, police and harm minimisation messages, festivals are places where people are taking drugs. Years of experience around the world has shown that pill testing is a cost-effective way of improving people's understanding of the harms of drug use, reducing the amounts of drugs that people may choose to take, improving law enforcement intelligence gathering and, of course, ultimately saving lives by supporting the disposal of substances containing high levels of active and novel ingredients, often poisons and toxins.

The Greens have spent years urging the ACT government to provide pill testing at these events. After two trials, we have seen a number of positive evaluations of what has taken place at Groovin' the Moo, and we believe it is time to commit to helping young people party more safely and, over time, supporting every major festival in the ACT to have mobile testing available.

The Greens understand that people continue to use drugs and that many young people, in particular, are experimenting with new and unknown substances regularly, not just at festivals but also on weekends across the city. We also know that these substances are not safe but that we can help people make safer choices easily and cheaply and that we can save lives. That is why we want to see the government move to decisively establish a dedicated pill-testing site in the heart of the city's nightlife precinct to ensure that people are able to have drugs checked outside of festival days.

It is worth noting that, given the COVID-19 situation, festivals as we know them may not return for quite some time; thus the need for more accessible drug-checking sites is probably even more pertinent as we see people conduct more parties at home or come into places in the city and in the entertainment areas that are able to reopen.

If we are serious about harm minimisation, and we are, we want to support people to make safer choices both for themselves and for the wider community. That is why we want to work together with community events, festivals and licensed venues to increase the provision of self-testing alcohol and drug-testing kits such as breathalysers and saliva tests to every patron who wants to ensure that they do not drive under the influence and commit legislated road safety intoxication level limits offences.

These are the sorts of practical harm minimisation measures that we should be looking to deliver here in the ACT to improve safety, whether it is road safety or personal safety or even community safety more broadly. These are the measures we think can make a difference.

With the time I have available today I cannot speak to the many matters that we have canvassed in the platform we have put forward or to all the parts of Mr Petterson's motion. But I do want to turn to the issue of mental health and drug use, because I well understand that there is a clear and well-evidenced link between substance abuse and mental health, both as a causal factor and a co-occurring health issue.

We believe that alcohol and drug services are also often on the front line of mental health support and vice versa, and both sectors need ongoing resourcing to improve integrated responses. We believe that this includes increased support and referral pathways away from the criminal justice system for people with comorbidity, opportunities for cross-sectoral professional development and information-sharing, and greater awareness in the community of the complexities of supporting people with these co-occurring issues.

We need both our health and our justice systems to provide better integrated services whereby mental health issues and drug dependency can be treated concurrently and holistically. Services must bring together diagnosis, treatment, care, rehabilitation and healthcare promotion to ensure that those experiencing comorbidity can learn the management and recovery skills necessary to remain well and reduce risks.

The other overarching comment I would like to make today is one about resourcing for the sector. For a long time now, the alcohol and drug service providers, those who work in the advocacy space in Canberra, particularly ATODA, the Alcohol, Tobacco and Other Drug Association of the ACT, have been calling for increased investment in vital services. ATODA has done it on behalf of its 23 member organisations that provide treatment and services. It is time to listen to those calls. If, as a community, we want to be able to respond to the needs of people who seek support, treatment and rehabilitation in a timely way then we have to put our money where it counts: in the community.

The Greens support ATODA's calls for an immediate baseline funding boost to double the annual funding for drug and alcohol treatment services to \$40 million a year in the ACT, reducing long wait times for rehabilitation and detoxification services. This will fund therapeutic support services, including inpatient beds, and improve existing infrastructure.

When somebody decides that they need support and treatment, they need to be able to get that treatment straightaway. They cannot go onto a waiting list. When people have that moment of personal clarity that some people will have then that is the time when they need to get the support. We have long discussed in this place the idea that you cannot force someone to do something they are not ready for, but when they are ready they certainly need to get the support they need.

I welcome this motion in the Assembly. I welcome the tenor of the debate. It does give me some hope. It has not always been the tenor of the debate in this place, but it does prove to me that evidence-based policy ultimately wins through. You cannot keep ignoring the evidence. This motion today reflects the fact that the evidence has finally started to register. I think it is very promising.

I was pleased to see a particular discussion about the notion of having simple offence notices. I think that this is, again, an effective way of keeping people out of the criminal justice system, of breaking down some of those inequalities that we see, those social injustices that occur at the moment where different sectors of the community get treated in different ways. Having a system more like this means that those inequalities will be ironed out, at least to some extent and at least in this regard. We certainly support that finding that came from the committee and has been reflected in Mr Pettersson's motion and speech today.

The Greens will be supporting the motion. In light of all that, I move:

Add:

“(f) explore a pill testing facility pilot in the city entertainment area, informed by expert health advice, during the 2020-21 summer.”.

MS STEPHEN-SMITH (Kurrajong—Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Children, Youth and Families and Minister for Health) (4.28): I rise today in support of Mr Pettersson's motion and commend him for his continued advocacy for ensuring that the ACT government continues to implement a harm-minimisation approach to alcohol and drug issues.

This is a complex policy area where many linked factors, or comorbidities, can lead to substance use and resultant harms. A range of these comorbidities can include mental health illnesses. Issues can arise from a range of socio-economic factors, including trauma, adverse childhood experiences and intergenerational trauma. In my portfolios of children, youth and families and Aboriginal and Torres Strait Islander affairs, I have become acutely aware of the impacts of and intersection between trauma, mental health and drug and alcohol issues for young people and for adults.

However, there is a strong commitment from the ACT government, and from me as Minister for Health and in my other portfolios, to tackle these complex problems and to continually strive to deliver a better healthcare system overall and, as Minister Rattenbury has talked about, one that is based on evidence.

The ACT government is leading Australia in advancing a harm-minimisation approach to alcohol and other drug policy. The government has continued to invest in the alcohol and drug sector to deliver against the ACT drug strategy action plan 2018-21 priorities. To support this strategy, the ACT government invests more than \$20 million each year in the alcohol and other drugs sector, across both government and non-government services. The government has continued to build on its support for the action plan, including in the 2019-20 ACT budget, where \$10 million in new funding was announced over four years to advance the plan.

The ACT has achieved significant milestones in harm minimisation since 2018. The government established the ACT Drug and Alcohol Court to provide more appropriate avenues for sentencing and intensive treatment and support for people whose drug and alcohol issues substantially contributed to their involvement in the criminal justice system.

The ACT government invested in both the non-government and government treatment sectors to support these individuals on a path to treatment rather than incarceration. This highlights the government's commitment to rehabilitation and recognises the health impacts that illicit drugs and alcohol can have on people's lives. Indeed, the impacts go well beyond health in a physical sense.

In September 2019 the ACT became the first Australian jurisdiction to remove criminal penalties for adults who possess a small amount of cannabis. This decision, taken by the Assembly after the successful advocacy of Mr Pettersson, is a further demonstration of the government's commitment to treating illicit drug use as a health issue rather than a law enforcement one. This is also why I support Mr Pettersson's motion to seek an investigation into the effectiveness and implementation of a simple drug offence notice for some illicit drugs in the ACT.

I was really heartened by Mr Hanson's comments in this debate. I think Mr Rattenbury is right that the Assembly has moved. Even in the four years that I have been here, I think we can see a shift in tripartisan support for evidence-based measures that shift the treatment of illicit drug use from a criminal to a health issue. That is where we want to go: harm minimisation as the priority. I recognise that this consideration of the simple drug offence notice will need to balance the social, health and legal consequences of any change. That is why it is proper to do the work to consider the impact of any such change.

The ACT also became the first Australian jurisdiction to trial pill-testing services at music festivals, in 2018 and 2019. These were successful programs, demonstrated by an independent evaluation of the second pill-testing pilot, which showed the value of the service in reducing harm, particularly to young people. The evaluation found that young people were shown to discard drugs when they were known to have been associated with fatalities overseas, and to take on board harm reduction messages such as increasing water intake, reducing the number of pills taken, increasing the time between pills, increasing their comfort level in terms of seeking help if something went wrong for them or their peers, and seeking professional advice into the future about the potential impact of drug-taking and what they could do if they felt that they were at risk of harm from their drug-taking.

The ACT government has also developed an Australian-first festival pill-testing policy, which is soon to be published on the ACT Health website and will be tested once the live event sector reopens following the COVID-19 pandemic. We do recognise that that is quite likely to be quite some time away.

Labor members will be supporting Mr Rattenbury's amendment. I would like to thank him and his office for their close engagement on developing this approach. We recognise that there are differences between festivals and any static testing. We also recognise that the target cohort may be different and that the static pill-testing pilot would present its own legal and health challenges that we would need to work through. However, we know that if we are committed to harm minimisation and treating illicit drug use as a health problem then this is a worthy proposal to explore.

Pilots and evaluations enable us to try, test and learn, to ensure that we deliver the right solution for our community here in the ACT. While the ACT government are proud of these achievements under the drug strategy action plan, we are also continually open to feedback and analysis of opportunities for improvement.

I know that we can and must do more to break down the silos that exist between mental health services and alcohol and other drug services. In November last year I was privileged to open the 12th annual Comorbidity Interagency Day, a mental health and alcohol and drug services exhibition organised by CatholicCare and supported by ATODA and a wide range of service providers across the mental health and alcohol and other drugs sector. The annual event showcases our excellent community and government service, encourages collaboration and promotes coordinated and quality care for people experiencing both alcohol and other drug and mental health conditions in the ACT.

I saw commitment and ingenuity from those dedicated workers. But I also heard the very real challenges that come with shifting models of care, bridging sectors and delivering truly coordinated care across the continuum. The ACT is fortunate to have the expertise of dedicated and skilled service providers across the wide range of supports to assist individuals with alcohol and other drug issues, as well as their families and community.

We know that many young people with serious mental health problems use drugs to self-medicate. This can be in response to complex development trauma. We recognise that a holistic response is required to fully understand and address drug usage and possession in a psychosocial developmental context. This can mitigate deepening complications and compounding challenges, including engagement with the justice system, which potentially have permanent lifelong ramifications.

There is work underway. For example, the alcohol and drug services, in partnership with adult community mental health services, have led the development of a warm referral procedure that aims to facilitate referrals for adult mental health consumers, including younger people, to access a range of alcohol and other drug programs. But we recognise that there is more to do. This includes for young people.

On that note, I would like to thank Mr Pettersson, Ms Lee and Mrs Kikkert for their work in the inquiry into youth mental health, which also raised some of these issues. These challenges are not unique to the ACT, but I believe that with our services we are uniquely placed to make progress and deliver better coordinated care for people— young people and adults—who present with alcohol and illicit drug use issues and comorbid mental ill health challenges.

I welcome the motion from Mr Pettersson and his advocacy for our continued focus on a harm minimisation approach. I recognise, as I have said, that there is still work to do—work that would be an important focus of a re-elected Labor government.

MR HANSON (Murrumbidgee) (4.36): It is a bit disappointing, in a sense, that the amendment has been moved, because otherwise we could have had a unity of view in this place today. That being said, it has been moved and I will not have a crack at

Mr Rattenbury's motives because I know he will not like that. I know this is a genuine view he has and it is something he has been pursuing for a long time. It seems to me that in this debate today we broadly share a view of what we want to achieve—minimising harm, particularly for young people, who are using drugs and alcohol. We are not going to always agree, though, on the best ways of achieving that.

For example, with the cannabis debate that we had previously, we wanted the same outcome but we had a different view on how that could be best achieved. That is the case when it comes to pill testing. We have litigated this before and my view has not changed. I do not have a black and white view of this; it is one of those issues that has arguments for and arguments against and we have listened both in this place and to experts in the field. There are many different views out there on the efficacy of pill testing.

When I consider all the factors, I come down on the side that it is not the right way to go, and I draw that from the government's report on pill testing at Groovin' the Moo as an example. There were 83 tests conducted and, of those, when it was found that there was a high concentration or high purity of MDMA, 94 per cent said they would take it and three per cent did not make it clear what they were going to do. In essence, if people are told their MDMA is pure, regardless of concentration, they take it. That the problem because MDMA is the poison, in many ways, that is killing people at festivals and elsewhere.

Experts have expressed caution. Toxicologist Andrew Leibie said that statements that pill testing would help keep people safe were potentially misleading and that pill testing is based on the false assumption that if you know what you are taking it is safe, something that is absolutely untrue. MDMA is not a safe drug. As the state health commander of Ambulance Victoria said, it is a poison. You can test a poison all you like; it remains a poison. Toxicologist Dr John Lewis doubted its effectiveness in detecting other dangerous chemicals, saying it will not work and it is fraught with dangers. The *Internal Medicine Journal* said that pill testing, at best, gave an artificial shine of safety and it is this artificial shine of safety that can be so dangerous.

A real-life example of this artificial shine of safety is that, after the Groovin' the Moo festival here in Canberra, the ABC went to the Groovin' the Moo festival in Bendigo and asked a couple of young people what they thought of this rolling out. Some of the young people said the fact that they can take it, test it and make sure that it is going to be safe is definitely a good thing. Well, the problem is that you cannot make sure it is safe. You are telling people what is in it, but you cannot make sure it is safe. That is the nub of the problem.

Another young festival-goer said it could make you want to take more drugs and would definitely give you peace of mind. I do not think we want to be giving young people peace of mind that when they take MDMA or other drugs it is safe to do so. That is not harm minimisation, in my view. My view is not the outlier here; this is the view shared by state and federal governments across Australia and by many officials that work in this space.

