



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

SELECT COMMITTEE ON ESTIMATES 2022-2023

(Reference: [Inquiry into Appropriation Bill 2022-2023 and Appropriation
\(Office of the Legislative Assembly\) Bill 2022-2023](#))

Members:

**MR J MILLIGAN (Chair)
MR A BRADDOCK (Deputy Chair)
DR M PATERSON**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 1 SEPTEMBER 2022

**Secretary to the committee:
Dr David Monk (Ph 620 50129)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

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Amended 20 May 2013

The committee met at 9 am.

Appearances:

Office of the Inspector of Correctional Services

McAllister, Mr Neil, Inspector of Correctional Services

Minty, Ms Rebecca, Deputy Inspector of Correctional Services

THE CHAIR: Good morning, I declare the meeting open. Welcome to day 10 of the public hearings on the Select Committee on Estimates inquiry into budget estimates for 2022-23.

The proceedings today will examine the expenditure proposals and revenue estimates for the Inspector of Corrective Services; the Justice and Community Safety Directorate; the Chief Minister, Treasury and Economic Development Directorate; Environment, Planning and Sustainability Development Directorate; the Office of the Work Health and Safety Commissioner; and the Human Rights Commissioner.

The committee would like to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be attending today's event.

Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if you could use the words, "I will take that as a question taken on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

In the first session, we will hear from the Inspector of Corrective Services. We welcome Mr Neil McAllister and Ms Rebecca Minty.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to that privilege statement. When you speak for the first time, can you confirm for the record that you understand the privilege implications of that statement.

As we are not beginning with opening statements, we will go straight to questions. I will start off with the first question in relation to funding. Can you tell us about your funding and staffing situation? Did you put in a budget submission for increased staff for this year, and do you know if your submission was successful this time around?

Mr McAllister: The short answer to the question is that we have had a budget bid in for about three years to increase our staffing from 1.8 FTE to 2.8 FTE—in other words, one staff member.

That has languished. It has not been approved. We have been employing a third person out of our operational funding. Just to remind members, when the original budget for the office was constructed in 2017, the then bill did not have provision for the oversight

of Bimberi, the youth justice centre. That was added after the budget had been formulated, and it has never been increased to reflect that.

Earlier this year, our office was also appointed as a national preventive mechanism under the OPCAT arrangements. We have received no ongoing funding for that either. Does that answer your question?

MR BRADDOCK: I want to clarify your jurisdiction. Do you have oversight of the ACT police watchhouse or the ACT police cells at all?

Mr McAllister: No, Mr Braddock, we do not. The Inspector of Correctional Services Act is limited to, in effect, the Alexander Maconochie Centre, the Court Transport Unit under Corrective Services, and Bimberi Youth Justice Centre under CSD. We have no jurisdiction, if you like, over police cells or the watchhouse.

DR PATERSON: My question is in respect to the healthy prison review. That is due to be tabled at the end of this year—is that correct? I am wondering if we can get an update on how that is progressing and if there are any challenges with that report.

Mr McAllister: I will refer that to Deputy Inspector Minty. She is the lead reviewer, if you like, on the healthy prison review.

Ms Minty: I have read and acknowledge the privilege statement. The healthy prison review is on track to be tabled this year. We are looking at November-December.

As you are probably aware, we did our first review in 2019—so two years since we started—and this is a three-year gap. It is progressing well. There have been extensive consultations out at the jail with detainees and staff. We have repeated a survey that we did in 2019, so that is proving useful as a benchmarking tool, because we have asked the same questions, and it is interesting to compare.

I will not pre-empt what the findings of that review will be. We have had excellent cooperation from Corrective Services. They have supported every request that we have had and are very amenable to our engagement. We have our own keys at the jail, so we can walk around at any time and talk to anyone. We have not been hindered in that at all.

In terms of the substantive issues, one of the big issues will be—and I do not think this will be a surprise to anyone—the lack of structured days and lack of activities out of the jail. That has come up in our critical incident reports in the past. The lack of education, at the moment, is a matter of great concern.

DR PATERSON: I do not want to ask you to say too much, but in terms of COVID happening in the middle of those two reviews, how much do you think that is going to impact on the findings?

Ms Minty: Absolutely, it has had a huge impact on staff and detainees, and it has been a really challenging time for everyone out there. It will be difficult to separate in some ways—for example, programs had to be cut back because staff were not able to get out there, and we have to consider that as well.

Now that we are living in a “COVID world”, I think it is important to be forward looking and look at how we can move forward and address any gaps that have appeared as a result of COVID.

DR PATERSON: I think, last time we spoke, you were using the Indigenous liaison, or Official Visitor, to support you in your work in the facility?

Ms Minty: Is the question relating to how we engage with the Indigenous detainees?

DR PATERSON: Yes.

Ms Minty: We work closely with the official visitors, as well as the other oversights. We sit and meet with them regularly and share information so that we do not overlap in our duties. Often, for example, detainees might have a complaint that we would then refer to the Indigenous Official Visitor. In relation to this review, we engaged an Aboriginal-controlled organisation based in Sydney called Deadly Connections Community and Justice Services, who ran focus groups with the Indigenous detainees and provided us expert input. Because, as Mr McAllister has mentioned, our staffing is fewer than three FTE, we have to draw in this expertise.

We do not have an Indigenous staff member, and it is vital, and our act requires, that we use people with similar cultural backgrounds and understanding. We have sought to do that here with Deadly Connections and in other spaces too—for example, an expert with a disability has supported us with working on the disability aspect of the review. The lived experience of people is really important, and we observed that it really assists in getting good communication with whomever we are talking to, whether it is detainees or staff members or programs people.

THE CHAIR: Has any organisation sent submissions to the review, and which ones?

Ms Minty: Yes. I will have to take on notice how many we have had, but I would say more than 10. We did invite submissions from community groups, and we are also grateful for the support of the ACT Council of Social Services, because they have their justice network, which is a regular network of community organisations, academics and others that follow the justice sector with great interest. We had a forum with them to gather input. Certainly, some community groups did provide direct submissions.

Our email address is whitelisted for detainees, and staff are also able to contact us by email. That has been quite useful to hear different viewpoints, but not all the detainees can use email out there or have access to a computer, or they are illiterate, so we have been going out quite a lot.

THE CHAIR: What were some of the education issues?

Ms Minty: At the moment in the jail?

THE CHAIR: Yes.

Ms Minty: They simply do not have education. The previous contractor’s contract

expired—I am sure the commissioner can update you more specifically—around September last year. It was at the time that COVID was becoming an issue, so that contract simply has not been awarded. It has been a year now that there have been no education services in the AMC, and that includes vocational services too. So we are not just talking about basic literacy and numeracy; we are talking about trades and important skills for rehabilitation.

THE CHAIR: So no vocational training is happening at all?

Ms Minty: There has been, recently, one course operational, with relatively low numbers. I understand that Corrective Services are looking at the stopgap measures or immediate programs they can put in place until that contract gets filled. You can ask the commissioner about the time frames around that. When people are in jail, keeping them busy is obviously a really important thing. Education is part of that; it is not the whole solution. But it is a huge gap.

THE CHAIR: Yes.

MR BRADDOCK: I am trying to understand—the ACT government has a health-based approach to drug use, and we deal with addiction in that way. How does that translate into a prison setting, where it almost seems like the whole system is set up around a punitive approach? If contraband is found, they are punished. They are not encouraged to take health-based solutions towards that. Are you able to advise me in any way in terms of what would be the best approach within a corrective setting to address that?

Ms Minty: It is definitely a tricky issue, and there is a tension there that you highlight. Justice health services take a health-based approach for alcohol and drug treatment. There is a community organisation that runs a therapeutic community in one unit of the jail that focuses on desistance. There are new programs coming online for alcohol and drugs. You are right that drugs are a contraband in the jail. They are getting in, detainees are using them and there are disciplinary consequences associated with that. It is a difficult tension.

Some jails overseas would use harm minimisation things such as the needle and syringe programs, which is not the case here in the ACT, for long and historic reasons. There are certainly harm minimisation measures that could be put in place, like a needle and syringe program, to reduce the harm and further support detainees that do want to get off drugs. Detox, as well, is a big issue because, when people come into custody, they are going through detox, and it can be an extremely difficult environment. They get help and supports from justice health services, but I have heard from detainees that it is a really difficult experience. Mr McAllister, do you want to add anything further?

Mr McAllister: Thank you. This is always a dilemma in prisons between the rules that apply and the laws that apply more generally in the community. There is always going to be some punitive response to that possession of methamphetamines, for example. but in my experience and opinion, I think there also needs to be a balance. Having found a detainee in possession of drugs or whatever, there needs to be some sort of therapeutic interventions around that, rather than just punishment or discipline.

MR BRADDOCK: Would you describe that as the best practice that exists—that sort of balancing between the therapeutic supports rather than pure punishment?

Mr McAllister: No. I do not purport to be a drugs or health expert. I am just expressing a personal opinion after working in the business for 30 years. As I said, I do not purport to be health expert in that field. It is just my view, simply having worked in dozens and dozens of prisons over the years.

MR BRADDOCK: Thank you.

THE CHAIR: Can you give the committee an update on your work as the ACT National Preventive Mechanism for adults and young people in detention? How has your designation as the National Preventive Mechanism affected your work operationally?

Ms Minty: Thank you for that question. To provide context: in 2017, Australia ratified the Optional Protocol to the Convention Against Torture. This requires every jurisdiction to set up or designate bodies to monitor detention, essentially broadly similar to what we do in that it takes a preventive approach. It does not react to complaints or advocate for young people in detention, for example. The body needs to go in regularly and address risks, basically.

Earlier this year, we and the ACT Human Rights Commission and the ACT Ombudsman were designated as ACT's NPM. We, as an entity, have not received any further funding from the ACT government, although the commonwealth government has funded us to the tune of \$71,500 per year for two years, specifically for establishing this cooperative national preventive mechanism function for the ACT. It is a relatively small amount of money but it has been excellent to work out what we need to do to get in place and make sure we fulfill the requirements of this treaty. We intend to engage someone to work between the three entities to look at things like: how often do we have to go; what is the best methodology that we should use; who should we be talking to and consulting; and what should be our governance structure?

In terms of the impact on our monitoring, the challenge we have with low staffing is that when we do a healthy prison review, for example like we are at the AMC, it is incredibly resource-intensive, so we have to put all our attention to that and it means that we are not regularly visiting Bimberi—we simply cannot, and the OPCAT does require regular visits. I think it is a gap for us that needs to be addressed. Also, I guess, because of the nature of the AMC, there are more critical incidents out there. Fortunately there have not been critical incidents at Bimberi—

THE CHAIR: Yes.

Ms Minty: But when there are these serious critical incidents, our office is required under our legislation, or we have the discretion, to conduct a review. So that takes our attention too. We cannot always plan for that.

I think originally it was envisaged that it would be one critical incident—or we were funded for one critical incident per year. But it has averaged about three to four that we have reviewed—

THE CHAIR: Right.

Ms Minty: —including most recently the very sad death in custody—

THE CHAIR: Yes.

Ms Minty: So when you have very serious incidents like that it takes our resources to look at it, importantly, and it should as well.

THE CHAIR: In the last annual report, you mentioned that there would be great value in extending an invitation to the UN Sub Committee on Prevention of Torture to visit ACT. My question is do you have the authority to do that? What would be the benefit?

Ms Minty: Well in fact the UN Sub Committee for the Prevention of Torture will be visiting Australia 17 October this year. They scheduled a visit in 2020, but with the outbreak of COVID globally they had to postpone that visit. So they will be coming to Australia. They do not announce which, so they have the power to—or they can visit any place of—

THE CHAIR: Okay.

Ms Minty: —deprivation of liberty, anywhere in Australia. They do not announce in advance where they will be going. So they may come to the ACT, they may come to AMC, to Bimberi, to Dhulwa or to another place of detention.

We, as part of the NPM, have certainly made ourselves available if they wanted to talk to us. It is at their discretion. So yes, we will be getting a bit more attention on OPCAT in Australia in the coming month.

THE CHAIR: Yes. So how long will they be here for?

Ms Minty: Two weeks.

THE CHAIR: Two weeks?

Ms Minty: Yes.

THE CHAIR: Okay. Fair enough.

Ms Minty: A lot of ground to cover in that time—

THE CHAIR: Yes, absolutely.

Ms Minty: but ACT may well be on their—

THE CHAIR: Radar.

Ms Minty: agenda.

THE CHAIR: Yes. Got you.

MR BRADDOCK: Actually a supplementary on that. You mentioned there will be a lot of attention on that in the lead up. What work do we need to do to prepare or to make sure we are in a good position for that visit?

Ms Minty: We, in the ACT?

MR BRADDOCK: Yes.

Ms Minty: In terms of preparation there is no formal preparation. They are coming; they certainly visit any place of detention; part of their visit purpose is also to help entities like us—to help us with our establishment, with our methodology.

I guess what we could do to prepare is think about appropriate funding and appropriate resourcing for oversight, and ensuring that there are no gaps. As Neil mentioned already, the police watchhouse is not within our jurisdiction, but there is still some discussion as to who covers that, whether it is at a commonwealth level by the Commonwealth Ombudsman or by the ACT Ombudsman. It is a question that is still being considered.

Oversight of all places is what they will be looking at promoting. So I think in the ACT we need to make sure that we have appropriate coverage of all places of detention, in terms of monitoring.

MR BRADDOCK: So to clarify, it has not yet been agreed as to whether it is the Commonwealth Ombudsman or the ACT Ombudsman—noting they are within the same organisation—that is responsible for that oversight of the watchhouse?

Ms Minty: Correct. It is still a matter that is being discussed between all the different entities, yes.

MR BRADDOCK: Thank you.

Mr McAllister: I just want to add to that. I think part of the preparation is not so much on the part of the NPMs. We certainly have to be prepared. But I think it is very important that the agencies who operate these facilities are well prepared and have their staff well prepared because the SPT could turn up at 6 pm at the AMC and require admittance. I do not think the ACT government would want to be embarrassed if they are turned away. So for those agencies and agency heads—we cannot do anything about it—but the staff need to understand that the SPT may turn up with their UN identification and apparently, they have a bodyguard, for want of a better description.

So we are just trying to avoid embarrassment to the government, and indeed the ACT generally if things went bad on one of those visits.

MR BRADDOCK: By things going bad, do you mean them getting turned away or the ACT government not being able to demonstrate that it meets the OPCAT requirements?

Mr McAllister: I think it is more just preparing agency staff to understand what the powers of the SPT are and how they might exercise those powers.

I stand to be corrected, but I think when they went to New Zealand, they inspected some Royal New Zealand Navy cells. I think there were about three of them, and they turned up unannounced. That is the sort of flexibility they have; they may announce that they are going to visit a place, or they may not. So it is really a matter of having staff at all levels prepared to deal with those instances, if they occur.

MR BRADDOCK: Okay. Thank you.

DR PATERSON: In your summary of your recommendations on the different reports that you have conducted, with the critical incident reports, half the recommendations are agreed. Quite a high number are agreed in part or in principle. Is there something different in the way those reports are written or conducted, or framed, that creates such a high figure for the agreed in part or in principle?

Mr McAllister: May I take that question? I would like to say that we try to write our recommendations so they are reasonably clear and straightforward. We try not to make them too complicated. At times, some are agreed in principle and some are agreed in part, and I really do not understand at times what the difference is between agree in principle or agree. So we do have these three categories of agreed. I understand some of them are agreed in principle because they may believe it is a good thing to do but they may not have the government budget to do it. But I am not generally sure why that cannot be just agreed. But I cannot—it might be a question that you might wish to put to—

DR PATERSON: The minister.

Mr McAllister: The minister or the directors-general.

DR PATERSON: With the critical incident reports, there are 14 recommendations that are pending a response. What sort of mechanism or what reminder do you announce to say are still waiting? And how long do you wait for a response for?

Mr McAllister: There is nothing in the respective sections of the Inspector of Correctional Services Act that actually requires the government of the day to respond formally to recommendations. But we have two critical incident reports that we have not had responses to. One was the infamous escape, which I am sure you all saw on television. And the other was the far more recent death in custody. There is no requirement under the act, so we cannot really do anything to encourage or require the government of the day to respond. I understand the death in custody is quite recent. I also understand that it is before the coroner and that may be a good reason to wait to make the formal response at this stage. So the short answer is that they respond sometimes within a couple of months, sometimes six months. But again, it is not a matter that we have any control or influence over.

DR PATERSON: Okay. Thank you.

Mr McAllister: Sorry, can I just to add to that?

DR PATERSON: Yes.

Mr McAllister: When we do get the formal government responses, we upload them to our website under that particular report heading. So if you look at critical incidents you will see our report, and if there has been a government response it is uploaded too, so that people can read what the government had to say about those recommendations.

DR PATERSON: Okay. Great. Thank you very much.

THE CHAIR: Okay. Given the time is now 9.30 am, on behalf of the committee, I would like to thank Neil McAllister and Ms Rebecca Minty, for your attendance today.

If there have been any questions taken on notice, could you please provide the answers to the committee secretary within five working days.

This session is now closed. Thank you.

Short suspension.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Planning and Land Management, Minister for Police and Emergency Services, Minister for Corrections, Minister for Industrial Relations and Workplace Safety

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Doran, Ms Karen, Deputy Director-General, Community Safety

Johnson, Mr Ray, Commissioner; ACT Corrective Services

Pamplin, Ms Narelle, Assistant Commissioner, Offender Reintegration, ACT Corrective Services

Cvetkovski, Ms Dragana, Chief Finance Officer, Corporate Services

THE CHAIR: In this session, we will hear from the Minister for Corrections, Mr Mick Gentleman, and officials. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to that privilege statement?. The first time witnesses speak please confirm for the record that you understand the privilege implications of that statement.

We are not going into opening statements, and we will go straight to questions.

MRS KIKKERT: The contract for Foresite Training to provide education options to detainees at AMC expired in June 2021. In an answer to a question during the last annual reports hearings, you said that the process was selecting a new education provider was well advanced but is not yet complete. Has the tender process since been completed?

Mr Gentleman: Thank you for the question. Can I acknowledge the privilege statement and the implications for that. I will pass directly to the commissioner to give you the update on the details for that contract.

Mr Johnson: I acknowledge the privilege statement. The contract from the previous provider ostensibly expired in June of last year. It was extended for six months, noting that the contract would finish and we would have to go through a tender process. Foresite withdrew from the contract in October of last year. The reality was education had paused anyway because of the lockdowns and so forth that were going on. So they had not come back into the centre to do more education after June.

As we said last time, the process of progressing the tender has been ongoing since that point. It has been a longer process than I thought it would be. Statements of requirements were finalised late last year; market tender went out early this year. I am sensitive about the commercial-in-confidence arrangements that we are in at the moment in terms of conversations with people who have put forward bids. We continue to negotiate to try and get what we need out of that contract. So that is where we are, at this point in time.