The recent report into drug law reform from the parliamentary inquiry in Victoria warned that a key concern of the committee regarding drug checking is that it may lead to a perception among individuals who use drugs that once substances are tested they are safe to consume. That goes to the point of those young festival-goers I referred to before.

The report also found that drug-checking services might be misused by drug suppliers, by using information provided by drug-checking services to promote the safety of their product. Indeed, one can envisage a scenario where a pill tested, essentially with a stamp of approval from the ACT government, or whoever it is envisaged would conduct this testing, would make the marketing of those products a lot easier for the drug dealers.

We will not support this element of the debate—the amendment from Mr Rattenbury. It is not that I am against harm minimisation—I hope you have got the message today—nor are the Liberal Party or my colleagues. We have had significant debate within our party about this matter. There are mixed views about this in the community and I do not mind continuing to have the debate about it. But, based on the evidence that we have seen—and we are responding to the evidence in this case—this is not the right way to go. Certainly, establishing a permanent facility in Civic to roll out pill testing is likely, in my view, to create more harm than it will reduce. Therefore, I cannot support Mr Rattenbury’s amendment.

MR PETTERSSON (Yerrabi) (4.43): I listened with great interest to what Mr Hanson said. I did not want to delve into the pill testing side of this debate because it was not the essential reason I brought this motion forward. I brought this motion forward to talk about decriminalisation, which is a very important topic. But it is important to reflect that in a decriminalisation model there will always be questions about the substance. In a decriminalisation model we are inherently reliant on organised criminal gangs and their supply chains—bikies making terrible substances in bathtubs.

There will always be a question over the substance, which is where pill testing comes into it. We all know that people right now in our community are using these substances, these terrible pills and substances cooked up in the dingiest of circumstances. These are being consumed right now and they are being consumed with no questions asked.

Overwhelmingly, when people choose to consume these substances they are doing it off the recommendation of a friend saying, “Yeah, that guy seemed all right. Last time I got something off him nothing went wrong. So what could go wrong this time?” That is a terrible way for people to make decisions about their health. It is important that we give people, overwhelmingly young people, the ability to ascertain more information.

Let’s be very clear what that information is. That information is not a big green tick saying, “This pill’s good to go, mate. You’re going to have a cracking time.” It is information that says, “This is what this substance will do to you”. It outlines the risks and it talks about the deadly additive substances that are often laced into these

concoctions. It is very important that those that continue to try and undermine pill testing stop and reflect that they are potentially causing harm by continuing to resist this change.

It is important to recognise that when we talk about a music festival and consider some of the more common circumstances in which young people—it is overwhelmingly young people—use these substances, they have already made the decision that they want to consume drugs. They have already got money out of the ATM. They have already lined up a text message to someone they know that can get their hands on some drugs. They have made a decision to consume drugs. As legislators, we can do something to try and put one last check in before that person consumes that substance, and that can be pill testing. We have a responsibility to introduce that in as many instances as is reasonable.

In closing. I thank all the members that have contributed to this debate. It has been a sensible debate and I think it is very revealing of where this Assembly has moved to. That all three parties could talk in such a way about harm minimisation and decriminalisation of these illicit substances is very telling about the future of ACT politics. That gives me some hope.

When you think about decriminalisation and those in the community who say this is a radical proposition, it is not. If you look at the approval rating for decriminalising ecstasy you will see it has a high level of support from the Labor Party and the Liberal Party combined. This is not radical; this is common sense and the community supports it. That is why I am so encouraged today that we have all come together to support this motion.

Many people in the community will attack members in this place that have raised this as an issue and have spoken in favour of this. I have no doubt that people will seek to use this as political ammunition in the coming weeks. But this is not a minor or fringe issue: 11.2 per cent of us have used ecstasy in our lifetime—they are all criminals; nine per cent of us have used cocaine—they are criminals; and 6.3 per cent of us have used meth or an amphetamine—they are all criminals. It is time that our laws reflect our values, which is why I support the decriminalisation of these substances and Canberra taking the next sensible step.

Question put:

That the amendment be agreed to.

The Assembly voted—

Ayes 13

Noes 10

Mr Barr	Ms Orr	Miss C Burch	Mr Milligan
Ms Berry	Mr Pettersson	Mrs Dunne	Mr Parton
Ms J Burch	Mr Ramsay	Mr Hanson	Mr Wall
Ms Cheyne	Mr Rattenbury	Mrs Jones	
Mr Gentleman	Mr Steel	Mrs Kikkert	
Mr Gupta	Ms Stephen-Smith	Ms Lawder	
Ms Le Couteur		Ms Lee	

Amendment agreed to.

Original question, as amended, resolved in the affirmative.

Planning Legislation Amendment Bill 2020

Detail stage

Debate resumed from 7 May 2020.

Clause 1 agreed to.

Clause 2.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (4.53): I seek leave to move amendments to this bill that have not been considered by the scrutiny committee.

Leave granted.

MR GENTLEMAN: I move amendment No 1 circulated in my name [*see schedule 3 at page 2162*]. I table a supplementary explanatory statement to the amendments. The government amendments to the commencement provisions are to enable the independent planning and land authority time to implement the changes that will come about as a result of this bill.

MR PARTON (Brindabella) (4.54): We will be supporting this clause, but what is going on here—and this has to be made abundantly clear—is that the government, which, at the end of the day, is the Labor Party, would much rather that we were not debating this bill in this chamber. It is kicking the most onerous clauses of this bill far enough down the road so that whichever party is in power after October can either adjust those clauses even further or simply repeal them. So this amendment begs the question why we are even debating the bill in the first place. Nevertheless, we will be supporting this amendment.

MS LE COUTEUR (Murrumbidgee) (4.55): I recommend that, in the interests of not making a mess of the legislation that we pass today, members vote for Minister Gentleman's amendment. It covers more of the possible situations that we could end up with at the end of the debate. Although I do have considerable—what is the word?—sympathy for Mr Parton's views on this, I am, nonetheless, very hopeful that the changes that may be passed here will lead to long-term positive changes in our planning system.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4 agreed to.

Clause 5.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (4.56): The government does not support clauses 5, 6, 7, 8 and 9.

MR PARTON (Brindabella) (4.56): In regard to clause 5, the Canberra Liberals believe it is one of the more sensible parts of a somewhat awkward bill that lurches around in many different spots. We see no reason not to support clause 5.

MS LE COUTEUR (Murrumbidgee) (4.57): I am also going to speak on clause 4 because it went through a little quicker than I expected. This clause fixes a huge bugbear of residents' groups. Currently, if you want to find the approved plans for a DA or the plans that went out after the public consultation period is over you have to go to the directorate's Dickson shopfront. When you get there, what do you do? You sit at a computer and look at the electronic plans. The question everyone asks is: why can they not be on the internet?

The answer is, of course, that they can be. I remember complaining about this in the Seventh Assembly. I was an IT manager before I came here; I know it is entirely possible. It is beyond me why the government chooses not to do this. I can see Ms Cheyne smiling. When we were both in the planning committee—I hope I am not verballing her—I think she might have had some views along these lines. Clause 5 is consequential to clause 6, and I recommend to members that they vote yes for both of them. It is beyond me why we did not do the DAs a decade ago.

Clause 5 agreed to.

Clause 6.

MS LE COUTEUR (Murrumbidgee) (4.59): This clause is important because it would stop the situation that we have recently seen where the government uses a Territory Plan variation interim effect to bypass community consultation and the will of the Assembly. I am hopeful that Mr Parton will support this because this is what the government did when we looked at draft variation 350, which closed the loophole in the multi-unit development. Mr Parton made some strong statements that the situation should not happen again, because the government did not draft the bill very well the first time, and it impacted a number of small developers that it should not have. Hopefully, Mr Parton will take the chance to make sure that that little type of stuff up does not happen again. This clause also addresses the first two points of the draft variation process so that interim effect can be brought into force. We are going to talk about the same things again in clauses 9 to 11.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.00): Provisions in the Territory Plan process already allow for appropriate oversight from the Assembly of the TPV process. These clauses would lead to increased uncertainty for industry and the community as to what the applicable law is at any given time and that is not supported by the government.

MR PARTON (Brindabella) (5.00): The Canberra Liberals cannot support clause 6. Notwithstanding the example that Ms Le Couteur brought up from earlier on in the term regarding a specific draft variation inquiry, we have consulted widely—including, of course, in the directorate—and we think that if clause 6 were instituted it would lead to confusion about the period of interim effect and that it would still be in effect until it was disallowed.

This is another one of the clauses of this bill that replicates provisions that, as the minister alluded to, are already in place. It is my belief that the draft variation process already allows for appropriate oversight from the Assembly on this process. When you consider the level of complexity of our planning system at present, the Canberra Liberals' view is that this would lead to even more uncertainty as to what the applicable law is at any given time. So clause 6 will not have the Canberra Liberals' support.

Clause 6 negatived.

Clause 7.

MS LE COUTEUR (Murrumbidgee) (5.02): I will speak on this and the next clause. They are consequential to clause 6, so I suggest that those people who foolishly voted against clause 6 should continue voting no.

Clause 7 negatived.

Clause 8 negatived.

Clause 9.

MS LE COUTEUR (Murrumbidgee) (5.03): This is another consequential clause, so I suggest that members vote the same on this as they intend to vote for clause 10.

Clause 9 negatived.

Clause 10.

MS LE COUTEUR (Murrumbidgee) (5.03): I should probably just stay standing! This clause has the same effect as clause 6, which we have already voted on, but it is a different stage in the draft plan variation process. This is the interim effect of a draft

Territory Plan variation brought into force just before the referral to an Assembly standing committee. Its practical effect is to bypass the Assembly's scrutiny of the variation. This is the point at which the interim effect was recently applied to the Common Ground Dickson variation, effectively making it pointless to have a committee inquiry. It also has recently been used on the controversial Kippax planning changes. In my opinion, and the Greens' opinion, the government should not be able to bypass the elected Assembly in this way on controversial planning changes without the Assembly being able to override it. Of course, I urge members to vote for this clause.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.04): The ACT government and our Assembly has been served well by having an independent planning and land authority with appropriate and heavy codified oversight by the Legislative Assembly. Introducing the uncertainty of making decisions disallowable instruments creates uncertainty for the community and for industry.

During the time of disallowance there will be heavy investment by the community and industry towards whether they should engage in the current process or whether they should direct their investment towards members of the Legislative Assembly to disallow the instrument. So, whilst I acknowledge Ms Le Couteur's desire to have the Assembly members involved in the planning process, this is well performed by the Standing Committee on Planning and Urban Renewal. This approach would just add to the confusion of the roles and responsibilities within the planning system.

MR PARTON (Brindabella) (5.05): I will just say briefly that the Canberra Liberals do not believe that clause 10 would improve the planning system, for the reasons that have been mentioned by Mr Gentleman, so we will not be supporting it.

Clause 10 negatived.

Clause 11 negatived.

Clause 12.

MS LE COUTEUR (Murrumbidgee) (5.05): I am hoping that we might do a bit better on this one because this one actually addresses a shortcoming that those of us who have been on the planning committee have become well aware of. I should reference the fact that the clerk who is currently in the chamber is also the planning committee secretary.

Members interjecting—

MS LE COUTEUR: I know she cannot vote, but she has been a party to many long discussions about this issue. I am very pleased that she is the clerk in the chamber for this debate, as her musings on the subject are relevant to it.

Currently, when the planning minister refers a draft plan variation to the standing committee late in the term of the Assembly, election timing may well make it impossible for the standing committee to hold an inquiry, even if one is warranted. The new committee formed after the general election would also not have time to inquire due to the time elapsed between the referral and the first sitting of the new Assembly. A government could potentially use this to bypass Assembly scrutiny.

This clause addresses this shortcoming by commencing the time frame to report on the first sitting day of the Assembly after the general election, where the referral is made within four months of a general election.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.07): The matter probably could have been settled within the committee or in the Assembly standing orders. However, there is no harm in clarifying this through the Planning and Development Act.

Clause 12 agreed to.

Clause 13.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.07): The government cannot agree to clauses 13 and 14 as drafted. Let me be clear: Labor takes climate change seriously. We do not just talk; we act.

Our planning legislation and regulations already account for climate change. For example, under section 120(h) of the Planning and Development Act 2007, for proposals assessed in the merit track, the planning and land authority can consider greenhouse gas emissions from the proposed development through the requirement to consider the probable impact of the proposed development, including the nature, extent and significance of probable environmental impacts in deciding the application. I support taking further actions to strengthen climate change considerations within the planning system. This work is being undertaken through the planning review process.

In relation to clauses 13 and 14, these will stop developments in our city, so I will not support action that jeopardises jobs. I will support steps to tackle climate change that protect and grow jobs—a just transition. This is reflected in election commitments from the Chief Minister regarding interest-free loans for solar for households.

In acknowledging that further steps can be taken, the government will be moving amendments to insert new clauses 14A and 14B. This is a sensible, thoughtful way forward, ahead of the comprehensive changes to the Territory Plan that will come about as a result of the planning review.

MS LE COUTEUR (Murrumbidgee) (5.09): It is good that we will all be speaking on this issue because greenhouse gas emissions are a very important issue and one that is not currently addressed in the planning system. It is not mentioned in the Planning and Development Act and it is barely mentioned in other key planning documents like the Territory Plan.

We have to hope that what we are building today will last for at least 50 to 80 years. There are other problems if that is not the case, which I will not deal with here. In 25 years we have decided that they need to be carbon neutral—ideally, before that. This cannot be achieved if we do not have emissions covered by the planning system.

This clause covers the first of three ways in which the bill takes action on climate change. It would ensure that the greenhouse gas emissions emitted by a development are considered during the assessment of a merit track development application. It does so by introducing a requirement to consider the impact of the development on the ability of the ACT to meet our targets for greenhouse gas emissions reduction under the Climate Change and Greenhouse Gas Reduction Act 2010.

I have been working hard to get either the ALP or the Liberals—preferably both—to support this important clause over the last three months. The Liberals have not given me a clear position at all, which is disappointing, although I suspect I can guess what it is. The ALP have at least told me up front that they do not support it.

As a result of this, the ALP have now put forward a set of amendments that will instead see developers having to disclose the future emissions of their proposal. This is not the major step forward that I wanted but it is a small step forward. It is important that the Planning and Development Act now actually mentions greenhouse gas emissions, given that they are one of the most important things that it governs. The ALP amendments are a step forward and, given the urgency of addressing climate change, obviously, the Greens and I will accept this small progress over no progress.

MR PARTON (Brindabella) (5.12): Madam Speaker, can I get some clarification? Mr Gentleman has not moved amendments at this stage?

MADAM SPEAKER: Not at this stage. He has just indicated his intention.

MR PARTON: That was my understanding. I just wanted clarification. Specifically, in the debate on this clause, we really have to talk about jobs. Our construction sector was a 20,000 strong workforce at the start of the COVID crisis. It is not anymore. It is 19,000 strong. Madam Speaker, construction in this jurisdiction has shed 1,000 workers so far during this crisis, and when you consider that the real effects of COVID have not yet been felt by the sector, I certainly have grave concerns for the remaining 19,000 workers. I should point out that what we are talking about here is the highest private sector employer in the economy. They have the highest average wage in terms of other comparable sectors, coming in at around \$90,000, and the highest level of full-time employment.

This clause, if it were passed in its original form, would pretty much stop all development in the ACT. That, of course, has come in recent days from Master Builders, HIA and the Property Council, but it has also come from the chief planner. Such was the dismay of Labor in regard to the debate on this bill that I was given access to the chief planner for an extensive one-on-one. He was certainly of the belief that if we passed this clause in its original form it would be very difficult for him to approve any development.

We care about jobs, and we always will. The appearance of this clause in Ms Le Couteur's legacy bill is absolute proof that she and her party do not care about jobs at all. The Housing Industry Association stated:

The middle of a pandemic and the looming worst recession in a century is not the time to be indulging in this sort of policy nonsense.

It is hard to understand any member of the Assembly pursuing policies that adds costs to families, and puts home ownership further out of reach of ordinary Canberrans.

And, of course, as I said earlier, it risks so many jobs. At a time when we as a city desperately need to do whatever we can to keep our construction industry going, the Greens have come here with a bill that would shut it down. We cannot and will not support that.

Clause 13 negatived.

Clause 14.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.15): I have already spoken to this clause, Madam Speaker.

MS LE COUTEUR (Murrumbidgee) (5.15): This clause covers the second of three ways in which this bill addresses climate change. It will ensure that the greenhouse gas emissions emitted by a development are considered during the assessment of an impact track development application. It does so by introducing a requirement to consider the impact of the development on the ability of the ACT to meet our targets for greenhouse gas emissions under the Climate Change and Greenhouse Gas Reduction Act 2010. The situation for this will be the same as for the previous amendment.

I will make some small comments about Mr Parton's remarks. As they say, there are no jobs on a dead planet. We have to look at the long term. We have to look at the environmental impact of what we are doing. It cannot be about jobs at any price, and it cannot be about construction at any price. We have to build things that will work for the long term, for our kids, not just for short-term jobs.

MR PARTON (Brindabella) (5.16): As per our opposition to clause 13, we will not be supporting this clause. I think these impacts are already considered through the environmental impact assessment processes.

Ms Le Couteur often refers to an emergency in this place, and I know that, for a thousand families, and for a thousand workers who have lost their jobs through the slowdown in construction in the last six months, they are facing a genuine emergency in the context of their families right now, in regard to mortgage payments and keeping a roof over their heads. Their emergency is very real, and my fear is that there will be many more facing that particular predicament if we do anything that will slow down the construction pipeline.

Clause 14 negatived.

Proposed new clause 14A.

MS LE COUTEUR (Murrumbidgee) (5.18): I seek leave to move amendments to this bill that have not been considered by the scrutiny committee.

Leave granted.

MS LE COUTEUR: I move amendment No 1 circulated in my name, which inserts a new clause 14A [*see schedule 4 at page 2163*]. This new clause is consequential to clause 15, both the original clause 15 in the bill and clause 15 in the Greens amendments. Members should vote for this clause if they intend to support clause 15. I recommend that members support both of these.

MR PARTON (Brindabella) (5.18): The amendments to this clause do my head in. What Ms Le Couteur is saying here is that her original amendment to this bill is not actually workable, so she is stringing together something that does not achieve anything, but which sends a signal that “we care”. We are not intending to oppose clause 15, despite the fact that we see it as quite meaningless. I am sure we can support this amendment but I am not sure that it is actually achieving anything.

Amendment agreed to.

Proposed new clause 14A agreed to.

Proposed new clauses 14A and 14B.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.20): I move amendment No 4 circulated in my name, which inserts new clauses 14A and 14B [*see schedule 3 at page 2163*].

The government amendments propose to insert new section 139(2)(t) into the act, which will require an expected greenhouse gas emissions statement for the proposed development to be lodged with an application, where the expected annual greenhouse gas emissions are above a certain amount. The requirement would relate to the annual amount of expected greenhouse gas emissions from operating the development. This means the emissions from energy use in the operational phase of the development and does not include emissions from construction phase.

The requirement to provide written information would apply to developments with expected annual greenhouse gas emissions above a prescribed amount, with the amount to be prescribed by regulation in the future following research and policy development about an appropriate threshold. These amendments also contain a new definition for the expected greenhouse gas emissions statement. The definition provides that the statement requires written information stating the annual amount of expected greenhouse gas emissions from operating the development. It is proposed that this information will be required to be submitted through an approval form which serves the purpose of the statement.

The planning and land authority, in consultation with the climate change and energy policy officers within the ACT government and other relevant stakeholders, will prepare information about the method for calculating expected emissions from various development types and where the services of a relevant professional may be required. This information will be provided to the development industry well in advance of the commencement of the proposed provisions to allow time for this documentation to be prepared and submitted with a development application.

MS LE COUTEUR (Murrumbidgee) (5.21): As we all know, the Greens are strongly in favour of action on climate change, and this amendment is a small step forward and thus will get our vote. The information that it should make available is useful for understanding future greenhouse gas emissions in Canberra and thus will be useful for guiding future action on climate change.

I accept that the minister and directorate have not been able to work out a suitable reporting threshold in the time available and will therefore need to set one later by regulation. I do urge them to set a reasonable threshold for this clause because that is what will give this clause a useful effect. Of course, if the threshold is set too high to be useful it would be incredibly disappointing not just for me but for everyone who would like to see our planning system build better for the future.

MR PARTON (Brindabella) (5.23): Mr Gentleman spends more time with Mr Ponton than I, and so I am sure it has been communicated to Mr Gentleman that there is some angst in the directorate about this weakened clause getting up. I guess that, when you consider the reasons that Labor did not want us to debate this bill, this is probably the moment. It is when we get to these particular clauses and the fact that Mr Gentleman feels as though he has to put forward an amendment of some description. I will be stronger in my words against this bill than the planning minister because you have to understand, Madam Speaker, that Labor is continually held

hostage by the Greens on many fronts. And when you have a political gun to your head you will say whatever the kidnapper wants you to say to stop them from pulling the trigger.

We cannot support this clause. I would love to have been a fly on the wall at that closed-door discussion between Mr Barr and Mr Rattenbury to be honest. If ever you needed a reason as to why you would not install a fringe political group as a member of your cabinet, I would suggest that some of these clauses are very good reason.

We cannot support this clause. At a time when construction is facing a major crisis, even though this clause greatly waters down the original Greens clauses in this space, we see no need to impose this new bureaucratic layer for many developments in the ACT, particularly because this bureaucratic layer will not be in place in other jurisdictions. Again, I get back to that whole construction pipeline issue that now would not be the time to be adding those layers.

The development of these greenhouse gas emissions statements will add a cost to many projects in the ACT. And as there is no action attached to those statements as portrayed by Ms Le Couteur, as there is no actual outcome from providing the information, we would ask what the point is. I think we all know what the point is—it is a political point. It is about flexing Green muscle, and I do not think now is the time to do it. At a time when we should be bending over backwards to encourage construction in the ACT, it is not the time to be flexing environmental muscles and passing a law which makes construction more difficult and more expensive.

Amendment agreed to.

Proposed new clauses 14A and 14B agreed to.

Clause 15.

MS LE COUTEUR (Murrumbidgee) (5.25): I move amendment No 2 circulated in my name [*see schedule 4 at page 2164*]. One of the community's most common complaints is that development applications alter substantially after public notification. This means what the public thinks they are looking at is not actually what is built. As you can imagine, that is incredibly annoying—that is the polite description of the views of the public about this.

One of the ways this happens is through the misuse of the further information process. The developer submits plans and important and controversial details are missing. The plans go out to the community as is because, of course, the directorate does not actually start assessment until consultation is finished. The plans are fairly benign, vanilla, and so there are no objections. Once the directorate starts the assessment it sees the gaps and it asks the developer for further information. This further information comes in and so it becomes clear that the development application is much less benign but there is no further consultation and so the developer has successfully bent the system.

The amended version of this clause would fix this by allowing the directorate to renotify the development application with further information included to the community. I recommend that members support the amended version because it closes a loophole inadvertently created in the drafting of the original bill.

Amendment agreed to.

Clause 15, as amended, agreed to.

Clause 16.

MR PARTON (Brindabella) (5.28): We will not be opposing this clause because it does no harm. But the Canberra Liberals' view is that it is quite meaningless because it replicates the process that is already set out in the act.

MS LE COUTEUR (Murrumbidgee) (5.28): This is about the rejection of false and misleading DAs. This clause addresses a significant concern which was raised during the Standing Committee on Planning and Urban Renewal's inquiry into development application processes. I have also had a few approaches from constituents on this issue over the last four years.

People in the community, as well as some people in the industry, are concerned that a small number of dodgy operators submit plans with deliberate inconsistencies that understate either the size of the development or the overshadowing it causes. The intention is to game the system to get an approval when they should not. This clause would simply allow the directorate to reject any development applications that they believe are false or misleading.

Clause 16 agreed to.

Clause 17.

MS LE COUTEUR (Murrumbidgee) (5.29): This is about call-ins, because the act allows the planning minister, under certain circumstances, to decide a development application rather than having it assessed and decided under the normal processes. This is what is normally referred to as a call-in. A call-in is a substantial departure from a normal assessment and decision by the independent statutory decision-maker.

There is a risk that call-ins can politicise the planning process or create conflicts of interest in decision-making, as has happened in the New South Wales. This clause would provide a basic protection against these sorts of platforms by allowing the Assembly to override a call-in decision. This would allow the Assembly to restrain any future excessive or improper use of the power.

The need for this clause was highlighted very recently by the planning minister's decision to call in Common Ground in Dickson. I reiterate for the umpteenth time that I and the Greens strongly support public housing. Indeed, the Greens' first election

commitment for this election was the \$450 million commitment on public and community housing, including an expansion of Common Ground in Gungahlin. But a call-in is not the right way to resolve controversy with the community.

MR PARTON (Brindabella) (5.31): Clause 17 is one that has given us some consternation because there have been occasions throughout the history of this Assembly where call-in decisions have been questioned by our side of the chamber, certainly going back to a time when I was not here. We in the ACT have one of the most complex planning systems in the nation, although there is a review in place, a long and exhaustive review, the results of which will not be known until after the election. I think we all pretty much agree that although the system may not be completely broken it really requires a major tune-up. It really does require a major tune-up. That it is one of the reasons why Ms Le Couteur has put forward this bill, but we found it difficult to get on board because we know that that review process is ongoing.

The directorate is, for all intents and purposes, an independent directorate, albeit the vehicle through which government rolls out its planning policy and planning vision. We do not support the politicisation of this by allowing the call-in to be a disallowable instrument. The current call-in powers are very limited. They are used very infrequently. Although, I am sure there will be occasions where both sides of the chamber will argue about call-ins in the future, I believe that the power should remain. As a consequence, we will not be supporting clause 17.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.33): I will speak to clauses 17 and 18. Ministerial powers and the Planning and Development Act are already appropriately limited. These powers are subject to statutory criteria which limit the exercise of these powers, and the minister is often required to report to the Assembly on the exercise of these powers.

Under the ACT's planning legislation, the responsible minister already has a limited role in the approval of applications and processes. The minister is treated as any other decision-maker in being bound to comply with the Territory Plan in deciding a development application. Ministerial call-in powers are already appropriately limited and can only be made when the defined statutory criteria, such as appropriate community consultation, are met.

The bill's proposal to increase Assembly oversight of the minister's consideration of using the call-in process would add an unnecessary restriction of already limited ministerial power. The current provisions strike an appropriate balance and do not require further Assembly oversight. These powers are rarely used and there is no justification for the amendments put forward in this bill. In fact, over the six years since my appointment as planning minister, in 2014, I have used ministerial call-in powers only seven times.

Question put:

That clause 17 be agreed to.