MRS KIKKERT: Okay. At any point after October, since the last contract of Foresite Training, have detainees at AMC received any sort of education?

Mr Johnson: There have been programs run on an ad hoc basis. There have been three different programs run in terms of construction. Detainees are still being supported for their tertiary studies, where they are undertaking tertiary studies with external providers.

MRS KIKKERT: Is that online?

Mr Johnson: It could be, yes, online. Sometimes we have to do a lot of work to assist them with that because the online environment is more difficult in the custodial context. But yes, it is primarily provided online. For example, we have also had one of our transitional release centre attendees undertake a test and tag program in preparation for them to return to community. So it has not completely ceased. We are still looking at ways to get education back into the centre as we progress the tender process. I am hoping to make a final decision around the tender process as soon as we possibly can.

MRS KIKKERT: In 2019 during the Healthy Prison Review, the detainees raised concern that some of the education provided at AMC was not relevant to them when they exit AMC, that it will not help them in providing employment and other courses for them outside of AMC. What has been the execution from AMC staff, or corrections services, to make sure that this has been addressed with going out to tender with the new education provider?

Mr Johnson: Indeed. So the process of developing the statement of requirements for the new tender, and for us to understand primarily what the drivers are for employment opportunities in the ACT, where the skills gaps are, and then, understand the programs we want in our list of education programs that we can offer. That was all part of determining the statement of requirements for the tender that went out in the tender process.

MRS KIKKERT: What is the hurdle with this tender process? Knowing that the contract expired in June and that Foresite Training was not going to carry on after October, we are almost approaching a year now. What is the hurdle? What is the great obstacle in this, in overcoming this issue, that is really, really, important to have solved last year?

Mr Johnson: Yes. The negotiation process with potential preferred tenderers has been a long process. A number of people who bid in the first process did not put sufficient material in their tender bid to be considered. So we were limited by who we had on our panel and we need to get the service we need to get. I will not say anything more about it, because we have not finished discussions with potential tenderers. I hope to bring that to a conclusion very soon. But that is where we are. If you ask me why it takes so long; the tender process is a long and complicated one. One has to make sure that you provide government with value for money through a process and this is a fairly significant contract for us. So I am really keen to get it right the best we can.

MRS KIKKERT: Is it hindering the rehabilitation of the detainees because this issue has been an ongoing battle for corrections services to make sure that they have an education provider? I mean, what impact is that having for the detainees at AMC?

Mr Johnson: Well, as I said, for a period of time we have not had as good a suite of training programs as we would like to have. The challenge in not being able to issue

them, and to have them available to detainees is not ideal.

Mr Gentleman: If I could say, Chair, it is important that we do get the procurement of this correct. There are a lot of opportunities to assist detainees reintegrate back into community through training processes. And of course, looking at the previous applications, there was a lot of comment that they were not appropriate or needy for the people reintegrating back into community.

So it is important, as the commissioner has said, that we do get the right industries into the procurement to allow that training to occur in a manner that assists detainees to get back into community.

DR PATERSON: Given we are in a skills shortage at the moment, and it is all about training and getting people into employment: when the preferred tender is chosen, what is the timeframe they will be in AMC and getting the programs up and running?

Mr Johnson: I hope as very soon as possible after the point where we have chosen the contractor. We would expect them to be able to be up and running, if that is the path we take with them, to be up and running as soon as they possibly can be. I am loath to put a timeline on that, because I fear putting a line in the sand and then finding we have not been able to meet that. But we want to do it as soon as we reasonably can. It is preferable to have them in the service as quick as we possibly can.

DR PATERSON: Is the skills offering that you are tendering for going to be something exciting for detainees to engage with?

Mr Johnson: We hope so. It is certainly drawn, in consultation with industry, from what the skills requirements are and what skills might be best to pass onto detainees. So we hope it is an exciting package of programs that will deliver for them when we can get it up and running.

DR PATERSON: Great, thank you.

THE CHAIR: How much was Foresite Training receiving as funding in this year?

Mr Johnson: I would have to that one on notice, I think. I do not know the exact figure.

THE CHAIR: Okay, thank you.

MR BRADDOCK: I wanted to confirm whether spit hoods are utilised in the Alexander Maconochie Centre at all?

Mr Johnson: No, it is not in our program of use of force options.

MR BRADDOCK: Do you have any in your possession?

Mr Johnson: No. As best I can work out, from my understanding of the history, it has not been, at any point, on our list of options.

MR BRADDOCK: Thank you.

DR PATERSON: Minister, we heard from the inspector this morning that there has been no response to their critical incident report on the detainee escape incident. I was wondering why there had been no response to that?

Mr Gentleman: There is a timeline for responding, and we are working through that response at the moment. We should have that out very shortly. I will just ask the commissioner if he has a timeline.

Mr Johnson: I might have to get that checked. I am sure we could double check. I thought we were a fair way down the track with doing that, if we had not already. So yes, I could check what the timeline is. We are certainly always within the timelines that we are responsible to government to provide. I will see if I can get an answer to that one.

DR PATERSON: No, that is fine.

Mr Gentleman: If you look at our responses to the inspector's reports previously, we have agreed, or agreed in principle, to almost all recommendations and then worked through a process of implementing those recommendations into our processes at AMC.

DR PATERSON: Yes. We received a summary of recommendations that have been accepted by government for all of their reporting. With the critical incident reports, there are quite a large number that are agreed in part or in principle. I asked the inspector if they have any reflection on why there seems to be many more in the critical incident reports that are not just agreed. Do you have any reflections on why that might be?

Mr Gentleman: Yes, I will kick off and then ask the commissioner and director-general to make comment as well. Generally, it is where there is an aspect of the recommendation that might not be within our total control. So whilst we agree in principle with the avenue and the meaning of the application, we might not have either the process or the lawful authority to make that as a full agreement and, therefore, we agree in principle. Then we normally outline the process that we are going to go through, after that agreement in principle. So yes, we will agree to implement A, B, C by so and so time. We will not be able to agree to D, for example, because it is not within our remit or not within the lawful confines of the Corrections Act, for example.

DR PATERSON: Yes.

Mr Johnson: My only reflection on that would be the same. Inevitably, we understand what the inspector is getting at with the recommendation. We have spoken to the inspector pretty regularly through the process. We understand where he is going with it. Sometimes we do not think that initiating a response to the recommendation exactly as stated will achieve the best outcome, or we think we can do it in a better way or a different way; hence that might take us down a path where we agree in principle that, yes, we will achieve that end, but the pathway might be slightly different from the recommendation.

Mr Glenn: I have read and acknowledge the privilege statement. I probably do not have a whole lot more to add to the point that the commissioner made about accepting the

outcome that the inspector is seeking to achieve while potentially having a different path to get there, either because, as the minister says, it is not within our complete control to be able to take that path or because there might be a different way of doing it that will work better for us. That is really the cause for not agreeing completely. That is a discussion that we have very overtly with the inspector, about the fact that we are agreeing with the outcomes sought but we are finding a different way to get there that will work better operationally.

DR PATERSON: Do you think that is because—for example, with the escape incident—it is not within AMC’s direct remit, and you do actually get a broader scope of recommendations; would that be a fair assessment?

Mr Johnson: Yes, possibly. For example, if a recommendation was to develop an MOU with another organisation, it might be that, when we talk to that other organisation, they would rather deal with solving the issue in a different way than with an MOU. We might say, “We understand in principle that that MOU might not necessarily be the best way to solve the problem, so we’re going to do it this way, after we have consulted with others.” You are right; often the recommendations require us to engage with others and, because we always have a little bit of time and a bit of forewarning as to what is coming, in terms of recommendations, we might already be working on it, and we find that there is a better way to do it, in consultation with others. That is often where we find ourselves.

MRS KIKKERT: My question is about the case management unit. The case management unit is a vital part of the ACTCS efforts to rehabilitate detainees and reduce recidivism. As of June 2021, the ACTCS was funded for 10 caseworkers. Their case loads can be anywhere from 40 to 60 at a time. Each case can be quite complex, and they must plan months in advance, in an environment with high volatility and turnover, and also frequently act as counsellors for their detainees. Given all of this, is there any intention to increase the numbers of case managers or give them any specific supports?

Mr Gentleman: Thanks for the question. It is an important one, as we look to support detainees through their process at AMC. Of course, funding is important, too. We look at the numbers that are travelling through the centre over years, in order to see what we would need to support those case managers. I will ask the director-general and our accounting team to have a chat about how much funding we have provided and what we see as the needs for the future.

Mr Glenn: The 2022-23 budget contains a range of investments for ACT Corrective Services, including some investment in intensive case management, to be able to address particularly complex detainees within the system and to be able to work with them through the process.

MRS KIKKERT: Is that to increase case management?

Mr Glenn: Yes, and to provide a particularly intense form for those detainees who require it. That is in addition to the normal case management.

MRS KIKKERT: It is a program; it is not to hire additional staff. Is that what you are talking about?

Mr Glenn: I will check that. Ms Doran might be able to assist me.

Ms Doran: I have read and acknowledge the privilege statement. Thank you for the question. This is a particularly complex area. While you have focused on case managers in particular, there are a range of other services and programs that all go to supporting detainees in their rehabilitation and reintegration. In a moment I will pass to Narelle Pamplin, who can answer that in a lot more detail.

The director-general was referring to some specific funding in this year's budget which was targeting intensive case management for Aboriginal and Torres Strait Islander detainees. It is a recognition of what are often particular complexities of their circumstances and their needs for support. It is recognising that the load on case managers can be significant, particularly for these more difficult cases. Providing extra resources to focus on those more complex cases allows the load for the other 10 case managers to be spread more evenly.

Those case managers, having regard to the way in which they are used, support detainees end to end through their process in the system, and help them to access other programs and other community service providers. That is how we are trying to manage that load. I will pass to Narelle Pamplin; she will be able to add much more detail regarding how that works day to day.

Ms Pamplin: I have read and acknowledge the privilege statement. We have 10 positions within the case management unit. Additionally, we have realised the complexity of planning, and particularly release planning, and we have added two additional case managers to that team. Their role is to start planning for those pre-release issues, from seven months until the earliest release date. One of those positions is targeted at women and has a specific focus on safety planning for women, and making sure that their release from the AMC is as safe and supported as possible.

We have a remand framework and a sentenced framework for both of our case managers, and have extended our planning to ensure that the specific short-term needs of those on remand and those who are sentenced are reflected correctly in those case management plans. We have done some specific training with Amovita International to ensure that our case managers are appropriately skilled in the complexities of case management.

Mr Gentleman: As the DDG mentioned, that program for intensive case management involves \$966,000 over the next couple of years. Those case managers will follow individual clients for an intensive period and support them with the challenges or complexities that they are experiencing at different touchpoints in the justice system. It will look to connect individuals with different existing programs and services and, importantly, follow them through from one stage to the next, to avoid them being passed from one person to the next without some support. It was about seeing that as a hurdle, if you like.

MRS KIKKERT: Could you clarify something, Minister? The 10 case managers are different to the case managers who will be upholding this special program for complex—

Mr Gentleman: Yes. This is in addition.

MRS KIKKERT: How many case managers are doing the complex cases?

Mr Gentleman: The intensive case management program—

Ms Doran: The funding that has been provided for the two years will support three case managers in that role. It is a pilot program, so we will be monitoring the effectiveness of it and, if successful, looking for ongoing funding support from government. Importantly, we will also be looking to leverage through that program an identification of what might be gaps in the system or what might be systemic issues, feeding those back into the directorate proper, and looking to find longer term, sustainable solutions. It is a program both to provide case management support to individuals at the time and to leverage and identify systemic issues that we can fix in the longer term.

MRS KIKKERT: I know that, in other jurisdictions, they have a forensic psychologist that comes into the prison to train case managers on how to deal with detainees. Would you consider having a forensic psychologist come into AMC to help case managers to deal with detainees?

Ms Doran: Absolutely. I will pass that to our specialist.

Ms Pamplin: We currently have a forensic psychologist who does supervision within our teams. Currently, they have not extended to the case management team; they are working with our therapeutic teams. We certainly have contracted services with one forensic psychologist and one specialist sex offender psychologist, as part of our contract management.

Mr Gentleman: Chair, before we go to the next question, I refer to Dr Paterson's question earlier about the report on the escape. That was tabled in June. That is going on. Our government response to the death in custody is following some due process, including making sure that the coronial process is allowed to run its course, and it will be tabled as soon as we can.

DR PATERSON: With these intensive case managers, and particularly with their focus on Aboriginal and Torres Strait Islander detainees, will any of those case managers be Aboriginal or Torres Strait Islander?

Ms Doran: We would certainly explore that. This was an initiative in the current budget, so we are in the early stages of setting it up. As with all of the initiatives in this package which went to supporting Aboriginal and Torres Strait Islander peoples, we are looking to work with the community and to have discussions with them about how best to deliver it, including how we can access any community organisations that exist and provide these services.

MRS KIKKERT: The line item regarding implementing recommendations of any future custodial services—the ACT Corrective Services Blueprint for Change—has been funded for about \$12 million over the forward estimates. The Blueprint for Change itself made 15 recommendations, largely around improving staff wellbeing and the culture at the AMC. Is there a time line for the commencement of the implementation

of each recommendation over the next four years?

Mr Gentleman: We have already started implementing the changes. Today's announcement on a smoke-free AMC was one of the recommendations of the Blueprint for Change committee. I will go to directorate officials and the commissioner to provide some details on how we will be rolling those out.

Mr Johnson: The Blueprint for Change program has already kicked off. We have undertaken a number of things that are already progressing, particularly some of the things that required less effort, for want of a better word, and less time. We have already put in place things such as giving staff access, as do other areas of the public service, to the internet. We have already increased the number of staff in the training team. We have increased training opportunities where we can. There are leadership development programs being progressed.

We are starting a trial on uniforms, particularly load-bearing vests. That is a trial that is ongoing. Some crowd-control material is being purchased, in terms of protection. There are things like utility belts. The feedback was that the currently issued belt is not as effective as it could be, so we are looking at different versions of that. We are starting to trial them around the centre.

Part of the budget case is for staff increases. We ran a recruit course last year. We are in the process of running a recruit course as we speak. It is in the college. We have a program now to recruit a new lot of recruits, hopefully to start at the beginning of next year. We are giving ourselves as much lead time as we can to ensure we get a good pool. It is obviously a challenge in the current jobs market for people. All of the first responders and emergency services agencies such as ours find that getting a good pool of people applying is a challenge. We have a bit of work to do there, but I would expect that we will be able to recruit against those positions.

We are in the process of recruiting some staff, for two positions, to help the program to maintain emphasis and maintain some momentum across managing the project of works. We have the governance structure set up now to keep track of it. One of the first, more complex activities will be the smoke-free AMC, over the next little while, but all of the other things have a time line. We are still to finalise and complete it, and we expect to deliver most of these over the next two or three years.

MRS KIKKERT: Recommendation 4 of the blueprint suggests that it should be done within three months. Has that been completed—recommendation 4?

Mr Johnson: The restructure, yes. There are bits of it that we are still working on, but primarily the role of the deputy commissioner has been removed from the system. It has been restructured around the general manager reporting directly to me, which now occurs. That part of it has been undertaken. We are working on restructuring the administrative support. There is already one extra administrative support officer supporting the area managers at the AMC, which is part of that restructure. We are doing some work in terms of delegations and the appropriate levels at which decisions should be made across the various levels of the AMC. The major part of that work has progressed, and work is still continuing to make sure we have the right supports in the AMC.

MRS KIKKERT: So \$433,000 will be spent on capital works for the implementation of the blueprint. Specifically, what is this being spent on?

Mr Johnson: I do not have the figures in front of me. I might need to take that on notice, unless our finance person can answer that question.

Mr Glenn: Mrs Kikkert, I can assist you there. With the capital funding of \$433,000, there is around \$128,000 for incident response equipment. There is \$100,000 to fence the outdoor training area at the AMC, \$75,000 for additional storage, and approximately \$50,000 to fit a dome weather shield between outdoor containers. This is about making training areas more effective. There is the fit-out for a suitable training area, contingency and other related costs of \$30,000.

Mr Gentleman: I am very pleased with the outcomes from the committee and the Blueprint for Change recommendations. The government was very focused on what we could do for staff at AMC in particular, and the CTU. The recommendations and programs that have come from the committee have been focused directly on that. Of course, the government has responded with the funding to implement those.

The response from staff at AMC has been quite pleasant. We are looking forward to ensuring that we can get these recommendations in place to keep staff better trained and in a better position at AMC. It was a big responsibility and a big ship to turn around, from where it was before, but the response from staff has been very positive so far.

Mr Johnson: In terms of the question about where we are progressing, one of the important line items is in regard to wellbeing. Since the recommendations have come out, we now have an agreement with our EAP provider. They have given us a psychologist that comes to the centre regularly and is getting really good engagement. We have better support for our peer support officers, and we have recruited a wellbeing officer. Again, it is still in the negotiation stages, but we are working on having an external provider to help us with some of the other work that we need to do in terms of prevention and staff wellbeing in general. I am excited about the opportunities that presents for us. We will be, potentially, in the corrections space a leader in this in the country.

DR PATERSON: My question is in respect of having a smoke-free AMC. What is the plan for that and how will detainees be supported?

Mr Gentleman: There is quite a detailed plan to support detainees. As you may have heard me say on radio, it will not happen straightaway. Personally, I understand how difficult it is to give up smoking, so I know the pressures that detainees and staff will go through. We want to support them in a physical sense, with nicotine patches and those sorts of opportunities, to assist them to remove the smoking need, and with the wellbeing part. Being a reformed smoker, I can say that the health benefits are quite incredible. You do not just feel much better, but your tastebuds return, too. It is a very pleasant experience after you have gone through the very difficult part.

We will be implementing that over a period of time. We know that staff are on board and supportive of this move. They have to go through some changes themselves. We

know, from the experiences in other jurisdictions, how difficult this can be, so we want to take the time to do it properly. If it takes a bit longer, we will take a bit longer to do it.

In regard to the specific programs, I will pass over to staff to provide you with that detail.

Mr Johnson: It is an important point to note that a number of other jurisdictions have already gone through this process, so we are the beneficiaries of their lessons. For the most part, they have been relatively successful in implementing smoke-free in their systems.

One of the major lessons is about the time taken to undertake this process, the regular and clear communication around what is to happen and how it is to happen, and providing supports, particularly therapeutic supports, for people as they are preparing for the journey to smoke-free.

We know from data, albeit from 2016, that a reasonable proportion of detainees are keen to give up smoking; they have just not managed to do it. With that goodwill in mind, it is about giving people, whilst they are in transition, the opportunity to give up smoking and support them through the time, when the opportunity is there to give it up in their own time and at their own pace.