The Assembly voted—

Ayes 2

Ms Le Couteur
Mr Rattenbury

Noes 19

Mr Barr	Mrs Kikkert
Ms Berry	Ms Lawder
Miss C Burch	Ms Lee
Ms J Burch	Ms Orr
Ms Cheyne	Mr Parton
Mr Coe	Mr Pettersson
Mr Gentleman	Mr Ramsay
Mr Gupta	Mr Steel
Mr Hanson	Mr Wall
Mrs Jones	

Question resolved in the negative.

Clause 18.

MS LE COUTEUR (Murrumbidgee) (5.39): Just at the beginning, I want to let members know that, in the unlikely event that this clause is not supported, I will be calling another division. But that will be the end of the divisions that I will call on this.

This clause addresses a very sore spot with many residents around Canberra. Over the years the community has seen sites that were given to the community or to recreational bodies for free later deconcessionalised for the private gain of some members of that organisation. This runs down our stock of low-cost land for community and recreation facilities. There have been many, many sad instances of that.

A key point of this process is that, when the minister decides whether or not considering the application to deconcessionalise is in the public interest, traditionally it has always been yes, although I have to congratulate Minister Gentleman for making a very important set of rejection decisions last year. This clause would make the public interest decision disallowable by the Assembly, if the minister decides that it is in the public interest for the application to proceed.

MR PARTON (Brindabella) (5.31): The Canberra Liberals cannot support clause 18 for the reasons stated in the debate on the previous clause. As much as we often would disagree with the planning minister on a number of things, we think that his ability to act in this case is warranted on many occasions and we cannot support clause 18.

Question put:

That clause 18 be agreed to.

The Assembly voted—

Ayes 2

Ms Le Couteur
Mr Rattenbury

Noes 19

Mr Barr	Mrs Kikkert
Ms Berry	Ms Lawder
Miss C Burch	Ms Lee
Ms J Burch	Ms Orr
Ms Cheyne	Mr Parton
Mr Coe	Mr Pettersson
Mr Gentleman	Mr Ramsay
Mr Gupta	Mr Steel
Mr Hanson	Mr Wall
Mrs Jones	

Question resolved in the negative.

Clause 19.

MS LE COUTEUR (Murrumbidgee) (5.42): Members, you will be pleased to know that I do not intend to call any more divisions on this piece of legislation. You will also possibly even be pleased to know that I recommend voting against clauses 19, 20 and 21. I am recommending voting against them because, basically, I believe this clause should be withdrawn because there is a legal technicality in the linkage between the Planning and Development Act and the Tree Protection Act which I have not been able to resolve. That is why I am saying vote against it.

Unfortunately though, the underlying issue here will not go away. Currently a development approval under one act can say yes to a demolition of a registered tree while under another act the tree cannot be removed. The two can be in direct conflict. This situation, to put it mildly, does not inspire community confidence in the tree protection system. The Greens will be looking for ways to address this issue, following the election.

MR PARTON (Brindabella) (5.44): I just want to say that I think it is indicative of the bill as a whole, in terms of the way it has been put together, that we are seeing Ms Le Couteur stand here in the chamber and essentially vote against three clauses that she brought to the chamber because, subsequent to the tabling of the bill, even the Greens have considered that these are not workable as they were drafted. Needless to say, we will not be supporting them.

Clause 19 negatived.

Clause 20 negatived.

Clause 21 negatived.

Clause 22.

MS LE COUTEUR (Murrumbidgee) (5.45): This clause is about EIS exemption approvals and this is a key concern of environment groups. This clause would expand third-party appeal rights for the grant of an environmental impact statement exemption. This is important because the requirement to produce an environmental impact statement only applies to the most environmentally damaging developments. The developments exempted are therefore the most high risk from an environmental point of view—developments like clear land which is home to threatened species.

MR PARTON (Brindabella) (5.46): I have four words: jobs, jobs, jobs and no.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.46): The decision to grant an EIS exemption as a reviewable decision is not supported by government. Currently a decision to refuse an EIS exemption is reviewable only by the applicant. The proposed clause would allow an applicant to review a decision to grant an EIS exemption to them.

Additionally, this drafted amendment appears to be incomplete and is missing a necessary subsequent amendment to add third parties or representatives as an eligible entity to apply for a review. This would add considerable time to a development, allowing decisions to be reviewed at multiple stages through the planning process.

Clause 22 negatived.

Clause 23.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.47): The current environmental assessment process already has consideration of climate change as part of it. I move amendment No 5 circulated in my name [*see schedule 3 at page 2163*].

Proposals that trigger an impact track DA—that is, a significant proposal set out in schedule 4 of the Planning and Development Act 2007—require further consideration of ACT government policies in the environmental assessment. For the environmental impact statement process, or EIS, the authority issues a scoping document which sets out the matters that the proponent must address within the EIS.

With respect to climate change, the scoping document includes the following wording:

The EIS must include information on how the proposal will reduce the risks from climate change impacts and include proposed adaption measures to reduce vulnerability and increased resilience of the community and the Territory, particularly to the extreme events of heatwaves, droughts, storms with flash

flooding, and bushfires. The information must address impacts on the local microclimate and how it will avoid contribution to the urban heat and positively contribute to urban cooling measures.

Additionally, the EIS must address the contribution the proposal will make to reducing greenhouse gas emissions and meeting the legislated target for zero net emissions in the territory by 2045 at the latest.

Preparation of the EIS must consider relevant sections of the following ACT government policies: the ACT climate change strategy 2019-25 and Canberra's living infrastructure plan, cooling the city. Depending on the nature of the particular development proposal, climate change and air quality may be identified as a particular environmental theme which requires specific risks to be addressed. The recent scoping documents for the Yarralumla brickworks project are an example of the matters that I have just discussed.

Notwithstanding the above, the government supports in principle the clause and will be moving technical amendments to enable regulations to set the threshold at which that would be required.

MS LE COUTEUR (Murrumbidgee) (5.49): This clause covers the third way that this bill addresses climate change. Greenhouse gas emissions would be added as a trigger to environmental impact statements. It would mean that high-emitting development proposals get the scrutiny they need to ensure that they will be compatible with net zero emissions in 2045.

Minister Gentleman will be moving an amendment that will clarify the wording around this clause, and the Greens will be supporting Minister Gentleman's amendment. I point out that I am afraid that this also shifts the trigger level of emissions to a regulation and I sincerely hope that this does not have the impact of watering down what I am trying to achieve. I am taking the minister on trust that this will not happen. Overall, I am hopeful that the amendment is worthy and I will be supporting it.

MR PARTON (Brindabella) (5.50): We are comfortable that there is a relatively sensible middle ground that is forged by Mr Gentleman's amendment, so we will not be opposing it.

Amendment agreed to.

Clause 23, as amended, agreed to.

Clause 24.

MS LE COUTEUR (Murrumbidgee) (5.51): This is consequential on clause 23, which we have just dealt with, so I recommend that people vote for this one as well.

Clause 24 agreed to.

Clause 25.

MS LE COUTEUR (Murrumbidgee) (5.51): This is about pre-DA consultation in new suburbs. This clause addresses a problem which has been raised particularly by people in my electorate because there is a lot of new development, new areas, in my electorate. While larger developments in older parts of Canberra have to hold pre-DA application consultation, large developments in several newer suburbs like Wright and Coombs in my electorate, as well as Lawson and Moncrieff on the other side of the lake, are specifically excluded from pre-DA consultation. This can mean that the first time a resident knows about an eight-storey building proposed across the road from their single-storey house is when the directorate's notice goes in. By that stage, the developers will have already spent a lot of money on the design and will be very reluctant to substantially change their proposal.

My bill will fix this problem by removing the exclusion for larger developments in new suburbs where the development is within 100 metres of a home. This will be a significant positive for my constituents in Wright, Coombs and Denman Prospect. I urge the Liberals to vote for this. Mrs Jones, in particular, has been taking an interest in planning issues in the Molonglo Valley, and this is the sort of thing which is leading to quite a few of the planning issues. I suggest that members may wish to vote for it.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.53): Madam Speaker, the government recently undertook a review of the pre-DA community consultation guidelines which included reviewing the triggers and exemptions for developments to undertake pre-DA consultation. This change will largely confirm some of the recommendations from this review.

Clause 25 agreed to.

Clause 26.

MS LE COUTEUR (Murrumbidgee) (5.54): This is about expanding the coverage of the design review panel to cover larger retail developments in common urban zones. This is important because large retail developments are expected in coming years in Lawson, Kippax and Cooleman Court. Unless well designed, these developments will have a substantial impact on existing traders and the local community.

I expect that the minister will say that the panel cannot handle the extra workload. However, I have deliberately designed this clause to apply to only a very small number of developments, possibly less than one per year, so the extra work for the design review panel will be very small and thus manageable.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and

Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.55): Adding a requirement that proposals that increase floor space by more than 2,000 square metres in some zones must present to the National Capital Design Review Panel is not an appropriate use of the panel's resources.

Currently, proposals for five or more storeys require consultation with the panel prior to submitting a development application for assessment. This trigger for design review is considered appropriate to respond to urban development that is occurring in new and established areas of Canberra. Additionally, proposals that increase floor space by 2,000 square metres may in some instances be captured by the current referral thresholds for the NCDRP.

MR PARTON (Brindabella) (5.55): The design review panel has ended up with many more proposals before it than had been initially envisaged. As a consequence, it has become yet another traffic jam point on the gridlocked development highway. I understand that Ms Le Couteur is talking about a very small number that would come through, but it is the Canberra Liberals' belief that to add another trigger to push developments past this panel seems unhelpful on a number of fronts, particularly at this time. We are not of the belief that this is an appropriate use of the panel's resources. We will not be supporting it.

Clause 26 negatived.

Clause 27.

MS LE COUTEUR (Murrumbidgee) (5.56): Madam Speaker, I want to draw your attention to the fact that we may have made not the best choices in clause 5. I think it is possible that we voted for clause 5, which is consequential for clause 6, which was not passed, and that will duplicate something in the bill. I just bring this to the attention of the Assembly. I know that the Clerk's office looks at what we have done to check that we have not done anything that was totally stupid and that totally did not work.

MADAM SPEAKER: Do you want to reconsider clause 5 now or will we do that at the very end?

MS LE COUTEUR: Given that one is consequential on the other, possibly we could leave it to the Clerk's office. I guess I am in your hands.

MADAM SPEAKER: The vote has to be had here. Is the chamber ready to deal with it now or do we need another few minutes? I think we will go through to the very end and the final question, Ms Le Couteur; then we will come back to it. But thank you for alerting us to that. The question is now that clause 27 is agreed to.

MS LE COUTEUR: This is about Christmas. I am often contacted by people in groups who find themselves aggrieved by a development proposal and even more aggrieved by finding what they think are shortcomings in the processes which could easily be fixed. This clause attempts to fix one of those problems: development

applications going out for consultation over Christmas, which means that neighbours only find out about them when it is too late to make a submission. The clause will extend the consultation period for development applications over the Christmas and New Year period by around three weeks to ensure that community members do not miss out on a chance to make a submission. No development application consultation will close between 20 December and 10 January inclusive.

I urge all members to vote for this clause, because it is common sense and people will feel all their Christmases have come at once.

Clause 27 agreed to.

Clause 28.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (5.59): Madam Speaker, I will speak to clauses 28 and 29. These clauses extend the currency period for an energy efficiency rating statement by 12 months, without the need for a statutory declaration. This bypasses the usual process under the code where a statutory declaration is required to extend the currency period. I hope members support it.

MS LE COUTEUR (Murrumbidgee) (5.59): I will seek leave to table a document comprising communications between me and Minister Ramsay about clauses 28 and 29 of the Planning Legislation Amendment Bill, which aimed to extend the currency of energy efficiency rating statements for 18 months for rental properties. The idea is to give tenants increased information in choosing what property they may wish to rent. It has no additional cost to landlords because they will have already done the work to get the ER rating.

My understanding is that the minister would prefer to make this change directly to the code of practice so that technical arrangements can be included. I wrote to Minister Ramsay to say that I am happy to accept that, because Minister Ramsay is in a position to change codes and practices, which I simply cannot do by legislation. This seems like a more straightforward way to do it.

Also, I understand that Minister Ramsay's suggestions will extend the currency to 24 months rather than the 18 months I was suggesting. That will be of benefit to tenants. I understand that this will start earlier than it would have started, had it been part of my bill.

For these reasons, I am supporting the government's amendments here. I thank Minister Ramsay and his office for their cooperation in getting this outcome, which I think will be a better outcome than would have been achieved by merely passing my legislation. I seek leave to table correspondence on the subject.

Leave granted.

MS LE COUTEUR: I table the following paper:

Planning Legislation Amendment Bill 2020—Copy of correspondence between Ms Le Couteur and the Attorney-General, dated 18 August 2020.

Clause 28 negatived.

Clause 29 agreed to.

Clause 5—reconsideration.

MS LE COUTEUR (Murrumbidgee) (6.02): Madam Speaker, it is my understanding that, given that we voted no to clause 6, we do not wish to vote yes to clause 5. I move:

That clause 5 be reconsidered.

MADAM SPEAKER: The question is that we reconsider clause 5.

Question resolved in the affirmative.

MADAM SPEAKER: The question is that clause 5 be agreed to.

Clause 5 negatived.

Bill, as amended, agreed to.

Executive business—precedence

Ordered that executive business be called on.

Electoral Amendment Bill 2018 **Detail stage**

Debate resumed from 29 November 2018.

Clause 1 agreed to.

Clause 2.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.03): I seek leave to move amendments to this bill, some of which have not been considered by the scrutiny committee.

Leave granted.

MR RAMSAY: I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the government amendments [*see schedule 6 at page 2173*]. This amendment is simply about the commencement date. The commencement date will be 1 July 2021, rather than on a day by fixed notice.