The other thing that we need to be conscious of is that, whilst things like nicotine replacement are valid, in and of itself, it also needs counselling support and other things that go with that. There will need to be a degree of tailoring of a program for the individual. They will all have had different experiences with smoking. Some of them may have given it up and then gone back to it; some may have never had a chance and experience of giving it up.

There will be a reasonable amount of tailoring to individuals, and a good deal of ongoing support to individuals—and, of course, the staff as well. Ultimately, this does not require them to give up, but it does require them to not smoke for periods during shift. Staff are roundly supportive of no-smoking in the facility, but some smokers will find that challenging, and we need to make sure that they are also provided with sufficient support to undertake this work.

At some time in the future, we also have to consider the fact that nicotine will become contraband, and we will have to manage the input of nicotine. Other jurisdictions have some experience of that, and can provide us with advice around it.

DR PATERSON: Finally, do you have any comprehension of the percentage of detainees, at any one point in time, who smoke?

Mr Johnson: There was a survey done a little while ago, a more national survey, that suggested up to 82 per cent of detainees were smokers. I do not have the exact figures, the most recent, but I imagine it is a relatively high proportion.

MR BRADDOCK: I am interested in what the corrections system does to support detainees' relationships with family, friends and loved ones outside the corrections

system, and why there might be certain policy limitations in place. For example, they are only allowed 45 minutes of visits per week. Can you please explain that to me?

Mr Johnson: There are a number of people in the centre—at the last count I saw, there were 394 or 395—and all of them need opportunities to visit with family. Ultimately, there are only so many places in which we can facilitate visits. Of course, COVID has not helped us. Pre COVID, we would have been able to run a higher visit throughput. We did return to a more normal visit throughput in December last year. When we returned to a more regular process of visits, we had to find time to then clean the facilities between visits. There is a day's worth of visitor programs sometimes in similar spaces, and we have to come up with a greater cleaning process. It used to be an hour; now it is 45 minutes, just for that purpose.

There are also opportunities to make contact with family through other means—telephone calls and so forth. It is not only visits. In fact, interestingly enough, for a lot of families and detainees, the AVL, the online visit, is actually really helpful, particularly if they are interstate or not nearby, as well as for kids and so forth, where engagement is less natural in the AMC than it is on a Zoom visit.

There are other parts to the connection with family, in terms of communication and the like. There are limitations in the infrastructure and the ability to put people together in rooms for visits.

MR BRADDOCK: In terms of the physical visits, is it likely to increase from 45 minutes any time in the near future, or will that stay put?

Mr Johnson: It is always under review. We always follow the health advice. We will always look at it from an infrastructure point of view and we will continue to talk about and think about what the centre looks like in future years—how we might do it better or differently, in terms of the infrastructure opportunities. My answer is that it is a bit dependent on health advice, in terms of the need for that deep clean, and whether we can find a faster way to do it. Unfortunately, at this point I do not have too many opportunities to change that.

MR BRADDOCK: Moving on to phone calls, you did mention that, but unfortunately it costs the detainees \$5 for a 10-minute phone call. Given that they only have limited funds available, that is not a lot of conversation time with family and friends. I noticed also the Inspector of Correctional Services recommendation out of the healthy prison review that looked at those call rates. What has been done in that space?

Mr Johnson: We still supplement the cost of phones. All detainees have phone cards which give them a supplementation, to help compensate for the cost of the current call program. Because of the nature of the current arrangements with the provider and the age of the system, the ability to change the phone rates is limited. We are in the process of going to market for a new detainee telephone system. We are in the process of bringing that up to a more modern standard, which also provides the opportunity to do some other things in the technological space to improve detainees' ability to connect with the outside world.

MR BRADDOCK: Have you gone out to tender or are you still in the scoping stage of

that project for updated telecoms?

Mr Johnson: I would have to check. I do not think we have gone to tender, but we are very close to going out to market for it.

MR BRADDOCK: Going finally to the virtual visits, how are the detainees able to access that, particularly those who, for various reasons, do not seem to have access to a computer?

Mr Johnson: Again, there is an AVL booking process. You can book a visit, through the AVL process, and there are AVL sites set up now around the visits area. We have AVL sites in other places, but they predominantly get used for court purposes, professional visits with lawyers and so forth. They can be booked, as can personal visits.

MR BRADDOCK: Do all detainees have access to that facility?

Mr Johnson: Unless there is some reason that, as a result of a discipline matter, there has been a loss of privileges; otherwise, yes, all detainees would have access to that facility.

MR BRADDOCK: How many facilities are available for the number of detainees out there?

Mr Johnson: If I can answer before the end of the session, I will; otherwise I will take it on notice. I think I know the answer, but I do not want to say it and get it wrong. I will try to get you an answer to that one that is absolutely accurate.

DR PATERSON: I have asked this question before about recruitment, employment and retention of women in corrections services. I am interested to hear how that has gone in the last 12 months—I know you had a recruitment round—and whether you were able to employ some women on your team.

Mr Gentleman: The recruitment of women across my portfolio is incredibly important for us, and for all of government, to see whether we can get our gender balance up. There are some challenges in some of the areas that I have control of, and an area like corrections is one. We are not sure how many women actually want to work in that sort of job. We are trying our best to give women the opportunity to apply and to be in our recruitment courses. We have had some success in that.

I will touch on some of the other portfolios as well. We are trying to do different ways of recruiting and different ways of training in some of the frontline response opportunities—in ESA, for example, and policing. We are certainly putting in the effort on our side, and we are getting some response back. I will hand over to the commissioner to give you some of the details for corrections.

Mr Johnson: It is an interesting challenge. As you mentioned, we are going through recruitment processes. We have tried to focus recruitment efforts on encouraging women to apply. Has it been as successful as we would like it to be? It probably has not been, but we have an increase in numbers of women on recruitment courses. I would like to see more over time. In the last 12 months or so, there has been a two or three per

cent increase, from a base of about 25 per cent. Generally, 25 per cent of applicants tend to be women, more or less, and that 25 per cent passes through and passes the course. That is about what the percentage is for custodial officers on the ground at this point, albeit over the last 12 months we have had a little success.

Like many organisations of a similar ilk, we are still trying to work out how we best encourage women to apply, and how we have to look differently at how we select. We get more flexibility if we get a bigger pool of people. If we are running a course of 30 and we would like 50 per cent to be women, we do not necessarily need 100 women who are suitable; we only need 15 women who are suitable. Sometimes there are opportunities to look differently at how we are going to recruit. At the moment we have found it is still a really tight recruitment market. In fact, with those who pass through to be suitable, in the latest course we had 16. We would much rather have 25 to 30. We are a little bit challenged on that front.

It is worth reflecting that other parts of Corrective Services have a higher percentage of women in them. In community corrections particularly, the percentage of women is more than 50 per cent. Across Corrective Services, our balance is better than it is in custodial. As you have heard from Narelle, a lot of her case managers and a lot of the staff that work for her, particularly, who are not custodial but are in the facility, are female.

There is an interest, I think. Women are interested in the work that corrections do. I think we still have a bit of sell work to do in terms of the benefits of being a custodial officer. That will come, I think, as we get the blueprint progressed. One of the big things with the blueprint was to make it a positive, receptive culture for everyone and provide better opportunities for custodial officers to be involved in things like case management. They might not be the case manager, but they all feel like they have something to add, to help the case managers as detainees pass through the system. It is our opportunity to sell the opportunities in corrections more into the future.

DR PATERSON: Are there any prisons across the country that are more fifty-fifty with their custodial officers or would AMC be about the benchmark, where the gender split is across the country?

Mr Johnson: Without knowing the figures exactly, my experience of other jurisdictions, in the corrections space and in policing and emergency services, is that it is very similar—somewhere between 25 and 30 per cent. I know other organisations have had some success in recent times in moving the needle, but it is closer to 30 per cent than it is to 50 per cent. But it is progress.

Mr Gentleman: I can give an example of some of the changes we have made in other areas to encourage more women to apply. ACT Fire & Rescue is a good example. There is a physical test, as you go through your course. A lot of it is around fitness, the beep test. There is the dragging of a weight to prepare you to remove people from cars and structures. We have been providing, in advance, training advice to those people that are getting ready to apply. We are saying, “These are our requirements. We’re ensuring that you need to be physically fit, of course, but we don’t expect that you might be dragging that 80-kilo person by yourself. You might use equipment or you might use other processes. To get to that standard, this is where we are going and you will need

to be there.” If they do not get up to that physical fitness point in their first assessment, we say, “We’re going to recruit again next year. We will give you assistance in training up to that point over the next 12 months, to get you to come back and reapply.”

MRS KIKKERT: In the October 2021 estimates hearings, you outlined some reasons as to why the reintegration centre had been put on hold. You mentioned that you wanted to see the accommodation units that were damaged from the riots and storm repaired, and you wanted to do a strategic long-term assessment of the future accommodation needs of the facility. Have the accommodation units been repaired? Can you please give us an update on the reintegration centre?

Mr Gentleman: As you say, the 2021-22 budget included an allocation of funds for improved reintegration and wellbeing initiatives to enhance services and support available to detainees at AMC. There was funding for the facilitation of critical repair and improvements, as you say, following storm damage, in addition to the assessment for the long-term future of accommodation needs for the facility.

The reintegration centre at that point had been deferred to allow that to happen. During the period, Corrective Services worked to optimise the utilisation of the existing transitional release centre. There is also work being done to modernise and improve programs and services available to detainees. The investment in these areas will also assist in reducing recidivism and it will better support detainees transitioning back into the community from that custodial setting.

In regard to the rest of the detailed work, I will hand over to the commissioner.

Mr Johnson: Ms Doran might talk more specifically about the longer term strategic planning. In terms of the transitional release centre, in my mind, the transitional release centre is part of reintegration. Our first phase is to bring it absolutely up to full speed and make sure it is doing what it needs to do, and is at full capacity as much as possible.

That process is progressing. There are four in the TRC, as we speak. I might pass to Narelle, who can give you the exact figures of how many have been through it this year. It has provided a whole heap of good opportunities, and there are a couple of great case studies of people who have gone through the TRC and have returned to jobs, communities and houses, as a result of passing through the TRC.

That work, absolutely, is continuing, and the intention is to use the capacity we have there now—and we are still working to fill it—to its utmost, whilst the work is being done to consider the longer term infrastructure needs of the AMC. Ms Doran might speak more to that.

Mr Doran: Do you want to talk to the TRC first?

Ms Pamplin: Sure. I will update you on the total numbers. Since April this year, when the program was reinstated, post COVID, we have had eight people come through. Seven men and one woman have completed the TRC program. We are currently piloting an intensive reintegration program with the women detainees, which is based around alcohol and other drug intensive treatment. We plan to look at the effectiveness of that in that small cohort—the trial of the structure, day activities—and mirror that with the

TRC participants, if successful, so that we are looking at preparing them best for communities.

The feedback that we have had initially around that program has been focusing a lot more on family and communities. To that end we have employed, for the TRC, a family worker, who will be intensively working collaboratively with our community partners, the agencies and the families, to make sure that the person who entered the AMC is well prepared to enter the family unit and the community unit post release, as well as being effectively treated.

MRS KIKKERT: With the TRC, how many inmates can it accommodate?

Ms Pamplin: Twenty.

MRS KIKKERT: Are there any inmates who are on the waiting list to be involved in the TRC program?

Ms Pamplin: We have five applications in progress.

MRS KIKKERT: Are you looking in the future to expand TRC, since the reintegration centre is on hold indefinitely—not so much the programs, but the facility?

Ms Doran: The processes are very much interlinked. This is part of the reason for taking a pause on the reintegration centre, to bring all of these pieces together in appropriate sequencing. The reintegration programs very much support a reintegration infrastructure piece. In the last 12 months, and for the next 12 months, a lot of work has been done on focusing the programs and the supports there for detainees, ensuring that we have a process where detainees are ready to occupy a reintegration facility once we have it.

Over the last 12 months, as Narelle indicated, we have been able to increase the utilisation of the existing transitional release centre, which has a 15- to 20-bed capacity within it. The plans for the reintegration centre originally were for up to 60 additional beds. It is quite a significant uplift in the usage of detainees in that phase of their rehabilitation. There is certainly still very much a commitment to move towards that. When we reach capacity in the TRC, we will be ready to start building new facilities.

In the meantime, there is a piece of work being done around infrastructure planning, in a medium to longer term sense, for the corrections facilities. It is looking at the range of priorities for detainees across the needs of the women's population, the need for reintegration facilities, and the need for industry and other facilities to support programming work. We are very keen to take this opportunity to get the right balance across those accommodation needs that supports the support needs of the detainees, and have the infrastructure pieces coming into play when the other pieces are there that support them being used efficiently and effectively.

That work is nearing completion, towards the end of this year. We are positioned to come back to government in the budget cycle next year. But it will be an informed piece that looks at the population demographics, the priority of needs and a program for infrastructure over the next five to 20 years that matches those needs.

MRS KIKKERT: Does that include a TRC only for female detainees?

Ms Doran: It will be a consideration, yes. What the outcomes are, I cannot say at this stage. But it is considering those various priorities and competing issues, and how we best balance them.

MRS KIKKERT: Yes.

Mr Gentleman: I think it is well worth remembering, too, that the original reintegration centre was not planned for women detainees. It was only planned for male detainees. We see a need to assist both genders as we move to reintegrate people more back into the community, so we will be looking at that, through that work.

MR BRADDOCK: Just jumping back to those numbers, if I heard that clearly you said eight had passed the TRP since April?

Ms Pamplin: Yes, eight.

MR BRADDOCK: And that does not include the four currently in the TRC?

Ms Pamplin: Yes.

MR BRADDOCK: How many detainees have been released from the AMC since April?

Mr Johnson: That, I think, we would have to take on notice because it is also a question of whether they were released as a result of a change in remand or whether they were released at the end of their sentence.

MR BRADDOCK: Okay. I will rephrase the question: to the end of their sentence. If you could take that on notice, I would appreciate that.

Mr Johnson: Yes, we can.

MR BRADDOCK: Have we revised the eligibility criteria for the TRP, given that that has been the recommendation from previous committees, I believe?

Mr Johnson: Yes, it has been revised. Narelle can talk more specifically to what was revised. But it has been revised, in terms of the policy position on accessing the TRC and the process by which you make an application. We continue to consider what other options might be available. The one I use, which we are considering at the moment, is: do we consider the availability of the TRC, for example, for sentenced detainees who have got a sentence for longer than five years, to extend that to two years before their release?

There is a question mark that we have got to ask ourselves on that front. But there is an opportunity for us to further utilise the TRC for those sorts of people. Of course, a lower security rating is required before you can pass through to the TRC, so it depends on behaviours and all sorts of other things that obviously impact on your eligibility.

MR BRADDOCK: Yes.

Mr Gentleman: Can I say that I think the direction is good, in that we are revising the criteria to allow more people to enter the system, rather than fewer. So we are on the right track.

MR BRADDOCK: Absolutely, because if we are only utilising 25 per cent of the available beds then, if possible, let's see how we can get more people on the track, as you say.

Mr Johnson: Indeed.

MR BRADDOCK: Thank you.

Mr Johnson: And there are some great opportunities in the TRC. Without taking up the committee's time, there is some really good case studies already of people getting back into community, finding opportunities for jobs, being supported to do that, getting back into family, and getting housing, so the process has been really positive.

MR BRADDOCK: I want to ask how we balance the situation that exists in the prison of treating addiction to alcohol and other drugs as a harm minimisation, health-based approach, versus the punitive measures taken within our corrections system. I want to understand how you actually achieve that balance. I will start with that question and we will go from there.

Mr Johnson: As you are aware, there is a drug testing program that runs within the AMC and, inevitably, there are cases where people test positive, or test non-negative. There is a discipline policy that is a pathway, but every positive case also gets referred to the alcohol and drug treatment team, who then do a case assessment on that particular individual. That might include such things as understanding what the circumstances were: is it falling off the wagon or was it provided by someone else? We try to understand what the issues are and then properly divert them into a therapeutic program or provide that program particularly. That is a pathway that everyone gets an opportunity to go down as a result of a positive test.

Whether or not there is a discipline part of it is dependent on such things as: is it multiple offending? You might have been in the system for six months and in that time you have had five positive drug tests, for example. Those sorts of things would be taken into account as to whether there was to be a disciplinary element to the pathway, as well as a therapeutic one. But, clearly, the better pathway is a therapeutic one, if we can help people deal with addiction.

MR BRADDOCK: So what proportion of people would be subject to punitive actions versus those who go down therapeutic pathways?

Mr Johnson: As I said, everyone gets the opportunity to go down the therapeutic pathway. I would have to go and do some studies of the numbers to know how many of those were dealt with as a disciplinary matter, and then what the disciplinary outcome might be, because you could deal with it as a disciplinary matter but not necessarily

have a punitive outcome. It could be discipline, it could be alcohol and drug programs that are part of the discipline, or it might be something else. So the outcome is also relevant to the discipline. It does not necessarily mean, because they have gone down a discipline path, that they have been dealt with punitively as well. So it is a complicated question, I suppose. Sorry to make it hard. I know where you are going with it, but it is probably not as simple as that.

MR BRADDOCK: I would appreciate any information you can provide me, on notice, to help me understand that complicated question.

Mr Johnson: Certainly.

MR BRADDOCK: I am also interested in opioid replacement therapy. Could that potentially be withheld as part of those punitive actions? What are we doing to ensure that they actually have accessibility to those therapies to enable them to take that harm minimisation and health-based outcome?

Mr Johnson: Justice Health provide opportunities for opiate-based replacement therapies. A percentage of detainees have access to that on a programmed basis and use it and are then provided that as part of their normal medication. Health manage that, but that is available for people on that program.

MR BRADDOCK: Yes. I suppose what I want to make sure is that there is nothing within the corrections sphere that is potentially hindering or preventing that from happening, from a punitive disciplinary path.

Mr Johnson: No. I will refer to Narelle as well, if she has got a better answer to that question. But I think, no, there is no impediment to it. Part of the reason why Justice Health are independent in the centre is that people's health circumstances and whether or not they are treated with an opioid replacement is a matter for their own therapeutic health journey. We support someone on that alcohol and other drug journey, but Health do that and we would not get in the road of that process. Would that be a reasonable position?

Ms Pamplin: Absolutely. The harm minimisation approach is certainly one that we as an organisation are grappling with. Where we have landed is, in partnership with our community organisations, getting them to support us more thoroughly in terms of the education required to have a fully comprehensive harm minimisation approach. We run the criminogenic treatment options, we run high and medium and low intensity programs, but harm minimisation, in and of itself, I think, would be something we would partner with our community agencies to run actually more thoroughly.

MR BRADDOCK: So there is nothing in the corrections system that stops someone from accessing opioid replacement therapy, should they need or want that?

Mr Johnson: No.

MR BRADDOCK: Thank you.

DR PATERSON: Minister, over the last two weeks we have spoken to lots of officers

and commissioners about their funding to do their job. Everyone seems relatively adequately funded to do their work. The one that does stand out is the Inspector of Correctional Services. Their office, for at least the past couple of years, have been saying that they feel they are quite substantially underfunded to do their job. Even this morning we heard that they basically do not have oversight over Bimberi, because they cannot do it, particularly in response to multiple critical incidents. I understand that there is a whole mix of priorities that government has to manage but I am just wondering: is there potential for more funding in next year's budget for the inspector's services.

Mr Gentleman: I do support the services that the inspectorate provides, and I think they have been doing a magnificent job. It has been challenging because they have had many more incidents that they have had to work through and provide reporting for. Of course, they put a submission into the budget process and, as the minister associated with that, I do support their claims in that. That goes to ERC and then through the budget process, and budget cabinet would consider that. So most certainly, if they were to put a submission in requesting more funds, as you have indicated, then that would be looked at through that budget process.

DR PATERSON: Great. thank you.

Mr Glenn: Dr Paterson, I can add that outside the budget process we have been able to secure some commonwealth funding for the responsibilities of the inspector in relation to the optional protocol to the convention against torture. We have been able to pass that through, so that addresses that additional function that the inspector has. As the minister says, whilst through the formal budget process there are opportunities, we also seek to find opportunities where there are other funding sources available.

DR PATERSON: Great. Thank you.

MRS KIKKERT: That additional funding from the government, is that to hire one full-time staff member?

Mr Glenn: The funding from the commonwealth, I do not have the precise figure for. It is in relation to those particular OPCAT supervisory responsibilities. That will assist in the development of that new area of responsibility and to support the visits that have to occur under that responsibility.

MRS KIKKERT: So could you clarify: is it for staff or for IT support?

Mr Glenn: It will be a matter for the inspector as to where he wants to put that funding.

MRS KIKKERT: Okay. Could you put this question on notice to provide an answer to exactly how much funding from the commonwealth is coming?

Mr Glenn: We can answer that.

Ms Cvetovski: Good morning. The amount of funding that was provided to the Inspector of Correctional Services is \$72,000.

MRS KIKKERT: Okay. Thank you. Could I just refer to the inspector of corrections report on the unfortunate death at the AMC? In relation to the recommendation for the government to take immediate action to ensure that the rear cell doors at the AMC management unit do not represent any foreseeable risk, has that been fixed?

Mr Gentleman: We are, of course, very concerned about the incident that occurred. We are very sorrowful that it did occur, and we have sent our condolences, of course, to the family. Because there is a coroner's report underway at the moment, we are very careful about the details of what we are doing in response to that report. The commissioner might be able to give you a little bit of detail that will not interfere with that, I hope.

Mr Johnson: Yes. We have taken some remedial action on the doors to even further restrict the ability to do anything, and that is particularly between the glass, the plexiglass, and the bar. That was taken pretty much immediately.

MRS KIKKERT: Okay. I understand that the rail, the bar, was where the incident happened. In terms of the rear cell door, that was also identified as a risk back in 2015. That has not been fixed, has it?

Mr Johnson: I am not sure how far I can go on this in terms of the fact that these are matters the coroner might turn their mind to. I am a little nervous about how far I can go on this particular matter in regard to doors. I do not know whether the director-general might guide me.

Mr Glenn: Yes. These are issues that are likely to be ventilated in front of the coroner, so we do want to have some caution as to how far we go. What we can say is that issues that were identified in 2015 in relation to the rear doors were resolved. That was actually about the translucent material in the door, and that was resolved in 2015. We had continued to utilise those doors in accordance with the Victorian standards, which are the ones that we have adopted in the AMC since then.

Mr Gentleman: I think the safest thing to say is that, following the incident and prior to the report, the commissioner took responsible action, but it would be improper for us to go into any further detail whilst the coroner is doing an investigation.

MRS KIKKERT: Okay. So in the case of the 2015 recommendation about making sure that the cell door is safe, the coroner is also looking into that—just to confirm that that is the reason why you cannot talk about it?

Mr Glenn: We would expect that the coroner will look at all of the circumstances surrounding the unfortunate death and the method that was used, and that will go to what the doors were like.

MRS KIKKERT: All right. Thank you.

MR BRADDOCK: How many prisoners are sharing cells which were originally designed for one occupant but then have been retrofitted for two occupants?

Mr Johnson: I would have to take the exact number on notice. A majority, I would

expect.

MR BRADDOCK: Okay. Is that ideal?

Mr Johnson: They are the circumstances that we have in the centre. The cells are available for two people and, given that it is within our capacity to use them, that is how we are using them.

MR BRADDOCK: Thank you.

MRS KIKKERT: Something that I would like some clarification on is escapes. On 9 July 2021 there was a high-profile detainee escape from the custody of corrections officers, yet under strategic indicator 2—crime-related community safety—the 2021-22 estimated outcome for the number of escapes per 100 detainees is zero. There was one that we are aware of. So why is it estimated as an outcome of zero? Just for clarification.

Mr Gentleman: The target is there because we do not want to see escapes from the AMC, and we put particular security measures in place. Where we see an escape, it is because either those measures have been breached or something has occurred to allow the measures to be breached. So the target is still zero and we do not want to see escapes from the AMC.

MRS KIKKERT: Yes, I get that. But it says that the number of escapes is zero. So the target is zero. You do not want any escapes. Then the number of escapes is still zero but we know that there has been one, so why—

Mr Johnson: I think for this annual report—

Mr Gentleman: There was a crossover.

Mr Johnson: Yes, so it will be for this annual report, the figure, because it was 9 July. It is June to June, and that figure will come up in this year's annual report.

MRS KIKKERT: I though the escape happened during that annual report year.

Mr Johnson: The annual report year that has just ended.

Mr Gentleman: It is a timing matter from when the occurrence happened, the date of that occurrence, in relation to the timing of the annual reports.

MRS KIKKERT: The detainee escaped on 9 July. That would be in the 2021-22 annual report, right?

Mr Johnson: Yes.

MRS KIKKERT: Yet the outcome of that is still zero.

Ms Doran: I am sorry because we do not have documents in front of us, but I think the annual report you would be referring to is the 2021 annual report.

MRS KIKKERT: To 2022.

Ms Doran: The 2021-22 we are only just finalising.

Mr Gentleman: We have not produced that report yet.

MRS KIKKERT: 2021 to 2022.

Ms Doran: So it would complete at 30 June 2021.

Mr Gentleman: Yes; it is not published yet.

MRS KIKKERT: Okay. It is in budget statements D, but okay.

Mr Johnson: If it would be helpful, I have a couple of quick things I can perhaps answer.

THE CHAIR: Yes; sure.

Mr Johnson: Rather than taking them on notice, I can provide advice. In terms of the tablets, the Zoom tablet availability is six. So for personal visits there are six. In terms of the telephone service contract, we expect to be in the market before the end of the year.

THE CHAIR: Okay. Thank you. On behalf of the committee, I would like to thank the Minister for Corrections and officials for your attendance today. If you have taken any questions on notice, could you please provide answers to the committee secretary within five working days. We will now draw this session to a close. The committee will suspend for a break.

Hearing suspended from 10.46 to 11 am.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services,

Justice and Community Safety Directorate

Doran, Ms Karen, Deputy Director-General, Community Safety

Whelan, Ms Georgeina, Commissioner; ACT Emergency Services Agency

ACT Long Service Leave Authority

Webeck, Ms Cassandra, Acting Chief Executive Officer

Chief Minister, Treasury and Economic Development Directorate

Young, Mr Michael, Executive Group Manager, Workplace Safety and Industrial Relations

Noud, Mr Russell, Executive Group Manager, Industrial Relations and Public Sector Employment

West, Dr Damian, Deputy Director-General and Secure Local Jobs Registrar

WorkSafe ACT

Agius, Ms Jacqueline, Work Health and Safety Commissioner

Grey, Ms Amanda, Deputy Work Health and Safety Commissioner

THE CHAIR: Welcome back to the committee on estimates hearing. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses could use the words, “I will take that as a question taken on notice.” This will help the committee and witnesses to confirm questions taken on notice from the transcript.

In this session, we will hear from the Minister for Police and Emergency Services, Mr Mick Gentleman and officials.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw their attention to the privilege statement. When you speak for the first time, please confirm for the record that you understand the privilege implications of that statement.

As we are not doing opening statements, we will go straight to the first question. It is in relation to mental health of emergency services personnel in relation to PTSD and whatever else. The budget allocates \$5.2 million to the ACT Ambulance Service for modernisation to increase service delivery, operational performance and staff wellbeing. What is the proposed funding model for staff wellbeing?

Mr Gentleman: It is a very important question. \$15.2 million, I think, is the funding model for staff, and we work through their wellbeing with this opportunity to support them through difficult circumstances. They do an incredible job across the ACT, so we want to make sure we can continue to support them when they see incidents that are

traumatic, and into the future. I will pass to the commissioner and directorate officials to give you some more detail.

Ms Whelan: I acknowledge the privilege statement. The approach we are taking to mental health for the ACT Ambulance Service is multifactorial. First and foremost, we belong to the whole-of-government EAP and, in addition to that, we have an immediate EAP response to any high-risk activities and exposure that the paramedics are involved in.

We also run an extensive peer support program, where we have tens of ACT Ambulance Service staff qualified in peer support, and peer support refresher programs as well. We have recently introduced occupational violence training for our staff. In addition to that, we have three chaplains and a health and wellbeing officer on staff. We are also working very closely with ACT Fire and Rescue and leveraging off a number of their programs for the ACTAS staff, including physical enhancement programs, and mental health and wellbeing programs. So it is quite extensive.

THE CHAIR: Has the government investigated to what extent the 2.9 per cent decrease in volunteer levels in the 2021-22 year was due to mental health concerns or PTSD? Do we know?

Ms Whelan: We do not have the exact statistics, for a couple of reasons. First and foremost, the confidentiality around reporting does make it very difficult for us to break that down. However, we do regularly monitor the peer support program and access to the peer support program by our volunteers. I can say, in terms of volunteers leaving our services, there are a number of reasons for that, and they include the age of the volunteer, the stage that volunteers are within their life cycle, and other family and work-related commitments. We know our volunteers regularly access our peer support programs.

THE CHAIR: We have spoken about the ambulance service and staff. What about the firefighters? What is the government doing to help reduce the number of people leaving the profession, and to improve the management and support for anyone who might be suffering from PTSD?

Mr Gentleman: I might kick-off with an overview of our support for Fire and Rescue. You would be aware that in more recent EBA negotiations we committed to 95 rescue people over the forward years, and we are recruiting through that process now. That was in response to understanding that some of our firefighters are reaching retirement age, and we want to make sure that we can pass their skills and knowledge down through to the new people coming in and train them up, as well as increasing the size of Fire and Rescue as our population increases in Canberra. For detail on the wellbeing support schemes, I will go back again to the commissioner.

Ms Whelan: Following on from the investment made, several programs are underway. They are, first and foremost, an expansion of the peer support program that I mentioned earlier, so increasing the number of peer support officers. We have also appointed a health and wellbeing commander from Fire and Rescue, who is working very closely with our health and wellbeing team within the ESA

As a consequence of that, we are now rolling out our fitness leaders program, which is seeing a number of firefighter-trained fitness leaders who are on each station during each rostered period. The reason we are doing that is not only are we looking to reduce the likelihood of physical injury by maintaining fitness, but we know there is a direct correlation between physical wellbeing and mental health wellbeing. So we are seeing those programs rolling out. We are at about the 14-month mark of that, and we have been monitoring that very closely.

Overarching all of that, we have just secured several hundred thousand dollars in a commonwealth grant to investigate further mental health and wellbeing programs. In addition to that, we have a partnership with Fortem Australia. They are making an announcement this morning with regard to mental health and wellbeing programs, and we regularly tap into those programs. They provide support not only to our firefighters and paramedics but also to their families. There are a number of programs rolled out.

Most recently, we are very proud to say that we have had a number of paramedic and firefighters attend the ADF arts program, which is a program run with the University of Canberra. That is a four-week program that is undergoing a PhD study at the moment to support the efficacy of the program. We have four applicants ready for the next program. That will start in a couple of months.

THE CHAIR: What I may have to do, in terms of these programs, is send through a question on notice to get more detail in relation to those. I am afraid we do not have enough time this morning to go through all that.

In terms of any personnel going through PTSD, who are frontline officers—ambulance or firefighters or police or anyone. They go through PTSD, they have an issue and they do a program, get support and whatever else, but they may not be able to go back on the front line. What options do they have to continue to work but also to get the support at the same time?

Mr Gentleman: We have a whole-of-government approach to ensuring there are career paths for everybody who is employed within the ACT government. Whether you start off as a firefighter or an ambulance officer, you may well end up being a director-general of the JACS Directorate at some point. We want to keep people, and we have been advising, through our recruitment programs, that they may start in a position with ACT government, whether it is a front-line position or a position within our directorate, but that will not be the end. We want to advise people that there is a career opportunity for them right through. Whether they have gone through an incident on the front line and suffered some distress, and are recovering from that, we want to find a spot for them in government somewhere. That is the whole-of-government approach to how we are looking at wellbeing for our career people.

MR BRADDOCK: I am not sure if this is a question for you here, or for you as the IR minister later on today, Mr Gentleman. In terms of that redeployment, it has come to my awareness that there is an issue where ambulance officers, because of their conditions of employment, have a higher level of salary than when they get redeployed into other parts of the ACT government. The salary that they are being redeployed at is actually lower. Hence, that is having financial penalties for those officers. How well does that assist these people who have been serving our community?

Mr Gentleman: Yes, that is a challenge because the duties that are attached to a particular position have a wage attached to them as well. Usually, where you are doing front line response, it is a 24-hour, seven day a week service, and the penalty rates for that have been now rolled, in most cases, into a composite rate.

I can attest to this because I did 11 years in shift work. And when you drop down in the first tier into, perhaps, a time-off-work in compensation, that stays for a very short period of time and then starts to drop to a percentage of your recent wages. If it is Comcare, for example, that reflects on the amount of work that you have been doing and the level that you have had in the previous six weeks to the injury, and then it will taper down to 75 per cent of that after a period of time.

In some cases, it may well be that the career path brings you back to speed, where you were, financially, on remuneration. In other cases, it may not. What we are saying, as a government, is that we want to support people all the way through and, if they have suffered and they return to a different career path with different duties, then we will support them there, but it will be aligned to the duties that they are doing at the time.

MR BRADDOCK: Has there been any consideration, because these people are still highly skilled and have a lot to contribute, in terms of reviewing what salary they are being deployed at, in considering whether they might be better able and more suited for higher-level duties which reflect that level of salary?

Mr Gentleman: Some are. Some will do more training and do a different position, which brings a higher salary. That does occur. Again, it goes back to the duties, and we want to make sure we are fair and responsible to all staff and providing the support to those staff as well.

MR BRADDOCK: I think you might have mentioned this before: was the total wellbeing budget \$15 million? Do I recall correctly?

Mr Gentleman: I might pass that on.

MR BRADDOCK: And does that include things like gyms, as well, and health screening?

Ms Whelan: I will have to take that question on notice, because we can give you a complete breakdown of the work we have got in play in terms of programs, the infrastructure and the forward work plan.

MR BRADDOCK: Thank you.

DR PATERSON: There is lots of support for veterans once they leave the Defence Force. What happens after people leave our services and, potentially, are experiencing PTSD-type issues and mental health issues? How do we support them following retirement?

Mr Gentleman: We support them whilst they are attached to us, and there are those processes that the commissioner was telling you about with Fortem and other groups in

that level of support. I have not got the detail in front of me about when they then move to retirement—Commissioner Whelan?

Ms Whelan: Thank you, Minister. This morning I referenced the launch of a program with Fortem Australia. Part of that program is supporting the first responders through transition and post service in the emergency services arena. I will highlight that this is an area that has a growing focus nationally by all first responder organisations, and we are working very closely with the Australasian Fire and Emergency Service Authorities Council and ANZEMC, with a particular focus nationally on mental health and wellbeing.

Our learnings come particularly from the more recent challenges of the 2019-20 bushfire season and subsequent storms and floods. The learnings that we are gaining as first responders are not dissimilar to what the ADF was experiencing 10 to 15 years ago after a heightened period of operational deployment. Fortem Australia, in a previous iteration as Soldier On, worked very closely with the ADF. John Bale, who leads Fortem Australia, is now doing that same work. We have a very close working relationship.

I might point out that, particularly for our first responders, the timeframe from injury—whether that be physical or a mental health injury—to actual transition, is several years. During that period of time, we work very closely with our insurance provider, our rehabilitation providers and our own workforce management team, in those transition programs. We also know that a number of first responders belong to their first responder organisations, so they have quite a collegiate program post service, as well. What we are trying to do is join those dots. I mentioned, for example, the commander health and wellbeing program that has just been established in fire and rescue, plus our own welfare officer. Our intention is that that team will work with the external providers so that we can support them and their families through transition.

DR PATERSON: Thank you.

MR BRADDOCK: I would like an update on the commitment for 99 firefighters, in terms of how many we have recruited. Are we on track to achieve that target, and what roles are they actually performing now?

Mr Gentleman: It is a very important question. I am pleased with the work so far. There is a lot more to do to ensure we can get them all in place. It is not just through the recruitment and training, either; it is in the provision of resources and capability vehicles, for example. We were pleased to announce the aerial appliance that has come online, and we are working through how we can use the assistance of not just more staff but more appliances and more resources to assist them. I will ask the commissioner to go through that for you.

Ms Whelan: Thank you very much, Minister. In terms of the funding line, we recruited 20 firefighters in November 2019—that was college 41—and then a further 17 firefighters in college 42. We then moved onto 17 firefighters in college 43, 19 in college 44, and a further 18 in college 45, which graduated in November 2021. In addition to that, we have two more colleges—one underway, and one into the future. So we have 87 of the 99 to date, and we will reach our numbers over the next two

colleges.

In addition to that, we have ongoing recruitment campaigns prepared for the subsequent years so that we can manage the attrition rate of our firefighters. The attrition rate is something that we keep a very close eye on, and we are working very closely with the unions and with our firefighters to get an earlier indication from them as to when they will be likely to take their long leave and pre-retirement, and for those who will be making a transition, so that we can manage the ebb and flow of the workforce.

Mr Gentleman: This is another challenge with shift work. You have periods of time where you have RDOs and days off and therefore you start to store up all of this leave. So we need to make provision for them to exercise that before they go.

MR BRADDOCK: Thank you. So, we have recruited and trained 87; how many have we lost over that time?