Amendment agreed to.

Clause 2 as amended agreed to.

Clause 3 agreed to.

Clause 4.

MS LE COUTEUR (Murrumbidgee) (6.04): I seek leave to move amendments to this bill, some of which have not been considered by the scrutiny committee.

Leave granted.

MS LE COUTEUR: I move amendment No 2 circulated in my name and present a supplementary explanatory statement to my amendments [*see schedule 5 at page 2165*]. This is adding additional areas where the Criminal Code will apply for offences against the act, bans on gifts from gambling businesses et cetera, and misleading electoral advertising.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.05): I move amendment No 1 circulated in my name [*see schedule 8 at page 2174*]. This amendment amends Ms Le Couteur's amendment No 2. It is removing references to future amendments to the bill that the government will not be supporting. It achieves the same intent as the technical amendment to fix incorrect cross-references in the bill.

Mr Ramsay's amendment to **Ms Le Couteur's** proposed amendment agreed to.

Ms Le Couteur's amendment, as amended, agreed to.

Clause 4, as amended, agreed to.

Clauses 5 to 8, by leave, taken together and agreed to.

Proposed new clause 8A.

MS LE COUTEUR (Murrumbidgee) (6.06): I move amendment No 3 circulated in my name, which inserts a new clause 8A [*see schedule 5 at page 2165*]. This is the bit that makes the expenditure cap higher for non-party candidates than for party candidates.

In 2012 the Assembly amended the electoral bill to establish a campaign expenditure cap. That means that there is a limit on how much a party can spend, which both reduces waste and reduces the chance of an ACT version of Clive Palmer attempting to buy an ACT election. This cap is \$42,750 per candidate. For parties that field the full 25 candidates, it is \$1,068,750.

If you are running as part of a party, there are economies of scale such as one ad for the radio, one ad for TV, one ad in the *Canberra Times* et cetera, so it seems only fair to allow non-party candidates to have a higher cap because they have none of those economies. This amendment will split the expenditure cap between party candidates, where it will remain at the current level, and non-party candidates, whose expenditure cap would increase to \$60,000 if this amendment is passed.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.08): The government will not be supporting this amendment. We believe that consistency is an important element of electoral funding laws. This amendment discriminates between party and non-party candidates. It would grant non-party candidates a higher electoral cap. We believe that there is a fundamental issue of fairness there, and believe that it is important for all candidates to have the same funding cap regardless of whether they choose to run in a party or outside a party.

MR COE (Yerrabi—Leader of the Opposition) (6.08): The opposition does not support this amendment. We believe that the same cap provides equality for all during elections.

Amendment negatived.

Proposed new clause 8A negatived.

Proposed new clause 8B.

MS LE COUTEUR (Murrumbidgee) (6.09): I move amendment No 4 circulated in my name, which inserts a new clause 8B [*see schedule 5 at page 2165*]. I suspect that most members of the public would be surprised to find that the ACT government pays an amount of \$23,126.24 a year per MLA to the MLA's party for administrative expenses. The Greens get \$46,000, the Liberals \$254,000, and the Labor Party \$277,000 a year for the hassle to have MLAs in the Assembly. I appreciate that it does take some administrative effort to fulfil all the legislative requirements for reporting et cetera. I really cannot see that it actually takes in the order of a quarter of a million dollars a year for each of the bigger parties.

I am proposing that we reduce this to a maximum payment equivalent to five MLAs. I must admit that I do not expect to find the other parties supporting that. Another way of doing it, a more complicated way, would be to just have a diminishing amount for additional MLAs. I suspect this will not be supported.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.10): Ms Le Couteur is correct. This is not being supported. It is important that electoral funding is known as the means by which political parties can ensure compliance within what is rightly a significant regulatory burden: increasing transparency in electoral funding. With each MLA come additional compliance activities, and those costs are simply not scalable. We believe that it is important to be able to support political parties so that they can be transparent. On that basis, we will be opposing this amendment.

Amendment negatived.

Proposed new clause 8B negatived.

Clause 9 agreed to.

Clause 10.

MS LE COUTEUR (Murrumbidgee) (6.11): I move amendment No 5 circulated in my name [*see schedule 5 at page 2166*]. This is simply around creating a defined period where gifts over \$1,000 must be reported within seven days. Outside that, they are reported monthly.

MR COE (Yerrabi—Leader of the Opposition) (6.12): The Canberra Liberals will be supporting the Greens' amendment. While we agree with the principle of real-time reporting, we have several practical concerns with reporting requirements as laid out in the bill and the government's amendments. For example, if a person who assists a political entity with their finances is on leave or unexpectedly unavailable, there is a risk that the entity could be in breach of legislation.

The government have recognised the impractical nature of the bill with their amendment that changes the reporting requirements during the December and January period, when many people take leave. However, the same issues arise if someone falls ill or takes leave outside that period. The Greens' amendment, surprisingly, is a more practical alternative.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.13): ACT Labor will not be supporting this amendment. We took a clear position to the last election that we wanted to promote real-time reporting of political donations. We believe that Canberrans deserve to know as soon as possible, and not a month after the fact, who makes large donations to political parties in the ACT.

Real-time reporting is a key transparency measure. Therefore, we will not be supporting a measure that waters down that intention. We will not be supporting the amendment. We believe that political parties, as we have already discussed in this

debate, receive large amounts of public funding to assist in complying with the Electoral Act requirements and such parties therefore should have the systems needed to report donations that exceed \$1,000 every seven days. We will not be supporting the amendment.

Amendment agreed to.

Clause 10, as amended, agreed to.

Proposed new clauses 10A and 10B.

MS LE COUTEUR (Murrumbidgee) (6.14): I move amendment No 6 circulated in my name, which inserts new clauses 10A and 10B [*see schedule 5 at page 2166*]. The purpose of this is to seek to ban gifts of over \$10,000 per year by any individual or corporate group or a close associate of such. The reason for this is that the democratic electoral system should be based on the premise that it is the will of the people that should determine who governs them. Alternatively, a system where an oligopoly corporation or individual or sector with a vested interest in the outcome of an election or the actions of an elected representative may influence outcomes through large political donations is very undesirable.

The proposed new section 221 caps donations to MLA's political parties, non-party candidates and associated entities at \$10,000 per year. Proposed new section 221(4) defines close associates in broad terms and includes related body corporates and domestic partners. This means that people or corporations will not be able to circumvent the donation cap by donating more than \$10,000 across associated entities—for example, by donating \$10,000 to each candidate and their domestic partner in any given year.

In 2012 the Assembly voted for a \$10,000 limit, but the Electoral Amendment Act in 2015 removed that. Basically all this amendment is trying to do is to reinstate the previous provision. I point out that the proposed limit of \$10,000 is quite generous. It is much higher than the donation limit in Victoria, which is currently set at \$4,000 over the entire four-year parliamentary term.

The other thing that I make clear, because there has been some confusion, is that many political parties require candidates and elected members to make a financial contribution to their party. The Greens are one of those. I believe that the other two parties here are in that boat. These contributions, when required by the party, are classified by the Australian Tax Office as work-related expenses and are tax deductible. Clearly any contribution that is regarded by the ATO as a work-related expense and is tax deductible could not be described as a donation.

This is consistent with the New South Wales legislation which also caps political donations at a lower limit than the proposed \$10,000. It caps political donations, but it also recognises explicitly the requirements placed on party candidates and members to pay levies. The Greens see no place for very large donations. Other jurisdictions, such as Victoria, have banned them. I hope the Assembly will do so today, as it did in 2012.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.17): The government will not be supporting the amendment. While we are not against a donations cap in principle, the government has some very practical reservations about this amendment and the manner of its drafting, notwithstanding the pleading appeal that Ms Le Couteur has voiced.

With respect to the political wing of the labour movement, the government does support collective participation in democracy. We are very concerned that this amendment may weaken collective action. We are also very concerned about the effect that this amendment, having regard to the way that it is drafted, would have on the ability of candidates to self-fund election campaigns, which is effectively donating to themselves or to their political party. Because of that, we will not be supporting this amendment.

MR COE (Yerrabi—Leader of the Opposition) (6.18): The Canberra Liberals will not be supporting this amendment. Donations above a \$10,000 threshold are, of course, relatively infrequent, and we already have scrutiny arrangements in place.

Question put:

That the amendment be agreed to.

The Assembly voted—

Ayes 2

Ms Le Couteur
Mr Rattenbury

Noes 19

Mr Barr	Mrs Kikkert
Ms Berry	Ms Lawder
Miss C Burch	Ms Lee
Ms J Burch	Ms Orr
Ms Cheyne	Mr Parton
Mr Coe	Mr Pettersson
Mr Gentleman	Mr Ramsay
Mr Gupta	Mr Steel
Mr Hanson	Mr Wall
Mrs Jones	

Amendment negatived.

Proposed new clauses 10A and 10B negatived.

Clause 11.

MS LE COUTEUR (Murrumbidgee) (6.23), by leave: I move amendments No 7 and 8 circulated in my name together [*see schedule 5 at page 2167*]. The first and most important piece of information for members is that I do intend to call for another division. It will be after this part of the debate; then you can go back upstairs and have a cup of coffee!

Before then, we need to talk about prohibited donors. What we are doing here is trying to expand the universe of prohibited donors. The government's bill talks about property developers, which is important, and we are not in any way anti what the government is talking about there. We are trying to go bigger than this. If you look at the issues in the ACT, there would not be many people who would think that property developers were the only people who were in positions where relatively small changes in government policy could have major implications for their viability and profitability.

If we are talking about gambling organisations, such changes could include a cap, increasing the number of poker machines allowed in a single venue or across the ACT, an increase or reduction in bet limits or the introduction of pre-commitment requirements for gamblers. Gambling interests were certainly part of the 2016 ACT election. ClubsACT, a grouping of licensed clubs, ran an advertising campaign which informed their members that the ACT Labor Party planned to destroy licensed clubs. It included broadcast and print ads—

Mr Hanson: Well, were they not right?

MS LE COUTEUR: They mentioned the Greens as well, actually. It included broadcast and print ads, drink coasters in clubs and advertising on the back of Canberra's taxis. It was quite a campaign. You will be very pleased to know that, because it was a campaign, such campaign and associated expenditure would not—and I repeat the word “not”—be affected by this amendment, because they were spending the money themselves on their own drink coasters et cetera.

At the same time, however, there was a new party called Canberra Community Voters which had similar aims, ran candidates and received a \$100,000 donation from ClubsACT. Such a donation would not be permitted under my proposed amendments. The Greens believe that there is no place for gambling money in politics, and I commend these amendments to the Assembly.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.26): These amendments are minor and technical amendments that relate to other Greens amendments that are coming soon that we will not be supporting. Therefore, we will not be supporting amendments 7 and 8.

MR COE (Yerrabi—Leader of the Opposition) (6.26): The Canberra Liberals also do not support these amendments or subsequent amendments.

Question put:

That the amendments be agreed to.

The Assembly voted—

Ayes 2

Ms Le Couteur
Mr Rattenbury

Noes 19

Mr Barr	Mrs Kikkert
Ms Berry	Ms Lawder
Miss C Burch	Ms Lee
Ms J Burch	Ms Orr
Ms Cheyne	Mr Parton
Mr Coe	Mr Pettersson
Mr Gentleman	Mr Ramsay
Mr Gupta	Mr Steel
Mr Hanson	Mr Wall
Mrs Jones	

Amendments negatived.

MS LE COUTEUR (Murrumbidgee) (6.29): I move amendment No 9 circulated in my name [*see schedule 5 at page 2168*]. As Mr Ramsay pointed out, the amendment that we voted on earlier was minor and technical. The reason I called for a division then was so that people did not have to go upstairs and downstairs all the time. I am not planning on calling for any more divisions. Amendment 9 is much more about gambling. Those of us who believe that gambling entities have had quite a degree of influence on Australian, and in particular ACT, politics would vote for this. But that does not appear to be the majority position of this Assembly.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.30): The government opposes this for the same reason that we opposed amendments 7 and 8.

Amendment negatived.

MS LE COUTEUR (Murrumbidgee) (6.30): I move amendment No 10 circulated in my name [*see schedule 5 at page 2168*]. Again, it is gambling related, so I fear it may not be agreed to.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.31): This is a substantive amendment, so I will explain in more detail. We will not be supporting this amendment as it relates to the introduction of prohibition on gambling businesses, as they are defined in the Greens' amendments, from making political party donations.

What is very clear from the commentary from Greens members and Greens candidates that has been taking place on social media and elsewhere is that this amendment is actually not being put to try and effect a legal change but to make a political point. The Labor Party does not receive money from poker machines.

I cannot be clearer than that. It is important for that to be clear when we get to the truth in advertising discussions a little bit later.

At 6.30 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.

MR RAMSAY: In addition, the definition of gambling business, as defined in the Greens' amendment, is so broad that it would, for example, prevent the partner of a local newsagent from financially participating in the political process, which is a fairly outrageous concept.

On its face, the amendment is clearly unconstitutional, as it possibly interferes with the implied freedom of political communication and it sits outside the bounds of what the High Court has said are permissible restrictions on that freedom. It is important for the Assembly to note that legislation cannot simply be based on a political whim. It has to be held within the constitution that we have, within the constitutional framework, within the decisions and the reasoning of the High Court.

I also want to note for the Assembly that the government had discussion with the Greens in attempting to find some common ground in this space, in replacing the definition in this particular amendment with the reasonable definition that is found in the New South Wales legislation. It is the government's view that if the Greens were serious about their intent to produce good legislation, rather than making political points, they would not have rejected that approach. The government will not be supporting Ms Le Couteur's amendment.

MR COE (Yerrabi—Leader of the Opposition) (6.34): I had not intended to speak, but Mr Ramsay's comments really leave me no choice whatsoever. For him to come in here and say that they do not receive money from gambling interests is absolutely extraordinary. This is a party that set up the Canberra Labor Club that indirectly has 489 poker machines and that set up the 1973 Foundation that has an undisclosed amount of money, probably tens of millions of dollars of assets, that have all come from gambling revenue. For him to look at all of us with a straight face and put into the record of the Assembly that the Labor Party does not derive money from pokies, I think, is a lie.

Ms Cheyne: I am not sure that is parliamentary.

MADAM SPEAKER: That language was borderline, but he was not attributing that directly.

Mr Hanson: They do not want the fight. I hear that. They do not want the fight, do they?

MADAM SPEAKER: Do you want me to warn you? I think you were short of being—

Mr Cheyne: I thought he was warned.

Mr Hanson: No; I was short of it.

MADAM SPEAKER: You are now warned.

Amendment negatived.

MS LE COUTEUR (Murrumbidgee) (6.36), by leave: I move amendments Nos 11 to 14 circulated in my name together [*see schedule 5 at page 2168*]. I am not sure how much to continue after Minister Ramsay's comments. One of the objectives of the Labor Club is to support the Australian Labor Party. According to last financial year's financial returns, the Labor Club made a net profit from the pokies of around \$13 million. Given the Speaker's possible rulings, I leave it to others to draw the conclusions from that.

In terms of Mr Ramsay's comments about whether we actually want to stop gambling or not, we did not use the New South Wales definition because of how the pokies are structured in the ACT. Virtually every pokie is owned by a not-for-profit entity, the community clubs. We are not against community clubs; we would just like to have less problem gambling in the ACT. We are not against the community clubs.

Members interjecting—

I am not meant to respond to interjections, but I cannot resist responding to some of the attorney's comments. I think that the situation of the Labor clubs is clearly a conflict of interest when the gross amount taken by pokies in the Labor clubs last year was \$24 million. That is something which would make most political parties take notice.

Amendments negatived.

MADAM SPEAKER: The question is that clause 11 be agreed. I think we are on to your amendment 15, Ms Le Couteur.

MS LE COUTEUR (Murrumbidgee) (6.38): I will not bother with that.

MADAM SPEAKER: The question is that clause 11 be agreed to. Ms Le Couteur, you are choosing not to speak to amendment No 15?

MS LE COUTEUR (Murrumbidgee) (6.38): I am not moving it. I seek leave to move amendments 16 to 19 circulated in my name together.

Leave granted.

MS LE COUTEUR: I move amendments Nos 16 to 19 circulated in my name together [*see schedule 5 at page 2169*]. We are moving along, here, from the gambling entities, where I appreciate that we have lost the argument, to trying to get a better definition of property developers. This is something which I and my colleagues have spent some time thinking about. I am sure that the Labor Party has as well, both

here and in New South Wales, where property developer donations have also been banned. I am sure that here we have a common aim of trying to stop inappropriate influence by property developers.

Amendments 16 to 19 are about not-for-profit property developers. Because of the way the Labor Party wrote the legislation, if your organisation was not for profit, you could not be classed as a property developer.

I am a member for Murrumbidgee. I have been around the Woden town centre area for literally decades. In comments I am going to make here, I am not trying to cast aspersions on the particular not-for-profits I will mention; I am just trying to prove the point that being a not-for-profit does not stop you being potentially a substantial property developer.

One of the major planning issues recently for Woden has been the development on what is commonly referred to as the Tradies site because it was owned by the Tradies. During the time it was owned by the Tradies, there was considerable disquiet about the size of the building that was going to be built there, and some people felt that that building was being favourably treated. Other parts of Woden are equally obvious. The Southern Cross Club has at various stages owned a lot of the land in the Woden town centre, to the extent where it was able to resume the road that used to go from the main ambulance station in Phillip over to the main part of the Woden town centre. Now that piece of land has the Southern Cross Club's fitness club there.

I am not saying that these developments were inappropriate. All I am trying to say is that many not-for-profits can be property developers. This is particularly so in the context of how property development is happening in the ACT. In many ways, the most contentious developments are developments that happen on land which used to be community facilities land and, for various reasons, the clubs that own that land do not want it to be a sports field or find that their club is going bust or whatever.

MR PARTON: And you are not against the clubs?

MS LE COUTEUR: I am not against the clubs. Thank you, Mr Parton. The club finds itself in a situation where it does not wish to continue doing on that land what it did before. What almost invariably happens is that the local community does not want to see the new development on that land. Without exception, it will be a higher density development than the development that was there before. These are very contentious developments and the decision to deconcessionalise land is a decision which has to be made by the government. The previous bill, my planning legislation, would have at least made deconcessionalisation something that could be disallowed by the Assembly; that is not the situation now. It is a decision which, hopefully, is not politically influenced, but as it is a decision of the minister, it could be.

It would be in everyone's best interest to extend the definition of property developers so that it did not include not-for-profit entities where they are in all other regards a property developer.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.43): We will be opposing these amendments. We do believe that the bar for banning participation in the political process should be high. The High Court has said the same.

It is clear that the profit motivator for property developers is a key reason why some may seek outcomes through the political process. There are many examples in other jurisdictions of how developers have sought certain political decisions in order to increase their own profit. And while surplus is important to not-for-profit organisations, there is actually very little evidence to show that not-for-profits seek to influence government decisions by way of donations.

The High Court has made very clear that it is the profit motive and the profit factor that is the key in its decision on which restrictions are constitutional and which are not. We are also particularly concerned about the unintended consequences of the amendment, the way that it is drafted, and the number of entities and therefore the number of very close associates that it would cover. We are opposing the amendments.

Amendments negated.

MS LE COUTEUR (Murrumbidgee) (6.45): I move amendment No 20 circulated in my name [*see schedule 5 at page 2169*]. This merely substitutes the term “property developer” with “prohibited developer”, and thus I assume will not be supported.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.45): Ms Le Couteur is correct: it will not be supported.

Amendment negated.

MS LE COUTEUR (Murrumbidgee) (6.45), by leave: I move amendments Nos 21 and 22 circulated in my name together [*see schedule 5 at page 2170*]. No 21 introduces a new subdivision that will deal with gifts from property developers. No 22 moves the definition of “decided”, which relates to a relevant planning application here, from where it was previously in the attorney’s bill, which was in the proposed new section 222B. So this really comes under the classification of minor and technical.

Amendments negated.

MS LE COUTEUR (Murrumbidgee) (6.47), by leave: I move amendments Nos 23 and 24 circulated in my name together [*see schedule 5 at page 2170*]. They are minor and technical but I assume will not be supported.

Amendments negated.

MS LE COUTEUR (Murrumbidgee) (6.47): I move amendment No 25 circulated in my name [*see schedule 5 at page 2171*]. This is a whole new section. It is talking about dollar amounts in terms of gifts. We are all on the same page about there being people from whom we want to prohibit gifts, even if we do not agree as to exactly those people are. It is not talking about exactly who those people are; it is talking about how much money and how we deal with them.

This amendment provides that gifts given by property developers and their close associates to political entities that are less than \$250 must be repaid to the territory. Fair enough. It recognises that not all gifts are equally important or serious. Some small donations may even be inadvertent, and I do not believe that a criminal penalty is appropriate to those. If you are the partner of a property developer and you work at an office where raffle tickets are sent around and you buy one without paying any attention to who it is for, something like that should not end up with a criminal penalty. This is about dollar limits and criminal penalties.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.49): The government will be supporting amendment 25 and the associated ones, 26 to 29. Although we have said from the outset that we want a strong compliance regime in the bill, including criminal offences, we do accept the concerns of people who may, for example, unknowingly be close associates of property developers and who make donations to political parties.

MR COE (Yerrabi—Leader of the Opposition) (6.49): The Canberra Liberals will be supporting this and other amendments to remove criminal penalties for donations below \$250. However, we do remain concerned about the criminal penalties in the bill as a whole, given that it is difficult to determine who is a property developer or a close associate. While it may be easier for political entities to identify corporations or prominent public individuals, there is no register of property developers. Furthermore, development applications are not publicly available for the last seven years, let alone in a searchable format. Additionally, there is complexity around what a close associate is.

How is a political entity expected to know who a property developer is dating? How is an independent candidate meant to know this either? There are many concerning aspects of what is being proposed in this legislation as regards this. There are some very practical questions and we do not have clear answers as yet. Therefore, we do support what the Greens are proposing here but note that there are concerns about other aspects of the bill as well.

Amendment agreed to.

MS LE COUTEUR (Murrumbidgee) (6.51), by leave: I move amendments Nos 26 to 29 circulated in my name together [*see schedule 5 at page 2171*]. This is more around the limits. Under \$250 there would not be criminal penalties. Over that is where there is a significant issue.

I think Mr Coe was quite reasonable in his comments about the difficulties of determining if someone is a property developer, given that you cannot look at the DA register or anything like that. In particular, I am concerned about close associates—that is, partners—who may not realise that their partner put in a few DAs seven years ago, when they quite possibly had nothing whatsoever to do with their partner, and their partner may not have talked with them at length about what they did seven years ago.

So we are trying to get the balance between not allowing the wrong thing to happen and making something that is actually practicable, bearing in mind that most political parties have quite a few volunteers who are involved in at least lower levels of fundraising. You would not want to see them inadvertently having a criminal penalty for something that was an absolute mistake. We do support the concept of criminal penalties for large and obviously flagrant problems, but for small amounts of money, under \$250, it does not seem warranted.

Amendments agreed to.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.53): I move amendment No 4 circulated in my name [*see schedule 6 at page 2173*]. This is a minor amendment in relation to the offence under the new section 222F(3) which prohibits a person giving a gift to a political entity on behalf of a property developer. The amendment ensures that the offence also applies to gifts given on behalf of a close associate of a property developer.

This amendment is consistent with the bill's intention for offences to apply in relation to gifts from property developers as well as their close associates. It is also consistent with the offence under the new section 222G(1), which provides that it is an offence for a political entity to accept a gift made by or on behalf of a property developer or a close associate.

Amendment agreed to.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.53): I move amendment No 5 circulated in my name [*see schedule 6 at page 2173*]. This amendment performs the same function as the previous amendment we just voted on.

Amendment agreed to.

MS LE COUTEUR (Murrumbidgee) (6.55): I move amendment No 32 circulated in my name [*see schedule 5 at page 2172*]. This amendment provides that gifts that are accepted from property developers and their close associates to political entities and that are less than \$250 must be repaid to the territory. It recognises that not all donations, or the receipt of them, are equally serious. The acceptance of small

donations may even be inadvertent. As such, I do not think a criminal penalty is appropriate.

My amendment also provides examples of reasonable steps that must be taken by a political entity to ensure that the person giving the gift is not a property developer. These include giving potential donors written notice that donations from property developers or their close associates are prohibited and asking the person who gives the gifts whether or not they are in fact a property developer.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.56): I am just flagging that the government will be supporting amendments Nos 32, 33 and 34.

Amendment agreed to.

MS LE COUTEUR (Murrumbidgee) (6.56), by leave: I move amendments Nos 33 and 34 circulated in my name together [*see schedule 5 at page 2172*]. In the interests of time, I want to say that this is just more about getting clear the \$250 limit.

Amendments agreed to.

MR COE (Yerrabi—Leader of the Opposition) (6.57): I seek leave to move amendments to this bill that have not been considered by the scrutiny committee.

Leave granted.

MR COE: I move amendment No 1 circulated in my name [*see schedule 7 at page 2174*]. This amends the bill to allow for written declarations. We also incorporate additional examples proposed by the government, with minor amendments.

The examples provided in the bill previously were statutory declarations, which are very impractical for most donations received. According to the letter of the law, political parties could be expected to obtain a statutory declaration for any donation amount. For example, somebody buying a \$2 raffle ticket at a dinner may require a statutory declaration. The Canberra Liberals are proposing written declarations which could still be relied upon as evidence in court but can be practically and effectively implemented. Parties already have processes in place to confirm that they are not receiving foreign donations—for example, a check box on their website that must be ticked before any donation can be made.

We believe there should be consistency across these requirements and we have the responsibility to ensure that there are no overly onerous administrative issues for either the donor or the receiver. It is important that what we put in place is actually practical and can be achieved. Our amendments provide a level of flexibility and are fit for purpose in terms of reasonableness. I hope all others agree.

MR RAMSAY (Ginninderra—Attorney-General, Minister for the Arts, Creative Industries and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans) (6.59): The government does not support this amendment. We prefer the text that is currently in the legislation and in our amendment No 6, which I understand will lapse, given the position of the other parties. We believe that that gives clearer guidance to the receivers of donations on what are reasonable steps.

However, I do foreshadow amendments to come that will clarify that the reasonable steps a receiver takes are directly referable to the size of the donation given. I understand that those later ones will be supported.

Amendment agreed to.

MR GENTLEMAN (Brindabella—Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management, Minister for Police and Emergency Services and Minister for Urban Renewal) (7.00): I move:

That debate be adjourned to the next sitting.

MR RATTENBURY (Kurrajong) (7.00): Madam Speaker, I believe the noes actually had it, but because of the period of time the Assembly has been running the Clerk is under an obligation to take a break for the staff. So there needs to be some discussion amongst the parties, I think.