Ms Whelan: I will have to take the question on notice. What I can say is that we are balancing out the attrition rate with the recruiting rate. You asked a question earlier, and I failed to answer it, in relation to what those firefighters that we have recruited are doing. In addition to putting additional firefighters onto the frontline, I referenced the mental health and wellbeing program commander, the skills maintenance program that we are running, and the number of specialist appliances that we will be acquiring and introducing into service over the next five years. We also have a series of project teams attached. That offers an opportunity for some project day work, which will give firefighters relief from the frontline as well.

MR BRADDOCK: Out of that 99, how many are actually going to be working on appliances responding and how many will be doing those enabling functions that you have just described?

Ms Whelan: I will have to take that question on notice, but the majority of them are frontline firefighters, with a modest increase in our day work allowance to support the projects and the introduction into service of the new capability.

MR BRADDOCK: Yes; please take that on notice. I would appreciate that.

Mr Gentleman: I might just take this opportunity, Chair, if I could. Earlier on you asked about funding for the health and wellbeing program. I thought you were talking about total funding for ACTAS in the increases. The \$15.2 million that I mentioned—

MR BRADDOCK: Sorry, I was talking about the entire ESA in that question.

Mr Gentleman: I was only reflecting on the extra money for ACTAS last year. That was \$15.2 million, and this year it is \$30 million. We will come back with that figure for you.

THE CHAIR: In relation to the 99 more staff, does it include staff for the PACER program?

Mr Gentleman: No; the 99 are firefighters.

THE CHAIR: Just firefighters?

Mr Gentleman: Yes. The PACER program is for paramedics, police, and health professionals.

THE CHAIR: Right, okay.

Mr Gentleman: Which has extra, as well, in this budget.

DR PATERSON: A while ago I spoke with the United Firefighters Union about the health screening of firefighters and, basically, the increased risk. There is a heap more research being done around their exposure to chemicals on the job, and I am interested to know what health screening is progressing, how regular that is, and if we are engaging in any new initiatives to be proactive on that front.

Mr Gentleman: Yes; that is a really important question. As we learn more about the different applications that firefighters are doing, we need to provide them with the assistance to understand the hazardous areas that they are going into and also the PPE to ensure that they are safe when they go into that. That has changed quite a bit over a number of years. It is a good story in that we have learned about some of the dangerous stuff that they used to use. We have put that aside, now, and moved to safer appliances and resources for them. But in regard to the detail of that, I will ask the commissioner.

Ms Whelan: There are several aspects to that. The minister referenced updated PPE; we are just rolling out our new PPE program, which is very contemporary in terms of its protection for our firefighters. With regard to medical screening, we are working very closely with the UFU. We are in the final stages of working through with ACT Health at the moment with a view to streamlining the access to the health screening. I expect that we will settle on that program with both ACT Health and the United Firefighters Union very shortly, but work has progressed at pace on that program.

DR PATERSON: Great. And what does the new PPE look like? What does that entail?

Ms Whelan: The new protective equipment is the firefighting apparel that our firefighters don when they are out on the job. The apparel that we have just acquired is the most contemporary apparel that is available internationally. It provides an increased protection for the firefighter, but it also protects in terms of managing heat and other threats to the firefighter. We have also introduced a new helmet for the firefighters.

Mr Gentleman: Whilst we are doing that part of the exercise, we are also looking at the appliances and resources they use. You would be aware of the announcement of the new electric fire truck that Rosenbauer is building for us. It is due to be with us in the not-too-distant future. The whole design around this vehicle was not just about emissions but about the safety of firefighters. Rosenbauer actually employed firefighters on the design and production line. This new vehicle will have firefighters entering the vehicle at street level. Basically, the doors open, and they walk in. At present they have to climb up into a cab above an engine with all the accoutrements they normally wear to an event on. This will mean a complete change in the way that they use the vehicles and the safety for them into the future. We think that looking at

this sort of opportunity into the future gives us a balanced look at how we can provide better resources for them in the PPE but also in the appliances and other opportunities.

DR PATERSON: They obviously test these electric vehicles in terms of their exposure to fire.

Mr Gentleman: Indeed. This vehicle has been tested in Germany for the last 12 or 18 months, I think.

Ms Whelan: Correct; Berlin.

DR PATERSON: Are they safer than internal combustion type fire trucks when exposed to fire? They do not explode or—

Mr Gentleman: No, no. It is an interesting argument sometimes for people that are opposed to EVs. They raise battery fires as a concern. Of course, we should ensure that that will not occur into the future, and that there are safe systems in place in the construction of the vehicle and in its future maintenance, to make sure that does not happen. But all of us drive around every day in an ICE motor vehicle with a 60-litre petrol tank attached to the back, and we do not think much about it.

So, yes, there is always a challenge to make sure it is safe, but this is about ergonomics, because there is not a big engine in the front. The motors are in the wheels and the battery sits flat at the bottom. It means that firefighters can enter the vehicle at street level and do not have to climb up every time into a cab. So it is a big change.

DR PATERSON: Thank you.

THE CHAIR: Can those fire trucks attend a bushfire at all, or not?

Mr Gentleman: These are urban pumpers. We have an attachment to them which is a backup generator, should that need to be used for pumping or generating electricity for the pumper. We have announced that we are working with Volvo on electric vehicles for our other first responders—bushfire and, of course, ambulance services; and police later on, as well. Most recently—last week, in fact—we were down at an AFAC conference, where we unveiled the new large Volvo fire truck, which is a great support for urban pumpers. We will be working with the Rural Fire Service, too, to see what we can do to support the change to low-emissions or no-emissions vehicles into the future.

THE CHAIR: I take it, it is a lithium-style battery in these vehicles?

Mr Gentleman: I do not know the detail of the battery. They will use the latest resource available, I think, that is both safe and provides enough distance for those services.

THE CHAIR: Does the government know anything about the new battery technology—the nuclear diamond batteries? Has the government looked at what technologies are being developed in that space that could be used in these vehicles?

Mr Gentleman: Yes, it is a good point. I do not think the government itself has had a look at particular types of technologies, but certainly within ESA, we have Jason Jones,

who is heading up our crews looking at this new technology and looking at new vehicles. He has a very strong sense of what is appropriate to use into the future. So if there is a better opportunity, we are certainly happy to look at it.

THE CHAIR: Okay, thank you very much. In relation to the joint emergency service centre out at Gungahlin, and the potential for the new police station out there, I am just wondering where that is up to, what funding has been allocated, and when it will start.

Mr Gentleman: Funding has been allocated for the work. The first lot of funding is looking at moving some of the people from the JESC into a new opportunity, perhaps at Mitchell. We have not specifically allocated the site yet because there is still some work to do in that transition process, and then, of course, expanding out the JESC for police into the future. But the DDG should be able to help you.

Ms Doran: I can help on that. I have read and acknowledge the privilege statement. Yes, the process of looking at the JESC was funded in the 2021-22 budget, and \$8.2 million was provided in that budget, but the initiative identified a three phase approach, which was to initially relocate the volunteer services—the Rural Fires Service and the SES—from the JESC. As the minister has just mentioned, that is the phase where we are currently well-progressed on identifying a site for that relocation.

The second phase is to retrofit the space that is freed up as a result of that, to expand the policing footprint within the JESC facility. The final phase, which was funded as part of this budget initiative, is the preliminary options and design work on relocation of the remaining ESA services—the ambulance and the fire and rescue services—in the JESC. Ultimately, at the end of that process it will provide the option for policing to take over the full footprint of the JESC.

The timeframes around that: at the moment, for the first phase, we are hoping that the relocation of the volunteer services will occur around the middle of next year. That will allow, as I said, the fit-out work to happen for policing. We are already commencing some of the design work on that fit-out, so we should be able to commence fairly immediately upon the relocation.

DR PATERSON: I might ask about the new Molonglo emergency services centre that is proposed to be built between Molonglo and Weston Creek. Similar to James's question, what are the time frames and what can the community expect there?

Mr Gentleman: We did announce \$939,000 in the 2019-20 budget to progress the due diligence of that work and the forward design for a future joint station for both Acton and Molonglo. That was early work to make sure that we have all the planning in place to go forward. In August 2020, we announced \$45 million for the design and construction of Acton, and that is progressing now. That work is beginning. We are going through that consultation and user requirement development for the Acton station. That will inform Molonglo, as well. Once we understand what we can work through from Acton, that will let us know how much we need to do at Molonglo, but we have already had a look at some of the areas there for the due diligence work, and we believe we are on track. Ms Doran, would you like to provide more detail?

Ms Doran: Yes. We are at the 90 per cent preliminary sketch phase for Acton. We

spent a lot of time with our ACTAS and Fire and Rescue staff on that design, which will allow us to transition to a very quick design phase for Molonglo, once we have settled on the actual location of the facility.

DR PATERSON: Will there be identical services coming out of both those two properties?

Mr Gentleman: It will be both services. I would not say that they will be identical, because we generally build a station depending on its needs in the region. Each one is custom-built, if you like. A really good example is Aranda Ambulance and Fire and Rescue station. That was built to spec, looking at the area servicing Belconnen but also the Molonglo region. I think it is a success story.

DR PATERSON: Will Woden fire station continue to operate once Molonglo is operational?

Mr Gentleman: Yes, it will continue, but there will be a point where we will need to renew Woden as well, and we will be looking at locations for that into the future, too. It has a bit of sixties or seventies feel around at Woden.

DR PATERSON: A little bit.

MR BRADDOCK: I am just seeking an update in terms of the Acton fire station and that project. When is that expected to be completed?

Mr Gentleman: That is still a little bit off yet. There are some works that continue. I went past there just the other day. They are looking at some of the conditions—the slope down to the river or the creek—that were of concern, but I think they have been working through that. I will ask the commissioner to give you an update.

Ms Whelan: As I mentioned, we are at about 90 per cent of the preliminary sketch at the moment. We will move to the tender process for the build, and we expect the build to commence early next year.

MR BRADDOCK: When do we expect it to be open and operational?

Ms Whelan: Approximately a 12-month period from the time the build commences. I say “approximately” because, as we all know, COVID-19 has had a significant impact on the building industry and the supply chain for the resources that are required. But, subject to having all of those resources available, it would be 12 months from the time the building commences. Factored into that is the introduction to service of the building—all the testing and all the piloting by Fire and Rescue and ACTAS to ensure the building is fit for task—and then we will go live.

Mr Gentleman: This will be our first fire and rescue and ambulance station that has consideration of EV.

Ms Whelan: Yes.

Mr Gentleman: That is an important step in the process, too.

MR BRADDOCK: Construction commences in November next year, did you say?

Ms Whelan: No. I am hoping construction will commence early next year.

DR PATERSON: I would like to have a chat about the \$27 million in the budget for the ACT Ambulance Service and understand a bit more about exactly where that is going. I understand that some of it will go to additional intensive care paramedics. I am just wondering: how many and how long until they are recruited—those types of things.

Mr Gentleman: Yes, indeed. We have noticed the strain on our paramedics, particularly over the last couple of years, so we have committed \$27.6 million over four years. That includes 30.1 FTE. There are 20.6 new paramedics, four communications service staff to take the 000 calls, and five half support staff. The additional paramedics will be intensive care paramedics delivering specialised response to highly infectious and bariatric patients, among their normal responses. It will also support ongoing reform efforts that will modernise ACTAS operations in their organisational structure; improve the operational performance and service delivery; enhance staff wellbeing, which we talked about before; and provide some professional development opportunities that will help to foster a more resilient career path for them.

DR PATERSON: When you recruit more paramedics, do you need more vehicles?

Mr Gentleman: Yes, indeed. On top of that figure, there is another \$2.97 million over two years. That will cover certain ongoing vehicle expenses. It will update the fit-out to the communications centre and it will modernise some of the ICT structure as well. We have thought about both processes—the people on the ground but also the structures we need behind them to support them.

DR PATERSON: Minister, we touched on this in the last session, but I would like to ask, particularly with respect to firefighters, about improving the gender balance and recruitment of female firefighters. In the steps to recruit these new people, how many of those that were recruited were females?

Mr Gentleman: Thanks, Dr Paterson. As I mentioned in the last session, we have changed some of the ways we do some of the training and recruitment to ensure that we can bring a better gender balance. There is still a challenge in recruiting, overall, as I said earlier. I will ask the commissioner to give you the detail on that.

Ms Whelan: Thank you very much, Minister. We have not increased the percentage of females that have passed the test to enter into ACT Fire and Rescue. I will put some context to that. A significant percentage of both male and female applicants require several years of physical training and conditioning to pass the test, which is a fit-for-task assessment for the role. To address what is, for us, a disappointment in the number of successful applicants, we have been working extensively for the last 18 months on a pre-application bootcamp and fitness program. We then follow through with the unsuccessful applicants in subsequent bootcamps and programs, with a view to them continuing to improve their fitness levels and their conditioning to subsequently pass the barrier test that is required. It is a challenge that we all face, nationally, and is something that we are continuing to work on. In addition to working on that, we have

seen a healthy percentage of applications from females seeking to apply for ACT Fire and Rescue.

Nationally and internationally, though, we have seen the overall number of applicants drop for fire and rescue. That is something that has come out of COVID-19. We are not quite sure what the actual underlying reasons are, and that is something that we are very focused on at the moment so that we continue to attract the best that our community has to offer to become first responders.

DR PATERSON: Do you think this testing perpetuates a potential culture problem within firefighters—that it is a male dominated profession and women cannot get in?

Ms Whelan: If you were to speak to female firefighters who are members of ACT Fire and Rescue, they would tell you no. They are certainly of the view that the standards that are set are to ensure not only the safety of the community but the safety of the firefighters themselves and their firefighter colleagues. They are very focused on ensuring that we work with female applicants and help them develop the coordination, skill, and conditioning, because it is not just about how much you can carry or weigh; it is the skill that goes with that to allow your core to be able to manage the weight. So, from our females' perspective, they do not see it as a driver of poor culture. We, in the ACT, are members of the national coalition for change, which is very focused on ensuring a healthy, safe, and culturally appropriate workplace for all genders. That is something that we work through on a regular basis.

DR PATERSON: Has this program to work with recruits who were not successful started?

Ms Whelan: We had an early rollout and then COVID hit. Of course, COVID has impacted on recruiting across all employment categories, nationally and internationally, and it is something that we are now working through and relaunching. Having said that, we have remained engaged with those applicants, via email and phone call, to ensure that they are being given coaching tips online, because they have not been able to travel to Canberra when the borders were closed, for example. It is something that we will continue to roll out with a lot of energy as the COVID restrictions lift.

MR BRADDOCK: On page 31 of the budget there is a budget line that is called “better support when it matters”—more frontline firefighters taking crew at the Ainslie station. What does this involve, exactly?

Mr Gentleman: I will let the commissioner answer that one.

Ms Whelan: We are addressing some structural issues with the Ainslie station in terms of the age of the station and the area in which it was built. We will be putting in improved privacy and dignity for firefighters, now that we have an increased number of female firefighters within our crews. We will be addressing the gymnasium and some safety issues. We are close to signing off with the United Firefighters Union on the final design for the enhancements to the station, and we are expecting that that work will be underway within the next six to 12 months, subject to builders being available.

MR BRADDOCK: Does that also include a second pumper at that station?

Ms Whelan: We have two vehicles at that station at the moment—one is a pumper and I think one is the breathing apparatus vehicle—so there already are two at that station.

MR BRADDOCK: So it is not so much about increasing the number of firefighters; it is more about providing the amenities appropriate for them.

Ms Whelan: It would allow us to have, regardless of gender, the appropriate staffing of those stations.

MR BRADDOCK: Yes, thank you.

THE CHAIR: On behalf of the committee, I would like to thank the Minister for Policing and Emergency Services and officials for their attendance today. If any witnesses have had any questions on notice, could they please provide them to the committee's secretary within five working days.

Short suspension.

THE CHAIR: In this session we will hear from the Minister for Industrial Relations and Workplace Safety Mr Mick Gentleman, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw their attention to that privilege statement. If you speak for the first time, please state your name and the capacity in which you appear. Also confirm for the record that you understand the privilege implications of that statement.

As we are not beginning with opening statements, we will go straight to questions. I have a question in relation to licence fees and fines. Do you have a breakdown of the estimated outcome for what will be raised by way of licence fees and fines?

Mr Gentleman: Yes; I believe we would have some of that detail. I might ask the commissioner to go through that for you.

Ms Agius: I acknowledge and have read the privilege statement. In relation to licence fees and fines, that encompasses a number of things within our act. It is firstly infringement notices, which may be on-the-spot fines which are provided to PCBUs for non-compliance with work health and safety legislation. It sits in the infringements of the Work Health and Safety Act in the Magistrates Court. It also encompasses our labour hire licensing fees, and any other fees that we get—dangerous substances licences for fireworks or things like that. We also take licence fees for those things. So I am talking about dangerous substances, dangerous goods, labour hire licences and any infringement notices.

You will note that we estimated a figure in the 2021-22 budget, but the estimated outcome is significantly larger. The reason that that is significantly larger is due to the money that we have collected for labour hire licence applications. The estimate of applications for labour hire licencing was much higher than the applications that we received.

MR BRADDOCK: I have a question in terms of the fast track of assessment of

emergency services personal with PTSD. How has the implementation of that gone, and have you seen any results yet from that?

Mr Gentleman: I might ask the directorate officials to give you an update there.

Mr West: Thank you. I will refer to Michael Young for that.

Mr Young: I acknowledge the privilege statement. Would you just mind repeating the question?

MR BRADDOCK: The fast-track assessment of emergency services personnel with PTSD in terms of—

Mr Gentleman: The presumption.

Mr Young: Thank you very much for that question. You are quite right; the ACT government, in March 2019, commenced operation as a workers compensation self-insurer. As a result of that reform, the government was able to take control of the end-to-end workers compensation claim process to make significant improvements to it. One of those improvements, as you have suggested, was the introduction of the presumptive legislation in regard to post traumatic stress disorder for first responders. The effect of that is, essentially, to reverse the onus of proof in a workers compensation situation, such that if a first responder, an emergency services worker, was to sustain post traumatic stress disorder and make a workers compensation claim, there would be a presumption that that injury is work related.

There are a number of benefits associated with that approach. One is that it makes the claims process much faster and, thus, people are able to access medical and rehabilitation allied health services much sooner. There is a wealth of Australian and international evidence that indicates that that results in much more favourable health and economic outcomes for affected workers. It also makes the process less adversarial and much more streamlined. We have been able to do that, essentially, by using our contract powers, and instructing the workers compensation self-insurer to operate on that basis.

However, conventional arrangements would have that workers compensation legislation amended to set up that PTSD presumptive cover. However, in the case of the ACT emergency services workers, the legislation which determines the rules for workers compensation and the types of injuries that are covered, is actually commonwealth legislation. It is the Safety Rehabilitation and Compensation Act. So in addition to setting up those arrangements administratively, the government has been lobbying the commonwealth to make corresponding changes to the act itself. That is an ongoing piece of work that will be pursued in the year to come. However, just to clarify, commencing, I believe, on 1 January this year, PTSD presumptive cover has been in place for ACT emergency services workers.

MR BRADDOCK: Have we received any applications through that fast track yet?

Mr Young: We have. The number is fewer than 10, so I cannot say the exact number for privacy reasons, but we have received claims that have allowed us to test the

arrangements that have been put in place, and to verify that they are operating as intended and are having those beneficial effects. So, yes, we have done.

DR PATERSON: Thank you. My question is in respect to the retaining wall collapse at the Geocon site in Phillip. What is your process in working with Geocon, in terms of establishing that as a safe worksite following that?

Ms Agius: Thank you for your question. It is a little bit difficult for me to give too much detail on this matter because it is still under investigation. What I can tell you about is process. WorkSafe ACT has engaged a geotech engineer as well as a structural engineer to provide us with an independent report, and Geocon has obviously allowed us access to the site—they have to under our act—for those inspections to take place.

Initially, our inspectors put a prohibition notice on that site, and a non-disturbance notice. There are two notices that are available under our act. A non-disturbance notice means that nobody can go into the site at all. That notice is used if we want to ensure that a site needs to be made safe. Once it was determined that the site was safe enough for some people to go onto the site, then our inspectors assessed and worked in conjunction with Geocon to allow access to that site. I understand that that prohibition notice has now been lifted and that works are taking place to make safe that site. So there has been communication between our inspectors and Geocon in relation to those prohibition notices and the non-disturbance notice.

DR PATERSON: Will those reports be made public, in terms of trying to understand what happened there?

Ms Agius: Yes. It will depend on where the matter ends. As it is still under investigation, and until we see those reports, we do not know where that matter will go. There are a number of options available to us under our legislation. One of those is more notices. Possibly there are infringements—I am not sure. That would be up to our inspectors to determine.

The investigation is looking into whether or not anyone is at fault and is in breach of our legislation. If that is determined, then the matter could proceed to a prosecution, and that is the case with any matter that we investigate. That is what an investigation is looking at—whether or not there is a case to put before the court. Until that investigation is finalised, we will not know. If the matter goes before the court, then everything will be released as part of the court process. If the matter does not go before the court, then it is a determination for me, as the commissioner, as to whether we release that information. There are provisions within our act that guide whether or not I can release information. Ultimately, the question for me will be: will this result in safety outcomes and will this further safety outcomes? If it does result in further safety outcomes, or I assess that it will, then I am entitled to release those reports.

DR PATERSON: Okay, thank you.

MR COCKS: Ms Agius, I am very keen to understand the process and systems around the issuing of prohibition orders and how we get to that place. I would really like to understand what is the typical process that WorkSafe ACT undertakes when it receives a complaint or enquiry about the safety of the workplace. Does that need to be a formal

process and how long does it take to work through it?

Ms Agius: Prohibition notices are tools which exist under our legislation, and the process internally is actually our compliance and enforcement policy. We have a compliance and enforcement policy, and that is on our website. That policy is my direction to inspectors. What must occur before the policy comes into the play is that the inspector must form a reasonable belief. There is consistent case law, but there was also a decision in relation to the Blue Mountains City Council and New South Wales Ombudsman—in relation to a work safety matter—where it was found that a regulator cannot direct an inspector to form a reasonable belief.

It is something that never occurs in my office. A prohibition notice is placed on a PCBU only if the inspector forms a reasonable belief that an imminent risk applies to the situation. Once they form the reasonable belief that it is an imminent risk, then my direction comes into play, which is the compliance and enforcement policy, which is that if they determine there is an imminent risk, then they must put on a prohibition notice. If the risk is not imminent, then they would put on an improvement notice. And if there is an infringement notice available, then they would infringe, depending on the workplace visit.

In relation to complaints coming into our office, we receive complaints in a whole lot of different ways. Sometimes people write to us. Sometimes people write to us anonymously, and they are entitled to do that. Sometimes people write to us and ask us not to release their names. Sometimes it is intelligence that we might get through some other form. It is our due diligence, and we must be duly diligent about work health and safety matters. If we become aware of a risk, we cannot unknow that. So if we become aware of a risk, we must act on that risk. Whether it is through a complaint or through someone mentioning something to us, then we must act, whether or not that risk is a real risk.

There is a process in our office. Sometimes I get complaints directly. Sometimes complaints come in through our generic website, but if a complaint comes directly to me, I forward that matter on to the senior director of that area. If it is in relation to a risk in a workplace, it would be our compliance and operations SOG A, senior director. I would forward that complaint to the senior director and the senior director would assess the matter and would determine whether or not an inspector needs to go out. So there is no direct relationship between the complaint, me and the inspector, aside from the compliance and enforcement policy.

MR COCKS: You mentioned the idea of an imminent risk. I would really like to understand that a bit better. What standards are we talking about in terms of both the level of risk and the likelihood and impact? Are there prescribed levels that you need to look at?

Ms Agius: There are a number of things in our enforcement and compliance policy around imminent risk. An imminent risk is something that is going to happen, or it could be something that is happening. The level of risk must be serious. In relation to a fall from height risk, for instance, it is one of the things that we often see, and there has been a lot of media on residential construction, like at Denman Prospect. The risk of a fall from a height is a serious risk because we know that people can die from falling. In

fact, around Australia about 20 per cent of all workplace deaths occur because of falls from heights. That information is put out by Safe Work Australia. So we would consider that to be a serious risk. If there is the risk of a leak of a dangerous substance, for instance, that would be a serious risk.

MR COCKS: Are there standards in that respect, around something being likely to lead to death, likely to lead to injury or likely to lead to contraction of a communicable disease?

Ms Agius: Yes. The Work Health and Safety Act provides protection for injuries, fatalities and illnesses. They are the three things that we will be looking at, to assess from a work health and safety perspective. In relation to a prohibition notice, if there is a risk of death then that would be something that is taken into consideration. But it would be one of the things that are taken into consideration; there are other things that would be taken into consideration.

MR COCKS: I would like to understand what systems or measures you have in place to ensure consistency around that decision-making and the compliance of staff with all of those policies and procedures?

Ms Agius: Quite a lot. We have just implemented one, off the back of the Nous review. One of the recommendations from the Nous review was to consider setting up an internal training program that was consistent with other jurisdictions. We have just set up that area of our organisation. That particular area is to ensure consistency and capability in the inspector's decision-making. They go through quite a long process of training. I could be wrong, but it is around 14 workbooks that they go through. Part of that training is on how to form a reasonable belief, what a reasonable belief means, what are the risks, what you need to look for when you are going out to a worksite, as well as training across our entire organisation in all of our legislation. If there are any changes to the legislation, they also get trained on those changes.

We did try a number of different training programs before this one, but we were not satisfied with any of them and we feel that this is the best one. We also have some lawyers who come in and run training programs for us. Amanda might be able to help me, because I can't quite remember what they were. "How to write a statement," I think, was one.

Ms Grey: Yes. We conducted training on how to write statements for decision-makers and how to review notices, because all of our notices are subject to review—internal review and then ACAT. So there is training for those officers with a delegation to undertake internal reviews, to make sure that those review decisions are consistent.

There is supporting documentation and standard operating procedures for each of these areas of work. Those standard operating procedures are currently being reviewed by the Nous consulting group, who undertook the independent review of WorkSafe in 2018 to ensure that the standard operating procedures are, in fact, consistent and deliver the outcomes that we want. We will make sure that that is included in the training packages that we are offering, particularly to the inspectorate staff, but to all of our staff.

MR COCKS: Thank you.

THE CHAIR: I have a question in relation to some funding that has been rolled over. In budget statements B, table 6, there is a \$158,000 rollover of improved operational efficiency and effectiveness from 2021-22. Why has this figure been rolled over?

Ms Agius: Thank you for the question. The figure is in relation to our Salesforce casework program. Initially, we thought all of the work would be completed during the 2021-22 financial year, but because it has not all been completed we have put that forward. We rolled that over to ensure that we could use that funding. What we are building is a case management system that includes all of our forms. At the moment some of our smart forms sit in Access Canberra. When we became independent we needed to build a whole lot of systems to support our current way of operating. That money is purely for the Salesforce ICT system.

THE CHAIR: Thank you very much.

MR BRADDOCK: It was a year or maybe two years ago that you established an in-house legal function. How has that gone? I am interested in whether you still need to access external legal advice from the Solicitor-General or elsewhere.

Ms Agius: Our in-house legal is one person who comes from the Government Solicitor's office. We pay the Government Solicitor's office for that person to be with us as an in-house legal person. That person advises our office in relation to minor—I should not say “minor”—legal issues that involve questions on our own legislation or our own regulations. They also provide any HR legal advice that we may need. We currently have some matters where we are investigating directorates of the ACT government. In matters where the GSO is conflicted because they advise the other side then I must seek approval from the Government Solicitor's office to spend money on those external legal services and I must seek approval for who I am going to use. Whenever there is a conflict, we seek approval through a form to GSO and the GSO determine whether to give us that approval or not.

MR BRADDOCK: Okay. How much would it be each financial year that you usually spend on such external legal advice?

Ms Agius: Because we are such a small agency, we have not had massive expenses in relation to external legals. I can take on notice what we did spend last year on external legals. We will get you the accurate figure, but I think it was around \$25,000.

MR BRADDOCK: Has the implementation of that scheme been more effective for WorkSafe, in terms of having that Solicitor-General's person located with WorkSafe?

Ms Agius: Yes, but there are matters that we still need to go to the GSO for. It just depends. Having an internal legal person has worked really well for us in relation to providing advice around the operations of our own legislation; yes.

MR BRADDOCK: Is that for yourself professionally, as the commissioner, or is that for WorkSafe as an entity?

Ms Agius: No, that is for WorkSafe.

MR BRADDOCK: Thank you.

DR PATERSON: Minister, my question is in relation to page 122 of the budget outlook: the establishment of the office of industrial relations and workforce strategy. I was wondering if you could tell us about what that funding is for and what matters this office will be expressly dealing with?

Mr Gentleman: Yes. Thank you very much. It is a very important process that we kicked off to make sure that we can go through that process. I might ask directorate officials to give you the detail on what they have been doing with that funding.

Dr West: I have read and acknowledge the privilege statement. Thank you for the question. The money that has been flagged in the budget has been dedicated to support the establishment of the office of industrial relations and workforce strategy. The intent of the office will be to bring about a more consistent application of ACT government policies across the whole of the service. That is across enterprise agreements. It is being designed to encourage stronger relationships between unions, workers and the public service, at all levels. It will serve as an early contact point for mediating and resolving conflicts before they escalate too far.

The office itself is due to commence in October this year, and we are in the process of developing a high-level approach as to how we will manage the office and its implementation across the service. The intent here is to provide, at the centre, a very strategic and informed high-level service offering to all directorates, and then, as I mentioned, to work with stakeholders to look to resolve matters before they escalate too far—and also, importantly, to ensure that, where we do have whole-of-government policies, they are delivered and implemented in a consistent fashion.

One of the opportunities we see through the introduction of the office is to ensure that, where we do have policies, they are fairly and equitably implemented. We think that in doing that we will actually create a range of efficiencies across the service and certainly look to further the one service model that we have been developing over the last decade.

Mr Gentleman: You heard me talk earlier about the consistency of a whole-of-government approach to careers and employment across the territory. This office will assist in that as well. Looking at retaining staff and looking at skills shortages across the territory and how we can go about recruiting more people into our ACT public service is a key component of that work too.

DR PATERSON: Great. Thank you.

MR COCKS: I want to come back to the processes and procedures, Ms Agius, and particularly to understand the role of third parties in these processes—both third parties like unions and what roles they play, as well as how you engage with the minister around different complaints and the different procedures you have there as well.

Mr Gentleman: I might kick off, if you like. My engagement with the commissioner is a structured approach. We have a formal briefing, usually about once a month, where she gives me an idea of some of the work that they have been doing over that past month

and the priorities for the future. We support the commissioner and the group as an independent agency, in that sense, and go into bat for them when there is funding needed in budget processes. That is our relationship. We do not normally have direct contact between me and the commissioner in relation to matters that she is looking at. We keep it at that level. I think it is about the same with all of the independent agencies and commissioners that work with my portfolios.

MR COCKS: You said normally. Are you saying that this engagement on specific prohibition notices or specific matters never happens?

Mr Gentleman: Yes.

MR COCKS: The rest of the question was about the involvement of third parties like unions.

Ms Agius: We have a number of stakeholders. We consider that unions, industry and industry associations are all our stakeholders and they are all treated in the same way. I have monthly meetings with the MBA, the HIA, the Australian Hotels Association, the CFMEU. I am pretty sure they are all of my monthly meetings. The reason that I meet with construction employer representatives and employee representatives is that the construction area is our highest risk area.

MR COCKS: Yes.

Ms Agius: They make up approximately 10 per cent of the ACT workforce but they have had consistently, for the last five years, the highest workers comp claims in the ACT. So that is one of our priority areas. We also have our residential construction strategy, where I liaise very closely with all of those groups: HIA, MBA and CFMEU. We also invite all of our stakeholders to summits or events.

MR COCKS: Sorry; I think at the moment we are going to general stakeholder engagement. I am interested specifically in how you engage with third parties, as part of WorkSafe's investigation processes, and how you come to decisions—for example, to close down a site.

Ms Agius: We do not.

MR COCKS: So you do not ever engage with other parties?

Ms Agius: Absolutely not. Do you mean in relation to specific prohibition notices? No.

MR COCKS: Yes. So they never get in contact about particular—

Ms Agius: Do they get in contact to complain about matters, do you mean?

MR COCKS: Matters that are under investigation at the time?

Ms Agius: We cannot give them any information. We cannot give anyone any information in relation to matters that are under investigation.

Mr Gentleman: Mr Cocks, there are specific laws in the Work, Health and Safety Act that prohibit that sort of information being used or being discussed.

Ms Agius: Yes.

MR COCKS: Yes.

Ms Agius: It would be highly inappropriate.

Mr Gentleman: Whether it is a union or whether it is the minister's office.

MR COCKS: Yes. And that is directly or indirectly?

Ms Agius: Absolutely. That would be highly inappropriate because if the matter was going to investigation and going before the court, for instance, it could impact on that proceeding. So we cannot engage with any external stakeholders in relation to investigations. There may be incidents where—for instance, in the construction industry—we are called out to a dispute on a worksite, which is absolutely within the remit of our legislation. Our inspectors will be there, the CFMEU will be there, the PCBU will be there, and the inspector will engage with those groups. But the decision for the inspector about whether or not to put a notice in that particular workplace is up to the inspector.

MR COCKS: For example, the union may be there and there is the potential to influence what an inspector sees or considers, just by their presence.

Ms Agius: I would hope that none of my inspectors would be influenced by anybody, because it is their role to have a reasonable belief. It would be highly inappropriate for them to be influenced in any way as to their decision-making around using our regulatory tools.

MR COCKS: Okay. Thank you.

MR BRADDOCK: Because we have the Long Service Leave Authority sitting quite nicely at the end of the room there, I want to ask: how well have the portable long service leave arrangements been working for the covered industries? What are the plans to extend those arrangements to other professions?

Mr Gentleman: Thank you, Mr Braddock. I will kick off and advise that we are expanding the portable long service leave scheme. We are looking at those associations that might be able to support industries where it is very difficult for them to provide long service leave, and we are looking at areas that we have done in the past as a balance, if you like—those industries that do not have a steady program of work and sometimes people will move between different employers.

There is a good opportunity for us to ensure that those employers do have long service leave into the future. We will be looking at personal care services—hairdressing and beauty services, for example; accommodation and food services, which could include contract catering; rental hiring and real estate services; admin and support services; and then retail trade at the same time. So we are looking at supporting employees right

across the territory, and that helps to support employers as well, if they have got a steady stream of people to work with them. With that, I will hand over to Ms Webeck to give you a bit of detail.

Ms Webeck: Thank you. I acknowledge the privilege statement. To address the first part of your question: unfortunately or fortunately, I have only been with the authority for a short period of time. But from what I understand, what I have observed and what I am engaged in, the portable long service leave schemes are working very well for the industries that we currently work with. We have appropriate practices, procedures and policies in place to support employers and employees as they transition to the portable long service leave arrangements with the authority.

We are in the process of ramping up our engagement with our stakeholders. We had a period where our practices had to adjust, due to the COVID lockdowns and restrictions. We are in the process at the moment of ramping that engagement back up again and engaging with industries to ensure that they are equipped to manage their responsibilities under the legislation and in working with the authority as well.

MR BRADDOCK: Coming back to you, Minister: what is the time frame and what are the steps to reach a decision on those other industries to be brought under the scheme?

Mr Gentleman: We have not set an end time frame for it because a lot of consultation needs to occur as we go through. As I have indicated, we are now looking at associated industries to support those employees and employers through that. I might ask Mr Young to give us some more detail about how that work is going.

Mr Young: Thank you very much, Minister. I am fortunate to be able to lead the public consultation process that has been underway, which was particularly active through July and into August, where we are seeking the views of interested stakeholders on the question of what areas would potentially benefit from being added to coverage under the portable long service leave schemes, and also associated questions around how such changes might be made. That public consultation process was in response to commitments in the parliamentary and governing agreement and also in two Assembly resolutions in 2021, I believe, that called for the expansion of the schemes to additional classes of worker and employer.

Having taken part in a number of industry forums in connection with that public consultation, I can say that workers and their representatives are generally very favourably disposed towards portable long service leave. There were many stories of workers benefiting from access, and particularly in industry sectors associated with insecure employment arrangements, where workers are unlikely to be able to access portable long service leave as a result of the nature of their employment conditions. So there was quite strong support for an expansion. In the written submissions that have come through as part of that public consultation process, we are seeing similar feedback.

We are in the process of compiling the input that has come via the various forums and modes as part of that public consultation process. We will be providing that to government for consideration and decision around that question of whether and where an expansion should occur.

MR BRADDOCK: Thank you.

MR COCKS: Mr Young, I am interested in the analysis of the problem that we are actually dealing with here. We know that there can be significant problems and barriers to people in construction around staying with the same employer for an extended length of time. There were certainly issues with phoenixing and those sorts of problems. This helps workers to have some long service leave provisions there. But the purpose of long service leave, from an employer's standpoint, would generally be to reward someone for continued dedication to a single employer. What evidence have you looked at to say that there is a specific problem that needs to be dealt with?