MADAM SPEAKER: Mr Rattenbury, there was discussion during the day that a dinner break needed to be called by 6 pm. I was under the understanding that we would go to adjournment at 7 o'clock to meet the industrial obligations we have for the attendants. The debates on planning and this bill have gone beyond people's expectations; hence the time we find ourselves here. So the question before you is that the debate be adjourned.

Question resolved in the affirmative.

Planning Legislation Amendment Bill 2020

MR RATTENBURY (Kurrajong—Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety and Minister for Mental Health) (7.01): As flagged with colleagues, I seek leave to move a motion to reconsider the Planning Legislation Amendment Bill 2020 to correct an omission.

Leave granted.

MR RATTENBURY: I move:

That, in relation to the Planning Legislation Amendment Bill 2020, the Assembly:

- (1) rescind the resolution agreeing to the question that the Bill, as amended, be agreed to; and
- (2) recommit the Bill at the detail stage and the following questions be put:
 - (a) that the title be agreed to; and
 - (b) that the Bill, as amended, be agreed to.

Amendment agreed to.

Title agreed to.

Bill, as amended, agreed to.

Adjournment

Motion (by **Mr Gentleman**) proposed:

That the Assembly do now adjourn

Canberra Liberals—policy

MRS KIKKERT (Ginninderra) (7.03): As the much-quoted author Marianne Williamson has written, every ending is a new beginning. And so, as this Ninth Assembly has met today for its second last time, my thoughts have turned to the future. The future is bright, and full of hope and promise. Every week I speak with so many Canberrans who, like me, are thinking about the future. Our hopes are clear: we want to see this city become the best place to live, work and raise a family. Only the Canberra Liberals have a strong plan to make sure that that happens.

Let me explain why. A Canberra Liberals government will reduce the cost of living for families. Under Labor and the Greens, the combined tax burden in the ACT has become the highest in Australia, putting far too many Canberrans in financial stress. But we will freeze residential rates for four years and deliver rent relief from day one, making it easier for all of us to balance the household budget. The Canberra Liberals will provide high-quality essential services, including better access to health services. It is a disgrace that emergency departments in the nation's capital are ranked last in the nation, including in the treatment of mental health patients. And the much-needed expansion to Canberra Hospital, first promised by Labor in 2010, still has not been built. In contrast, we will deliver the modern, world-class health system that our city deserves.

The Canberra Liberals will strengthen the local economy. A thriving business sector is the key to our COVID-19 recovery but, as a recent study found, the ACT is among the least business-friendly jurisdictions in the country. We value businesses and their vital role in creating jobs. So instead of pushing our companies across the border, we will make Canberra the best place in the nation to operate a business.

The Canberra Liberals will improve education standards. As the Grattan Institute revealed last year, the ACT ranks last in Australia when compared with similar

communities. School students, parents and teachers deserve better, and we will make sure that our children receive the best education anywhere in the world, including by boosting school maintenance by \$15 million.

The Canberra Liberals will fix the current government's transport bungles. Labor and the Greens have slashed dozens of school buses and have closed bus stops and cancelled services across our suburbs. We will restore dedicated school bus routes and deliver a public transport system that is frequent and reliable seven days per week.

The Canberra Liberals will protect the local environment. The current government has allowed shameful environmental setbacks to our beloved bush capital. Newer suburbs are full of concrete but little grass. And Labor and the Greens have overseen a loss of 3,000 trees from our neighbourhoods every year. In just seven years, nearly 11 per cent of our tree canopy was lost. In contrast, only the Canberra Liberals will plant and care for one million trees. And we will not stop there. We know how important green space is for our mental, social and physical wellbeing, so we are issuing a guarantee that all Canberrans, including those in apartments and town centres, are within a 10-minute walk to a properly maintained green space.

Finally, the Canberra Liberals will look after the vulnerable and disadvantaged, and treat people with dignity and respect. This commitment includes the recently announced policy that we will introduce a legal entitlement to restorative family group conferences for all families that come into contact with the child protection system. This approach places the family at the centre of decision-making, and boldly signals our commitment to be a government that no longer makes important decisions for families but instead makes decisions with them.

As I said, the future is full of hope and promise. I look forward to assisting the Canberra Liberals to achieve this vision of a Canberra that is the best place in Australia to live, work and raise a family. Thank you.

Federal government—territory rights

MS CHEYNE (Ginninderra) (7.08): Last week marked two years since the Senate voted against restoring our territory rights so that we in the ACT and the Northern Territory would have the power or the agency to decide for ourselves, in our parliaments, on behalf of our communities, whether to legislate for voluntary assisted dying.

I know that, like me, members will remember those days keenly—from the nervousness leading up to the vote, the horror at the vote just failing, and the emotion in this very place as we made history debating and then passing unanimously this parliament's first-ever remonstrance motion. We were left reeling at the time, but we dusted ourselves off and we have continued to put the pressure on—from another unanimously agreed motion in this place, to writing letters to almost every federal politician asking them to put their views forward about where they stand, starting a petition which is gaining close to 2,500 signatories from across Australia, and creating a website which outlines the situation and the actions people can take to place pressure on federal politicians.

It remains my greatest frustration that, despite such pressure from us—arguably more pressure than has ever been put before—the ban on us being able to legislate continues to persist. It is not something that we have seen changed in this ACT parliamentary term. So, tonight, in what is my penultimate adjournment speech for this parliamentary term, I want to state on the record that I commit myself to not giving up on this issue. And whether I am re-elected or not, I promise to keep working hard, to keep prosecuting this issue and to keep putting the pressure on our federal politicians until this gets changed.

I intended to leave it there but, with regret, I need to draw something to the chamber's attention. Members will recall that in November last year we unanimously agreed to a motion regarding territory rights. It called on all ACT Legislative Assembly party leaders to write to their federal counterparts before the end of 2019, requesting that those federal counterparts commit to removing the clauses that ban us.

At the time, the opposition leader said:

I am open to considering such a letter as proposed in paragraph (5)(b). It will, of course, very much depend on what is included in that letter and whether it will be a political statement or whether it will be something far more meaningful.

I responded gratefully because I believed him. I said that I genuinely noted Mr Coe's openness to this. I said:

He can be assured that I will be following up with him, and I will work collaboratively with him to get this done.

Taking his comments in good faith, I wrote to him. I even drafted some suggestions for him to put in his own letter, which I thought were very reasonable. I did not get a response. As promised, I followed up. I did not get a response to that either. I note that the Chief Minister and Minister Rattenbury wrote to their federal counterparts, and that in December 2019—I think it was 22 December—eight or nine days before the end of the year, Mr Coe told the *Canberra Times* that he would write soon. He has never been forthcoming that he did. And even when I asked today, over social media, there was silence. We can only assume, then, that he did not.

This morning on 666 radio he would not give a straight answer when asked if he supported territory rights. The question was not about voluntary assisted dying itself, where his position is very clear—I am not debating that—but about territory rights. He said, “If the ACT is granted this, then it is up to the Assembly to decide, but I am not seeking to progress euthanasia in the ACT.” We need leadership on this issue. We actually need united political pressure. We do not need equivocation and we do not need someone agreeing that they will do something and just not doing it. In November last year, Mr Coe called repeatedly for respect around this debate, but in his deception he has disrespected me, he has disrespected the chamber and he has disrespected Canberrans.

The Assembly adjourned at 7.12 pm until Thursday, 27 August 2020, at 10 am.

Schedules of amendments

Schedule 1

Justice Legislation Amendment Bill 2020

Amendments circulated by the Minister for Justice, Consumer Affairs and Road Safety

1

Clause 3, proposed new dot point

Page 4, line 8—

insert

- *Employment and Workplace Safety Legislation Amendment Act 2020*

2

Proposed new part 12A

Page 29, line 9—

insert

Part 12A Employment and Workplace Safety Legislation Amendment Act 2020

65A Commencement Section 2 (2) and (3) and notes

substitute

- (2) Parts 2 and 3, sections 105 to 108 and schedule 1, parts 1.1 to 1.3 commence on a day fixed by the Minister by written notice.

Note 1 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 2 If a provision of pt 3, sections 105 to 108 or sch 1, parts 1.2 and 1.3, has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

Schedule 2

Justice Legislation Amendment Bill 2020

Amendments moved by the Minister for Justice, Consumer Affairs and Road Safety

1

Clause 3, proposed new dot point

Page 4, line 2—

insert

- *Confiscation of Criminal Assets Act 2003*

2

Proposed new part 6A

Page 14, line 18—

insert

Part 6A Confiscation of Criminal Assets Act 2003

27A Meaning of *exclusion order* Section 72, definition of *exclusion order*, paragraph (a)

after

forfeited

insert

or used to satisfy an unexplained wealth order

27B Effect of *exclusion order* Section 74 (b)

after

forfeited

insert

or used to satisfy an unexplained wealth order

27C Exclusion orders—application Section 75

after

forfeited

insert

or used to satisfy an unexplained wealth order

27D New section 77A

insert

77A Making of *exclusion orders*—unexplained wealth

- (1) This section applies to an application for an *exclusion order* for property if—
 - (a) an unexplained wealth restraining order has been applied for in relation to the property; or
 - (b) the property has been restrained under an unexplained wealth restraining order.
- (2) If the application is made by the person in relation to whom the unexplained wealth restraining order has been made or is sought (the *relevant person*), the relevant court must not make an *exclusion order* for the property unless the court is satisfied that the property—
 - (a) was lawfully acquired by the relevant person; and
 - (b) is not tainted property in relation to any offence against a territory law, or a law of the Commonwealth, a State, another Territory or a foreign country; and
- (3) If the application is made by someone other than the relevant person, the court must not make an *exclusion order* for the property unless it is satisfied that—
 - (a) the applicant has an interest in the property; and

Note For the meaning of *in relation to*, see dict.

(c) is not required to be restrained to satisfy an unexplained wealth order; and
(d) does not have evidentiary value in any criminal proceeding.

Note For the meaning of *interest*, see the Legislation Act, dict, pt 1.

- (b) the applicant was not a party to the relevant serious criminal activity or any related serious criminal activity; and
 - (c) the interest is not subject to the effective control of the relevant person; and

Note For the meaning of *effective control*, see s 14.
 - (d) the interest is not tainted property in relation to a serious offence; and
 - (e) if the interest was acquired completely or partly, or directly or indirectly, from the relevant person—the interest was acquired honestly and for sufficient consideration and the applicant took reasonable care to establish that the interest may be lawfully acquired by the applicant; and
 - (f) the property does not have evidentiary value in any criminal proceeding.
- (4) An exclusion order must state the property to which it applies.

Schedule 3

Planning Legislation Amendment Bill 2020

Amendments moved by the Minister for Planning and Land Management

1

Clause 2

Page 2, line 4—

omit clause 2, substitute

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after its notification day:
- section 4
 - sections 14A and 14B
 - section 23
 - part 4.
- Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).
- (2) Section 4 commences 2 years after this Act's notification day.
- (3) Sections 14A, 14B and 23 commence on 1 July 2021.
- (4) Part 4 commences 6 months after this Act's notification day.

2

Clause 13

Page 7, line 3—

[oppose the clause]

3

Clause 14

Page 7, line 15—

[oppose the clause]

4

New clauses 14A and 14B

Page 7, line 26—

*insert***14A Form of development applications****New section 139 (2) (t)***before the notes, insert*

- (t) if the annual amount of the expected greenhouse gas emissions from operating the development is more than the amount prescribed by regulation—an expected greenhouse gas emissions statement for the development.

14B Section 139 (8), new definition of *expected greenhouse gas emissions statement**insert*

expected greenhouse gas emissions statement, for a development, means written information stating the annual amount of expected greenhouse gas emissions from operating the development.

5

Clause 23

Page 12, line 1—

*omit clause 23, substitute***23 Development proposals requiring EIS—areas and processes
Schedule 4, part 4.3, new item 9***insert*

9	proposal for which the annual expected greenhouse gas emissions from operating the development is more than the amount prescribed by regulation
---	---

Schedule 4**Planning Legislation Amendment Bill 2020**Amendments moved by Ms Le Couteur

1

Proposed new clause 14A

Page 7, line 26—

*insert***14A Design review panel may provide design advice
Section 138AM (1) (b)***substitute*

- (b) the planning and land authority gives the design review panel an opportunity to provide further design advice about a development proposal under—
- (i) section 141A (Further information—entities and design review panel); or

- (ii) section 145A (Amended development application—previous consultation with design review panel).

2

Clause 15

Page 8, line 1—

*omit clause 15, substitute***15 New sections 141A and 141B***insert***141A Further information—entities and design review panel**

- (1) This section applies if—
 - (a) the planning and land authority receives further information in relation to a development application under section 141; and
 - (b) before the planning and land authority receives the further information—
 - (i) the development application was referred to an entity under—
 - (A) section 127A (Impact track—referral of matter protected by the Commonwealth to Commonwealth); or
 - (B) section 147A (Development applications involving protected matter to be referred to conservator); or
 - (C) section 148 (Some development applications to be referred); or
 - (ii) the design review panel provided design advice about the development proposal under section 138AM.
- (2) The planning and land authority may—
 - (a) if subsection (1) (b) (i) applies—refer the development application to the entity again, including the further information; or
 - (b) if subsection (1) (b) (ii) applies—give the design review panel an opportunity to provide further design advice about the development proposal.

141B Further information—public notification

- (1) This section applies if—
 - (a) a development application is publicly notified; and
 - (b) the public notification period for the development application has passed; and
 - (c) the planning and land authority receives further information in relation to the development application under section 141.
- (2) The planning and land authority may publicly notify the development application again, including the further information, under division 7.3.4 (Public notification of development applications and representations).

3

Clause 19

Page 11, line 1—

[oppose the clause]

4

Clause 20

Page 11, line 9—

[oppose the clause]

5

Clause 21

Page 11, line 16—

*[oppose the clause]***Schedule 5****Electoral Amendment Bill 2020**Amendments moved by Ms Le Couteur

2

Clause 4

Page 2, line 15—

omit clause 4, substitute

4

**Offences against Act—application of Criminal Code etc
Section 3A, note 1***insert*

- s 222F (Ban on gifts from property developers etc—\$250 or more)
- s 222G (Ban on acceptance of gifts from property developers etc—\$250 or more)
- s 222K (Ban on gifts from gambling businesses etc—\$250 or more)
- s 222M (Ban on acceptance of gifts from gambling businesses etc—\$250 or more)
- s 297A (Misleading electoral advertising)

3

Proposed new clause 8A

Page 4, line 13—

insert

8A

**Meaning of *expenditure cap*—div 14.2B
Section 205D (a)***substitute*

- (a) for the election due to be held in October 2020—
- (i) for a non-party candidate grouping—\$60 000; or
 - (ii) in any other case—\$42 750; or

4

Proposed new clause 8B

Page 4, line 13—

insert

8B

**Eligibility of party for payment for administrative expenditure
New section 215B (2)***insert*

- (2) However, a party is not eligible for payment of administrative expenditure for a year in excess of an amount equivalent to 5 times the maximum amount payable for the year for an MLA under section 215C.

5

Clause 10

Page 4, line 19—

*omit clause 10, substitute***10 Section 216A (4) and notes***substitute*

- (4) The financial representative of the receiver must give the return to the commissioner not later than—
- (a) if the total amount of the gifts received from the person reaches \$1 000—
- (i) in the period starting on the first day of the election period and ending 30 days after the election period ends (the *defined period*)—7 days after the day the total amount received from the person reaches \$1 000; or
- (ii) outside the defined period—7 days after the end of the month in which the total amount received from the person reaches \$1 000; and
- (b) if the financial representative is required to give the commissioner a return under subsection (3) (a) in relation to a person and the person makes an additional gift—
- (i) in the defined period—7 days after the day the additional gift is received from the person; or
- (ii) outside the defined period—7 days after the end of the month in which the additional gift is received from the person.

6

Proposed new clauses 10A and 10B

Page 5, line 2—

*insert***10A New section 221***insert***221 Restrictions on acceptance of gifts over \$10 000**

- (1) A party, MLA, non-party candidate or associated entity (the *receiver*) must not accept a gift from, or on behalf of, an individual or corporate group in a financial year if the total amount of gifts from the individual or corporate group in the year is \$10 000 or more.
- (2) If the receiver contravenes subsection (1), the financial representative of the receiver must pay to the Territory an amount equal to the amount of the gift.
- (3) The amount payable under subsection (2) is a debt payable to the Territory by the financial representative for the receiver and may be recovered by a proceeding in a court of competent jurisdiction.
- (4) In this section:
- close associate*, of a corporation, means any of the following:
- (a) a related body corporate;
- (b) an officer of the corporation or a related body corporate;

- (c) a person whose voting power in the corporation or a related body corporate is more than 20%;
- (d) any domestic partner of a person mentioned in paragraph (b) or (c);
- (e) if the corporation or a related body corporate is a stapled entity in relation to a stapled security—the other stapled entity in relation to the stapled security;
- (f) if the corporation is a trustee, manager or responsible entity in relation to a trust—
 - (i) for a unit trust—a person who holds more than 20% of the units in the trust; or
 - (ii) for a discretionary trust—a person who is a beneficiary of the trust;
- (g) any other person or body prescribed by regulation.

Note Power to make a regulation includes power to make different provision in relation to different matters or different classes of matters, and to make a regulation that applies differently by reference to stated exceptions or factors (see Legislation Act, s 48).

corporate group means—

- (a) a corporation; and
- (b) any close associate of the corporation.

officer—see the Corporations Act, section 9.

stapled entity—

- (a) means an entity the interests in which are traded along with the interests of another entity as a stapled security; and
- (b) for a stapled entity that is a trust—includes any trustee, manager or responsible entity for the trust.

voting power—see the Corporations Act, section 9.

10B Section 222 heading

substitute

222 Restrictions on acceptance of anonymous gifts

7

Clause 11

Proposed new division 14.4A heading

Page 5, line 5—

omit the heading, substitute

Division 14.4A Gifts from prohibited donors

Subdivision 14.4A.1 Preliminary

8

Clause 11

Proposed new section 222A (1) (b)

Page 5, line 9—

after

close associate

insert

9

Clause 11**Proposed new section 222B, definition of *decided***

Page 5, line 19—

omit

10

Clause 11**Proposed new section 222B, new definition of *gambling business***

Page 6, line 5—

*insert****gambling business*** means any of the following:

- (a) a casino licensee under the *Casino Control Act 2006*;
- (b) a licensee of a gaming machine, or an approved supplier, under the *Gaming Machine Act 2004*;
- (c) a person approved to conduct a lottery (other than an exempt lottery) under the *Lotteries Act 1964*;
- (d) a person approved to carry on a pool betting scheme under the *Pool Betting Act 1964*;
- (e) a licensee under the *Race and Sports Bookmaking Act 2001*;
- (f) an approved racing organisation under the *Racing Act 1999*;
- (g) a corporation that carries on a business involving wagering, betting or gambling (including the manufacture of machines primarily used for that purpose) for profit.

11

Clause 11**Proposed new section 222B, definition of *gift* and note**

Page 6, line 6—

*omit the definition and note, substitute****gift***—

- (a) includes a loan, other than a loan by a financial institution on a commercial basis; but
- (b) does not include a gift of the use of a prohibited donor's meeting facilities for a routine meeting of a political entity.

Note The definition of ***gift*** in s 198AA also applies to this division.

12

Clause 11**Proposed new section 222B, definition of *make***

Page 6, line 9—

omit

13

Clause 11**Proposed new section 222B (2)**

Page 6, line 15—

insert

- (2) In this section:

meeting facilities—

- (a) includes use of a room and anything reasonably necessary for the conduct of the meeting in the room; but
- (b) does not include any food, drink or other gift associated with the use of the facilities.

Examples—par (a)

tables, chairs, photocopier, microphone, computer

14

Clause 11

Proposed new section 222B, new definition of *prohibited donor*

Page 6, line 15—

insert

prohibited donor means—

- (a) a property developer; or
- (b) a gambling business.

16

Clause 11

Proposed new section 222C (1), definition of *property developer*, paragraph (b) (i)

Page 6, line 23—

omit

17

Clause 11

Proposed new section 222C (1), definition of *property developer*, paragraph (b) (ii)

Page 6, line 25—

omit

18

Clause 11

Proposed new section 222C (1), definition of *property developer*, examples

Page 7, line 2—

omit

19

Clause 11

Proposed new section 222C (1A)

Page 7, line 11—

insert

- (1A) To remove any doubt, for subsection (1), it does not matter if a corporation is prevented from distributing profit to another person.

Examples

- 1 a not-for-profit company whose governing documents prohibit assets and income being distributed to its members
- 2 an incorporated association

20

Clause 11

Proposed new section 222D (1), definition of *close associate*

Page 7, line 17—

omit

property developer

substitute

prohibited donor

21

Clause 11

Proposed new subdivision 14.4A.2 heading

Page 8, line 19—

insert

Subdivision 14.4A.2 Gifts from property developers

22

Clause 11

Proposed new section 222DA

Page 8, line 19—

insert

222DA Definitions—sdiv 14.4A.2

In this subdivision:

decided—a relevant planning application is ***decided*** if—

- (a) for an application to make a variation to the territory plan—
 - (i) for a draft special variation—the planning and land authority has prepared a draft special variation under the *Planning and Development Act 2007*, section 85B; and
 - (ii) for a technical amendment—the plan variation is notified under the *Planning and Development Act 2007*, section 89; and
 - (iii) in any other case—the planning and land authority has prepared a draft plan variation under the *Planning and Development Act 2007*, section 60; and
- (b) for any other case—it is decided in accordance with the *Planning and Development Act 2007*.

make, a relevant planning application, means make, or cause another person to make, the application.

23

Clause 11

Proposed new section 222E heading

Page 8, line 20—

omit the heading, substitute

222E Meaning of *relevant planning application*—sdiv 14.4A.2

24

Clause 11

Proposed new section 222E (1)

Page 8, line 21—

omit

division

substitute

subdivision

25

Clause 11

Proposed new section 222EA

Page 9, line 21—

insert

222EA Ban on gifts from property developers etc—less than \$250

- (1) This section applies if—
 - (a) a property developer, a close associate of a property developer or a person on behalf of a property developer or close associate, gives a gift to a political entity; and
 - (b) the gift, together with any other gift made by the person in the financial year, is less than \$250; and
 - (c) either—
 - (i) at the time a gift is given, the property developer, or a close associate of the property developer, has made 1 or more relevant planning applications that have not been decided; or
 - (ii) in the 7-year period before a gift is given, the property developer, or a close associate of the property developer, has made 3 or more relevant planning applications.
- (2) The giver of the gift must pay to the Territory an amount equal to the amount of the gift.
- (3) The amount payable under subsection (2) is a debt payable to the Territory by the giver of the gift and may be recovered by a proceeding in a court of competent jurisdiction.

26

Clause 11

Proposed new section 222F heading

Page 9, line 22—

omit the heading, substitute

222F Ban on gifts from property developers etc—\$250 or more

27

Clause 11

Proposed new section 222F (1) (aa)

Page 9, line 24—

insert

- (aa) the gift, together with any other gift made by the property developer in the financial year, is \$250 or more; and

28

Clause 11

Proposed new section 222F (2) (aa)

Page 10, line 7—

insert

- (aa) the gift, together with any other gift made by the close associate in the financial year, is \$250 or more; and

29

Clause 11**Proposed new section 222F (3) (ba)**

Page 10, line 20—

insert

- (ba) the gift, together with any other gift made by the person on behalf of the property developer or close associate in the financial year, is \$250 or more; and

32

Clause 11**Proposed new section 222FA**

Page 11, line 20—

*insert***222FA Ban on acceptance of gifts from property developers etc—less than \$250**

- (1) This section applies if—
- (a) a political entity accepts a gift made by, or on behalf of, a property developer or a close associate of a property developer; and
 - (b) the gift, together with any other gift made by the person in the financial year, is less than \$250; and
 - (c) either—
 - (i) at the time the gift is given, the property developer, or a close associate of the property developer, has made 1 or more relevant planning applications that have not been decided; or
 - (ii) in the 7-year period before the gift is given, the property developer, or a close associate of the property developer, has made 3 or more relevant planning applications; and
 - (d) the political entity has not taken reasonable steps to ensure that—
 - (i) the person giving the gift, or the person on behalf of whom the gift is given, is not a property developer or a close associate of a property developer; or
 - (ii) neither of the circumstances mentioned in paragraph (c) apply to the property developer or close associate.

Example—reasonable steps

- 1 giving potential donors written notice that donations from property developers or close associates of property developers are prohibited
 - 2 asking the person who gives the gift about whether the person is a property developer or a close associate of a property developer
- (2) The financial representative of the entity must pay to the Territory an amount equal to the amount of the gift.
- (3) The amount payable under subsection (2) is a debt payable to the Territory by the financial representative for the political entity and may be recovered by a proceeding in a court of competent jurisdiction.

33

Clause 11**Proposed new section 222G heading**

Page 12, line 1—

omit the heading, substitute

222G Ban on acceptance of gifts from property developers etc—\$250 or more

34

Clause 11

Proposed new section 222G (1) (aa)

Page 12, line 4—

insert

(aa) the gift, together with any other gift made by the person in the financial year, is \$250 or more; and

written statement

Schedule 6

Electoral Amendment Bill 2020

Amendments moved by the Attorney-General

1

Clause 2

Page 2, line 3—

omit clause 2, substitute

2

Commencement

This Act commences on 1 July 2021.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

4

Clause 11

Proposed new section 222F (3) (b)

Page 10, line 20—

after

property developer

insert

or a close associate of a property developer

5

Clause 11

Proposed new section 222F (4) (a)

Page 11, line 8—

after

property developer

insert

or a close associate of a property developer

Schedule 7**Electoral Amendment Bill 2020**Amendments moved by Mr Coe (Leader of the Opposition)**1****Clause 11****Proposed new section 222G (2), examples****Page 12, line 22—***omit the examples, substitute***Examples**—reasonable steps

- 1 obtaining a written declaration from the person who gives the gift about whether the person is a property developer or a close associate of a property developer
- 2 obtaining a written declaration from the person who gives the gift about whether the circumstances mentioned in s (1) (b) apply in relation to the gift
- 3 asking the person who gives the gift whether the person is a property developer or a close associate of a property developer
- 4 for a fundraising event intended to collect gifts from a large number of potential donors, providing clear written notice to potential donors that property developers, and close associates of property developers, are prohibited from giving gifts to a political entity

Schedule 8**Electoral Amendment Bill 2020**Amendment moved by the Attorney-General to Ms Le Couteur's proposed amendments**1****Amendment 2****Proposed new clause 4***omit proposed new clause 4, substitute***4 Offences against Act—application of Criminal Code etc
Section 3A, note 1***insert*

- s 222F (Ban on gifts from property developers etc—\$250 or more)
- s 222G (Ban on acceptance of gifts from property developers etc—\$250 or more)
- s 297A (Misleading electoral advertising)