Mr Young: Thank you for the question. There are a number of observations that I would make in response. One is that all Australian states and territories have introduced portable long service leave to some extent. If we look at the speeches given in connection with the ACT portable schemes when that legislation was first introduced, it was clearly contemplated then that the intent was to incrementally expand those schemes. There is a longstanding policy commitment of the government around incrementally growing long service leave. That is reflected in the parliamentary and governing agreement and those statements—the resolutions in the Assembly.

In terms of the public discussion paper that we put out to support the current process, there was analysis conducted which looked at ABS and other data sources to try to identify industry sectors where employment is less secure and therefore employees in those sectors are less likely to be able to access conventional long service leave.

To that question of “What is the intent of long service leave?” there are the ACT's portable scheme act and the associated policy positions around that that focus on the value of long service leave to workers and, by extension, employers after extended periods of service. However, there is not a specific call-out to serve with a single employer; rather, it is focused on employment in a sector of a continuous nature.

MR COCKS: It sounds like it is targeted towards those sectors where people move between employers more frequently.

Mr Young: The employees that are likely to gain the greatest benefit—and, by extension, the employers that are likely to gain the greatest benefit—from portable long service leave are those where there are low rates of access to conventional long service leave. That can occur in a number of conditions, including the ones that you have described.

Mr Gentleman: There is a similar discussion occurring right now, in the wages and skills discussion in federal parliament, where the ACTU and employers have come together and said, “We identify these particular employment arrangements across Australia where people float between different agencies, and we would like to bargain all together, as one, for those different groups.” It really does assist employers in that instance, who are saying, “Look, some small employers do not have a whole HR department to deal with bargaining and that sort of thing, so if we can all work together on it, it is a better outcome for everyone.”

DR PATERSON: Minister, my question is in relation to the secure employment

framework and particularly how successful the government has been in offering permanency to casual employees.

Mr Gentleman: That is, I think, a very strong step forward for this government. It is setting an example for other governments across Australia—and, indeed, as we heard last night, internationally. We have been looking to make sure that we can provide people with secure employment into the future. I will ask our directorate officials to give you some details on how they have been progressing that.

Dr West: I will start and then I will hand to Russell Noud. The secure employment framework contains two components that we have been progressing. The first part is a workforce conversion process, which I think you are referring to. That is looking at employees who have been working within the territory for a period of time and have met a range of eligibility criteria to be then converted into permanent work. That program has been ongoing for a number of years. I will ask Russell Noud to expand on it shortly.

The second part of the framework is the insourcing framework that we have been developing over the last 12 months. That body of work is progressing very nicely. It is looking at meeting the objectives of the parliamentary agreement around insourcing work that would be undertaken by public servants. We are in the final throes of extensive consultation before the minister will bring that back to the Assembly for debate. I will ask Russell Noud to expand on that.

Mr Noud: I have read and acknowledge the privilege statement. Thank you for the question. The secure workforce conversion program had its genesis three or four years ago in our enterprise agreements, where we built a process to assess temporary and casual employees with a view to converting them to permanency. Of course, permanency provides so much more benefit for employees in terms of job security. They can have some surety that they know what income is coming in next payday and they can plan a career and live their life with some level of surety about their employment situation. That program ran its course.

Then in September last year, 2021, the Fair Work Act was amended to incorporate a program similar to what we had developed internally for casual employees. We took that opportunity to rebuild our program and look to meet the new terms of the Fair Work Act, but we have also continued the process that we started prior to the amendments to the Fair Work Act. So, in effect, we have got a broader scope than the Fair Work Act requires. For example, we assess temporary employees as well as casuals—not just casuals.

DR PATERSON: How many casuals have been converted to permanent in that time frame?

Mr Noud: Since 2018 there have been seven whole-of-government conversion rounds. So far, 1,403 insecure employees have been recommended for conversion to permanency, under both the previous and the current policy settings. Of those 1,403, 723 have declined the offer of permanency and 680 have accepted that offer. Over the course of this year, under the new policy settings, 2,838 individual assessments across the service have been conducted to assess whether or not an employee should be

converted, in accordance with the policy. We do that quarterly. All our temporary and casual employees across the service are assessed against the criteria contained in the policy and a set of recommendations is made to the Head of Service, who has the power under the enterprise agreement to convert.

That is a great result for those people. It is an interesting aspect that some people do not want to be permanent, but our policy provides for that flexibility, for what suits them in their own life. Importantly, they have had that opportunity to engage in permanency, should that suit them.

Mr Gentleman: I was just going to touch on that 700 or so that declined the offer of full employment. We do not have the detailed reasons, but we think it is around family suitability, timing and those sorts of things. It might be easier for them to work in the current way. We will certainly assess what we are doing to see if we can understand why that occurs and if we need to provide some assistance to those people to convert.

DR PATERSON: Great. Thank you.

MR COCKS: Ms Agius, I am interested to find out how many worksites have been inspected due to a complaint or concerns about the risk of attracting illness or disease, such as COVID.

Ms Agius: I can tell you that we have issued 16 prohibition notices in relation to COVID in, I think, 12 months. We have also issued 117 improvement notices but no infringement notices.

Our inspectors were delegated under the public health offices to assist with maintaining compliance with the public health emergency directions. However, it is important for me to note that the threshold under the Work Health and Safety Act is very different to the one that exists under the public health emergency directions, so even if the emergency directions have been lessened or lowered, the requirement to keep workers and others in workplaces safe is still there.

To keep our own staff safe, in August 2021 we moved to a surveillance model, rather than a direct face-to-face compliance approach, and we had our own COVID safety plan and risk assessment in place. We amended that to be a phased approach for attending workplaces, based on the risk of COVID-19 exposure. So we had some inspectors doing surveillance and we had some inspectors directly going to workplaces because of business intelligence or risks or complaints that we had been advised of.

We carried out 258 surveillance activities, with 24 matters being referred to ACT Policing for significant COVID-19 breaches. We received 118 phone calls. Of those phone calls, 19 matters were referred to ACT Policing for significant COVID-19 breaches. We received over 240 general inquiry emails and we received 60 construction exemption request emails.

From September to November 2021 we carried out 459 inspections, focusing on COVID-19 compliance. Compliance initially was very low; it sat at about 34 per cent. Then in September-October it increased to 70 per cent. We only found one COVID-19 breach in December, so out of all of those inspections, the 459, we went from 34 per

cent to 70 per cent and then in December we only had one breach.

Large-scale construction returned on 3 September. All of our work in relation to the health directions was in construction, but we carried out quite a significant campaign in retail in relation to COVID-19. We received a number of complaints about retail, so we ran a compliance campaign in retail. Overall, it was 258 surveillance activities and then the 459 COVID compliance inspections.

THE CHAIR: I am going to have to draw this session to a close. On behalf of the committee, I thank the Minister for Industrial Relations and Workplace Safety, and officials, for your attendance today. If you have taken any questions on notice could you please provide answers to the committee secretary within five working days. The committee will now suspend and reconvene at 1.30.

Hearing suspended from 12.43 to 1.30 pm.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Planning and Land Management, Minister for Police and Emergency Services, Minister for Corrections, Minister for Industrial Relations and Workplace Safety

Environment, Planning and Sustainable Development Directorate

Ponton, Mr Ben, Director-General

Rutledge, Mr Geoffrey, Deputy Director-General, Sustainability and the Built Environment

Brady, Dr Erin, Deputy Director-General, Planning and Sustainable Development

Burkevics Mr Bren, Acting Executive Group Manager, Environment, Heritage and Water

Alegria, Mr Stephen, Executive Branch Manager, ACT Parks and Conservation Service

Cilliers, Mr George, Executive Group Manager, Statutory Planning

Green, Mr Ben, Acting Executive Group Manager, Development and Implementation

THE CHAIR: Welcome back to the estimates committee hearings this afternoon. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live.

When taking a question on notice, it would be useful if witnesses could use the words, "I will take that as a question taken on notice," or words to that effect. This will help the committee and witnesses to confirm questions taken on notice from the transcript. I also draw to your attention the privilege statement that is in front of you. I will need you also to confirm that you agree to the implications of that statement. I remind witnesses of the protections and obligations afforded by parliamentary privilege, as set out on the privilege statement in front of you.

As we are not having opening statements, we will go straight to substantive questions. I will pass my substantive question to Mrs Kikkert.

MRS KIKKERT: Minister, this question is in relation to the McKellar shops development. In your letter to the architect for the proposed development, you stated that you wrote to the independent planning and land authority and directed them to refer the development application to you for consideration. Who prompted you to ask the independent authority to refer this DA to you so that you could personally intervene in the approval process? If somebody asked you, how many times have they asked you to intervene in such DAs?

Mr Gentleman: It is an important question as we look at the change to the Territory Plan and planning regulations in the forward context. The ministerial call-in powers have been used infrequently over many years to make decisions on development applications and other matters. In most cases, of course, it is a decision that I make. I am not asked to intervene, so I make that decision based on the information provided to me. As you saw in my notice of decision, I review the context of the application and whether or not it is for the benefit of the Canberra community as a whole. As I said in

that notice of decision, at that point I viewed that as not being of benefit to the Canberra community as a whole. I have used the same parameters, if you like, for decisions previously on call-in powers.

MRS KIKKERT: One of the reasons you gave for using your call-in powers, Minister, to reject this development was inadequate car parking to accommodate the would-be residents of the proposed buildings. The plans clearly meet the code, however, with garage parking for 19 cars and eight additional service bays for 14 units. Why did you state in your media release that residential car parking in the plans is not sufficient when that is demonstrably not the case?

Mr Gentleman: You need to look at the whole decision, Mrs Kikkert. It was not just about car parking; it was about the whole genesis of the development for that particular space. That had previously been a shopping centre. This development would change the aspect of that community centre and would turn it into mostly residential, rather than a shopping centre. There were certainly comments about car parking as well, but I would not take just one item of the decision and infer that was the only reason that I made the decision.

MRS KIKKERT: Minister, you mentioned a supermarket. As you are quite aware, the previous development application that was approved in 2016 did not go ahead, primarily due to not being able to attract a supermarket-based anchor tenant. The last supermarket on the site was FoodWorks, and it went bankrupt, owing to low foot traffic. Since then, shops in Belconnen, Kaleen, Evatt and Spence have been further developed, increasing retail competition in this area and subsequently making it even less likely that a new supermarket would survive at these shops. What makes you think that a new supermarket would even be feasible?

Mr Gentleman: That is not the case. The case is whether the residents of that location deserve to have a supermarket and a shopping centre. If you look at planning throughout the ACT, we have structures regarding the way we do our planning. We have major centres, growth centres and local centres; then residential moves out from there.

To make the changes that were proposed in the development, it would reverse the way that we do our structured planning for the territory. Every suburb has the opportunity to have a local shopping centre and a local supermarket, and that is one of the reasons that I made that decision. You will see right across the ACT lots of commentary about upgrading shopping centres and better opportunities for people to meet and greet locally—those sorts of things. We want to keep that in place. It is good planning practice.

MRS KIKKERT: I repeat, Minister: the previous application that was approved could not go ahead, primarily due to not being able to attract a supermarket tenant. You also stated that plans do not “offer users of the local shops somewhere to park”. But this DA has not reduced the existing government car park, which has provided adequate parking for shop users, at least since there was a small supermarket on site. Why are you using a lack of commercial parking as a reason for rejecting this DA when there has been no change? Must the developer somehow create more commercial parking than what has always been available?

Mr Gentleman: As I said earlier, that is only one part of the aspect that I considered in

refusing the application. There were many aspects, all noted publicly in my notice of decision.

MR CAIN: Minister, during your time as planning minister, both in this term and previously, how often have you used your call-in powers?

Mr Gentleman: About once a year.

MR CAIN: How often have you used your power prior to a decision being made by your department on a DA?

Mr Gentleman: They are always prior. I write to—

MR CAIN: No. For the Ainslie YWCA supportive housing project, there was a series of DA decisions.

Mr Gentleman: Yes, but there was a different DA for that. I write to the directorate and advise that, in this case, I will be the decision-maker.

MR CAIN: So you are the decision-maker, as opposed to using your call-in power?

Mr Gentleman: That is what the call-in power does. Normally, the independent planning and land authority is the decision-maker. In this aspect of using my position under the Planning and Development Act, I write to the directorate and advise that in this case I will be the decision-maker. The directorate then forwards to me all of the documentation in that application. I go through all of that documentation and make the decision. In some cases the documentation is quite lengthy. The first one that I did was for the bush healing farm, and there were boxes and boxes, a metre high, that I went through before making that decision. In this case there was less documentation but it was quite evident to me that this would not serve the Canberra community in the best possible way.

DR PATERSON: Minister, I have a question around your call-in powers. Why is it important that you do have these powers as minister?

Mr Gentleman: Quite often you will see aspects of the Canberra community that are not happy about a certain development that is proposed that may well be for the overall benefit of the Canberra community. It is important to be able to make a decision so that those applications can go forward and provide that benefit for the Canberra community in a timely way. This does not mean that there is not an appeal process, of course. They can go to a higher court and the decision can be looked at. That has occurred in the past. Those processes are in place with respect to the community's view regarding decision-making for development applications and those other processes at the parliamentary and ministerial level.

THE CHAIR: In the media release statement you said that you did not want to limit the precinct's potential for the future. This site has been left derelict for over 10 years and, by taking the unprecedented step of rejecting the current DA, you are limiting the precinct's potential future. Is it possible that, by taking this step, you may discourage future attempts to develop this site?

Mr Gentleman: No, I do not believe so. I think it will encourage good planning, going forward. Those people that are looking at doing developments on that site will look at my decision and take some guidance from that as to what should be provided for the Canberra community.

MR CAIN: Did you have prior knowledge of your department's decision on this DA, prior to using your call-in power?

Mr Gentleman: No.

MR CAIN: Do you have a preferred developer for this site?

Mr Gentleman: No.

MS CLAY: Minister, can you tell us where the planning review is up to?

Mr Gentleman: Yes. Can I start by thanking my team, who have done an incredible amount of work over the past number of years in preparing for the review and reform project. We are now in preparation for the bill. Of course, after the bill, we will go to the district planning strategies. I will give my team the opportunity to tell you about the work they have been doing and some of the pressures we have had, particularly around COVID and staffing, and other pressures on the directorate.

Mr Ponton: I have read and understood the privilege statement. In relation to the progress of the planning system review and reform project, there are three key elements. The minister has referenced the planning bill. That is a really important next step. Following the consultation on the bill, which ran for three months from March 2022, we received just over 300 submissions on that bill.

It is safe to say that it is unusual to receive that much interest in a draft bill. I would like to think that is because of the communication strategy that we applied to that, in terms of making sure that we reached out to as many people and voices as possible, in terms of both those that we regularly hear from and those that we do not ordinarily hear from. That certainly came through in the submissions that we received. Part of that was providing people with the opportunity for a quick comment, so that they did not need to sit down and write a really long submission; they could just run through one or two lines. We received quite a lot of those quick comments.

In response, we have gone through and made some amendments to recommend to government in relation to the bill itself. We are on target to have that presented to government very soon.

In terms of the expected timing, provided the government is comfortable with the proposals that we are putting forward in terms of the time frames that we are working towards, we would like to see that presented to the Assembly in September this year. I do not think there is any surprise there. We have talked about that in the past.

Following that, the other two key components to this work include the district strategy work, which you would have heard me talk about previously. The district strategies

cover nine districts. They are intended to provide the next level of detail in terms of strategic planning to give effect to the ACT Planning Strategy 2018.

As part of our earlier work in developing the scope of the project, it became apparent that, on the planning strategy—very high-level metropolitan strategic planning to the Territory Plan on block provisions—there was a gap in terms of that spatial planning. This work was first identified in the ACT Planning Strategy itself in 2018.

We have been working. We have had a number of engagement sessions, in terms of both community and industry. We have a technical advisory group that we have been working with, and across ACT government directorates and the ACT public service, in terms of testing ideas.

We are now at the point where we are getting very close to being able to recommend to government draft district strategies. Concurrently with that, we are also developing the proposed new Territory Plan. Of course, we need the bill to pass before those other aspects can be brought into effect. Having said that, all is going well and, if our recommendations are supported by government, we would like to see the Territory Plan and the nine district strategies out for consultation in November this year. Our recommendation will be that that should run for about three months, to accommodate the summer period.

The Territory Plan itself will be structured in a way that is very much outcomes focused. That does not mean that it is a free-for-all. Certainly, from listening to some of the feedback we have received, particularly from community members, whilst we are talking about an outcomes focus, it is about making sure that we are clear about those non-negotiable items. There will still be some numerical standards there, in terms of, “These things are absolutely limits.” We are recommending to government that they will continue to be included in the plan, but we will be much clearer in terms of the outcomes that we expect for particular zones and the types of development that we are wanting to see.

The Territory Plan will be supported, we are recommending, by design guides. People may have heard reference to the similar New South Wales process, where they also have design guides. It gives people a sense, for certain elements in the Territory Plan, of how they can achieve those desired outcomes. It is starting to give people examples like, “If you do this, this is one way that you might be able to achieve those desired outcomes in relation to particular elements,” whether that be in relation to connectivity or open space usability—those sorts of things.

In summary, the work is progressing well. The bill, in terms of the final version that we will be presenting to government, is done, and it will be with the minister very shortly. Soon after that, we will have the draft Territory Plan and the nine district strategies ready for government consideration.

MS CLAY: I refer to a couple of specific items in the budget on the planning review, just to see how those are tracking. I think we have \$21.5 million in there for statutory planning, which is a pretty big increase. Is that for the policy work that is going on?

Mr Ponton: No. Statutory planning is, essentially, for the development assessment

team, but it does also include the Office of the Surveyor-General and the Crown leasing team. I think that is essentially it. That is the regulatory side of the planning authority.

MS CLAY: That is just EPSDD staff—

Mr Ponton: Yes.

MS CLAY: not working on the planning review, just doing ordinary planning work?

Mr Ponton: The planning policy work is through the planning and urban policy division.

MS CLAY: We have \$3 million for planning policy, specifically?

Mr Ponton: Yes.

MS CLAY: That is on the planning review?

Mr Ponton: There are people in that team that are working on the planning review, yes.

MS CLAY: Do you have enough people working on it? Do you have the right staffing to work on this fairly major review that we have?

Mr Ponton: Indeed. The government has allocated, in previous years, funding specifically for the planning system review and reform project. There is specific funding that has been utilised for people, and also for some outside expertise in relation to certain areas. The work that is being done through those consultancies is all available—most of it, I think; some of it is still being completed. The work that has been completed is all publicly available. We have drawn on expertise from within the organisation. That is not just in the planning and urban policy team. We have drawn on expertise from the statutory planning team, and from our environment division, because a key feature of the new planning system is looking at how we integrate with the environment, climate change and the like. We have made sure that we have drawn on all of our internal expertise. They are not dedicated resources; they are just people that are coming into the project from time to time.

MS CLAY: I have heard a bit of concern that, as we move to an outcomes focused planning system, we will need more staff, we will need more expertise and we will need people who know all about planning in order to get good results. We might have different requirements for our systems and equipment to make sure that we are making really high-quality decisions, because EPSDD will be taking a more active role, I guess, in decision-making. Have you thought about how that will be resourced when the new system is in place?

Mr Gentleman: I might chip in first and say that good directors-general will always say they need more resources for the future. Indeed, in this case they certainly will. Those will be matters that will be brought before budget cabinet in future years. I will let the director-general give you some more information.

Mr Ponton: I would like to highlight here—and you made reference to the planning

authority being more involved in planning decisions—that the important thing to acknowledge is that we have a team of very well qualified, internationally experienced planners, architects and landscape architects within our organisation, many of whom are within the statutory planning division. We have people who are very well qualified to make these decisions based on performance criteria or outcomes statements.

At the moment those people are assessing against rules and basic numerical standards: does it meet this setback? Does it meet this height? Does it meet this numerical standard? That is not really utilising, as well as we could, the very highly skilled people that we have. I am very confident that, in terms of the qualified professionals, both planners and allied professionals, we have the skill set.

Having said that, in this budget, you will see that there is an allocation for the planning system review and reform project implementation. Part of that is training for our people, as well as industry and community, on how to use the new system. That is a key consideration, and the government has already provided that to us. That funding also, over a number of years, goes to the IT systems that support the new planning system, in terms of both accessibility to information and the mapping system that we have. Of course, we have a very good mapping system through ACTmapi, but we are looking to augment that so that we can make it as easy as possible for our community to navigate the planning system through that new system. That is a project that is currently being scoped and will run over a number of years. There will be various deliverables over that period of time.

In terms of the immediate funding that we have, we will have funding to train our people and others. I am confident that we have very highly skilled, internationally experienced planners, landscape architects, architects and the like.

DR PATERSON: What can Canberrans expect to see with the district strategy plans?

Mr Gentleman: That is a good question. We will look at those districts across the ACT and provide stakeholders and Canberrans in general with the opportunity to have input into that as we go to develop them. You would be aware of how Canberra is structured at the moment. It is basically in line with the current structure. As we have said in our statement of planning intent, we do not intend to go beyond the 70-30 realm. You will see much more development in infill areas, around local centres, major centres and transport corridors, with only 30 per cent in greenfields areas. A lot of those geographic areas will be very similar to what they are now.

The population will change. As Gungahlin comes to a close regarding new development, it will move to Molonglo, for example. I will ask the directorate to give you more detail.

Mr Ponton: Dr Paterson, in relation to the work, as I said earlier, it is the next level. We have the planning strategy. That is in the metropolitan context. In developing the draft district strategies, we have interrogated the data that is available to us. There is a range of data—not only ABS data and population projections but other data. That is starting to help us look at what particular districts need, whether that be retail, commercial, residential development and the like, and linking back to what the planning strategy had foreshadowed—for example, accommodating 70 per cent of the city's growth within the existing urban footprint, and there are reasons outlined for that in the

planning strategy.

This work will identify sites that we know we can propose now for change. That is based on work that we have already done. There would be no surprises to people in terms of those areas. That will also pick up on current Territory Plan variations. Some of those that were being considered have progressed far enough that we could incorporate those into the district strategies, in terms of those proposed areas.

We are also identifying areas that have potential. I might hand over to Dr Brady to talk a little bit more about those three elements. Essentially, we are recommending three categories to government. We want to be clear to the community, when they see these district strategies, that it is not saying that these areas that we are identifying are going to change right now. We are saying that, yes, there are some that we know we can move forward with, but there are others that, as we have said, have potential, and we need to do some more work on those. There are others that are further down, in terms of timing, which have potential. We know that there is potential there, but there is a lot more work that needs to be done.

It is putting on the radar that this is work that we need to do. I am sure that is when we will be coming back to the minister and government to say, “This is work that we will need to do over the next number of years to understand what that potential might mean in relation to those particular sites.”

Also, we are working very closely with our colleagues in the environment division in relation to biodiversity and connections throughout the city, both in the metropolitan context and at the more local and district level. The district strategies include the mapping work, the data, in relation to that biodiversity understanding and opportunities to improve that connectivity. There are quite a number of layers and, as we work through those layers, that will help us to identify a series of recommendations. Do you want to say anything, Dr Brady?

Dr Brady: No, I think you have covered it.

DR PATERSON: In terms of districts, I assume Weston Creek, for example, will be one. I would say that it probably looks exactly the same as it did 40 or 50 years ago. There has not been a huge amount of building, whereas communities like Molonglo or Gungahlin, which are much newer, might be more open to interesting, different types of development. Will there be different work done with different districts, in terms of engaging on the different types of development that could go on there?

Mr Ponton: The short answer is yes, but I might ask Dr Brady to elaborate further on that.

Dr Brady: I have read and acknowledge the privilege statement. When you look at each of the districts—and there are nine districts—they are all quite different. One of the things we have tried to factor in, and we picked this up from consultation that we did last year, is: what is special from a community perspective about those districts? As Mr Ponton said, we have all of the different layers of information around environment, transport, infrastructure—those sorts of things—and we have layered that as well. We have also looked at built form, in terms of it more likely being apartments and a mix of

uses close to centres, and the density and the scale of development goes lower as you move away from those transport corridors and centres. They are the sorts of things that have influenced it.

When you look at each of the districts, that gets you to: where is there land where there is potential? That includes land that currently might have development on it but, for example, if light rail happens in certain areas, there might be opportunities. With respect to some of the proposed potential, it is also about intervention in different ways, in terms of infrastructure provision. For example, perhaps we could use the Healthy Waterways program further to protect blue corridors or create more blue corridors. Those sorts of things are leveraged so that we can look at whether we could maintain the character that is important to people in these areas.

As you said, Weston is very different. Even in Belconnen, there are quite big differences. There are areas that might be available for change, and the types of things that might drive change or constrain change are all considered specifically for that district. We are not proposing just an even distribution of growth across the whole city. We are trying to structure it around other opportunities and possible investments that might need to occur to drive that.

We are factoring in as well, if there is growth in certain areas, considering whether there are enough community facilities—not just in that district, because not every district works that way. There are some broader catchment things. Yes, it is absolutely about looking at the different character of those districts as we plan for them.

Mr Ponton: In case we move off district strategies, could I clarify something? I think I said this earlier. In terms of the current status, yet to be considered by government, and in terms of that timing, in terms of the expected consultation, they would be drafts at that point. We would not be looking to settle these until next year.

MR CAIN: Minister, given that the planning bill has ended up with increased powers for the Chief Planner, do you think that it was appropriate for the Chief Planner to lead this review? Why did you not engage an independent expert, at least for probity reasons, to develop this legislation?

Mr Gentleman: Yes, I do think it is appropriate that the Chief Planner has this role. He is the Chief Planner. He has the knowledge that is needed.

MR CAIN: He has given himself extra powers.

Mr Gentleman: It is moving those call-in style powers from my position, as the minister, to the Chief Planner. That would occur, of course—

MR CAIN: From an elected official to an unelected official.

Mr Gentleman: where I decide that there is a territory priority project that should be allocated; then he would be able to use his power under this act to make that decision. Of course, Mr Cain, the bill has not even been delivered to the parliament yet, let alone passed. There will be plenty of time for people to make that commentary. I will hand over to the director-general.

MR CAIN: Will you be engaging any external consultants—

Mr Ponton: If I could—

THE CHAIR: Mr Cain, can we let Mr Ponton respond to your supplementary?

Mr Ponton: It is an important point because I have also heard some people talk about the extra powers for the Chief Planner in the draft bill. It would be interesting, Mr Cain, to understand what additional powers they are, because we are moving, from the minister, the ability to decide a particular category of DA. Under the existing legislation I already have the ability to decide certain categories of development applications. There is no change to that.

In relation to other matters that have been put to me, with respect to the suggestion that the territory planning authority, under the new bill, is the Chief Planner, there is no change. Under the existing legislation—and it has been since 2003—the planning and land authority is the chief planning executive, so there is no change there.

In terms of additional powers for the Chief Planner, this bill does not actually afford me any additional powers. All that it does, and I thought this was important in making recommendations to government, is to provide greater scrutiny of the Chief Planner in relation to things such as conflicts of interest, and the declaration of those. At the moment I have obligations under territory law to disclose certain matters to the Head of Service, but that will change, if it needs also to be disclosed to the executive—that is, the minister and, through him, the broader executive.

The only change, as I said, from the current legislation to the proposed, is that there is greater scrutiny and obligation on me to declare certain matters, and in relation to the qualifications held by the Chief Planner. Again, there is a greater requirement there.

In terms of DAs, I already have the ability. In fact, that rests with the planning and land authority now, and will continue to do so. It is just another category of development which is a territory priority project. It is still a DA. The reason we suggested that to the minister, with no disrespect to the minister or anyone else, was that we thought that if a political decision was declaring a project, it made sense to leave the decision on the DA to be determined by the Chief Planner, as the planning authority deals with every other DA in this city.

Mr Gentleman: I do respect our decision-makers in government. Our directors-general and policy officers do an incredible job. They do it because they want to do the right thing for the Canberra community. I cannot think of any decision that Mr Ponton has made that the Canberra community would not agree with.

MR CAIN: For the development of district plans, the Territory Plan and obviously the revised bill, do you plan to engage any external advisers to steer these projects?

Mr Gentleman: I think we have enough expertise within the work group that we have at the moment.

MR CAIN: External; any external?

THE CHAIR: Can you please let—

Mr Gentleman: I have not finished, Mr Cain.

THE CHAIR: the minister respond?

Mr Gentleman: There is enough expertise and engagement with stakeholders right across the ACT. There has been some pretty smart expertise engaged in this process so far.

MR CAIN: But no external advisers to guide the project?

Mr Gentleman: Mr Cain, we have engaged with the whole Canberra community. PIA, the Planning Institute of Australia, is engaged in this process. They are certainly external to government, and I think they are doing a good job.

Mr Ponton: If I could add to that, in terms of the external review, that expertise is broad. There is community expertise and what they bring to the table. We have been engaging with the Environment and Planning Forum. The heads of the various community councils are on that, and they bring a perspective. On that group there are also professional associations. We also have a technical advisory group that consists of a range of experts, external to the ACT public service, providing guidance. We have also engaged with the Law Society in relation to the bill itself. So the short answer is yes—

MR CAIN: These are all stakeholders—

THE CHAIR: Mr Cain.

MR CAIN: not independent advisers.

THE CHAIR: Mr Cain, can you please let Mr Ponton respond to your supplementary?

Mr Ponton: In relation to developing the bill, the district strategies and the draft Territory Plan, again, I point out, in relation to the construct of the current legislation, that it is my role as Chief Planner to provide independent advice to government in relation to policy matters, and then to decide the DAs. In relation to policy, I do have the obligation to provide independent advice to the government.

DR PATERSON: Minister, I would like to change tack a bit and talk about Namadgi and the aerial culling of feral animals. How is the government doing that and how successful has the program been?

Mr Gentleman: It is important that we look at those incursions into Namadgi and do the best we can to ensure that that biodiversity continues to thrive. We have had some challenges, of course, getting into the park with the recent rain. Aerial culling has occurred again this year in Namadgi National Park.

The program was targeted mainly towards feral deer and pigs, which are causing quite

a deal of damage in the parks. In keeping with our no-tolerance policy, instructions were also given to remove any feral horses found near the ACT border at the same time.

The impact on our natural environment from hard-hoofed animals, particularly around the water catchment, is quite severe. In those vulnerable areas we are concerned about the preservation of that really pristine area. It is quite alarming to us to see those incursions, and we want to act as quickly as we can.

Our PCS people have been very clever, I would say, in making sure that they can identify what animals are coming in. Park rangers have been up in the mountains with battery-operated cameras to look at the numbers coming in and to identify what animals are doing the damage. Then we secure the services to do the work in removing those animals.

DR PATERSON: We are an island within New South Wales, so are we working with the New South Wales government on this issue?

Mr Gentleman: Yes. There is cross-border collaboration in regard to identifying movements of hard-hoofed animals, where they are coming from and the numbers, for example. We are still aware of large numbers of horses around Kosciuszko. We are quite concerned about the incursions from there.

We have been able to deal with those incursions pretty quickly, when they happen. I might pass over to directorate officials to give you some more information.

Mr Rutledge: I have read and understand the privilege statement. Dr Paterson, the thermally assisted aerial shooting, as the minister was saying, is a very efficient way to eliminate invasive species in the deep south of Namadgi, if you will. It is a pretty impenetrable area. Just three seasons ago, we had previously done ground shooting. It would mean shooters would need to be camping, for sometimes weeks on end, to locate, find and eliminate the pests.

It is not simple. It is highly technical, but the simple description of it is that in the morning and afternoon, dawn and dusk, helicopters take off, do small runs of maybe half an hour, and they identify heat signatures within the park. They zoom in. They make sure that it is not a kangaroo—it is clearly a deer or it is clearly a pig, and sometimes pigs with their young following them—and then remove them. In a period of 15 days, with flights of about an hour a day, we would easily remove—I will not say 10-fold—phenomenally many more than we would through ground shooting. It has been really evident.

We have not seen any real incursions of brumbies from the New South Wales border. That is part luck, part topography. Part of the work we are doing through the aerial-assisted culling is monitoring that border to make sure there are no incursions.

Certainly, on the eastern side of the park, there is now a resident population of horses, most likely domestic horses that have moved into the park and remain there. They are only in small numbers now, and we are keeping a close eye on them. If you fly out of Namadgi over New South Wales, you see the damage done by hundreds and hundreds of horses around the rivers and estuaries in the park, and you realise that every dollar

invested up-front in removing the invasive species is a good spend.

DR PATERSON: We have had serious bushfires and floods and the La Niña effect. Has there been any noticeable impact in the populations of these animals, either positive or negative?

Mr Rutledge: Yes, there has been, as the minister said. There are a couple of things. One is that it has made it harder for people to enter the park. Because there is not much undergrowth, as we are still recovering, that is very attractive land for pigs and deer. We have seen, since the bushfires, a lot of additional deer and pig in our park, and that is why we need to really keep on top of it.

In the past two seasons, where we have used this newer technology—and I think there are probably only one or two other places in Australia that use this approach—we have seen good numbers from that. All going well, we will continue that because it is a very efficient and cost-effective program.

MR CAIN: Minister, I make reference to the *ACT land and property report* for December 2021 and June 2021. Each of those reports identifies the number of total settlements of Suburban Land Agency single dwelling blocks. In the December report, at page 9, it lists a total number of settlements for January to June as 656, whereas in the June report it is listed as 672. Could you explain the differences and how those tables are populated for those two different reports?

Mr Gentleman: I might make that a question for the Suburban Land Agency's minister, if it is the Suburban Land Agency that you are quoting.

MR CAIN: Your department does not compile these land reports?

Dr Brady: I can answer that. We do work on the reports. We work on them with SLA. For the statistics you are referring to, I would need to have a look at the actual document. I will take that question on notice.

MR CAIN: Could you also take on notice: are there other periods where the settlement totals in two different reports for the same period are different? Could you explain where that has happened elsewhere and why?

Dr Brady: I will take that question on notice so we can look at that.

MS CLAY: Minister, I have asked you quite a few questions about the western edge and environmental studies that are being done to ensure we are getting the correct information to be able to protect that properly. Can you tell me where you are up to in terms of the environmental reports on the western edge?

Mr Gentleman: We have been doing quite a bit of work there, as I have reported before. I will go straight to the directorate to give you the detail about that.

MS CLAY: Just a recent detailed update.

Dr Brady: The first round of reports we did are on the website, except one that is

cultural heritage. There was so much in that one that we had to redact for cultural reasons. That is the one that did not get put up there.

The ones that are on the website are: the initial *Contamination assessment; Preliminary geotechnical and hydrogeological assessment; Preliminary ecological review and assessment; Landscape character values and visual assessment; Preliminary bushfire risk assessment; Preliminary air quality assessment; and Preliminary assessment of engineering infrastructure opportunities and constraints*. They were the first preliminary studies we did that are on the website.

A number of those recommended that we needed to do another round of further works, which we thought we would—for example, bushfire assessment. We need a further progression of that.

At the moment, we have a land use capability assessment happening. That is our first go at taking all the information we have so far and putting it together to start identifying what might be areas that are more appropriate for certain land uses. As per the directions that were under the planning strategy in 2018, we are looking at what the possible land uses are for the future and whether there are areas that might be suitable for residential uses, reserves or other uses. This land use capability assessment is our first go at layering together all that information we have got. It will identify that we probably need more information in some areas to be able to make decisions. So that is happening. We are also doing another ecological habitat survey at the moment. Some of those are seasonal. We are also doing another Aboriginal cultural assessment.

That is where we are up to at the moment. We will keep progressing some of those and layering them together to help us get to a further program of what will be the next round of studies, if we start broadly thinking about potential land uses, but they will just be broad uses at this point.

MS CLAY: So we are very much still in the assessment phase at the moment.

Dr Brady: Yes, data collection and assessment.

MS CLAY: We have got a new green waste site in Belconnen that is actually in the western edge, and I think there is a DA lodged for that. That site did not have an EIS and it did not require an EIS. I think it is part of the western edge, so I am wondering, while we are still going through this assessment process, are we not releasing land, or are we?

Dr Brady: There is no land for release in the western edge area that we are working on. I would need to check.

MS CLAY: So the green waste site is not part of the western edge?

Dr Brady: It might not be in what we are classifying as the western edge area. I would need to check, unless one of my colleagues—

Mr Ponton: I can add that, in relation to the work we are doing on the western edge—looking at opportunities for future use, including but not limited to residential use,

commercial and environmental and the like—while that work is underway, that does not preclude landholders from lodging development applications for things that are already permitted under the existing zoning. I think that is the case here, in relation to that particular site. It is permitted under the existing zone under the Territory Plan, and it is being dealt with accordingly.

That will continue to happen under existing zoning provisions until the zoning changes at some future point after all this work has been done and government has considered the outcomes of that work. It is a parcel of land that is leased and allows for that DA to be considered.

MS CLAY: Does that mean any leased area that is in the western edge investigation area might be redeveloped regardless of what investigations we are doing?

Mr Ponton: For uses that are currently under the existing provisions of the Territory Plan. We cannot put a complete moratorium on anything happening in that area.

MS CLAY: Sure.

Mr Ponton: As I have said before in previous hearings, it can take anywhere between seven and 10 years from the time that you start these investigations to being able to recommend particular outcomes and seeing things happening on the ground.

MS CLAY: In the western edge investigations, and the assessment we are doing, how are we going to make sure that we are taking into account the accumulative environmental impact—the total habitat and the total environmental protection—if we are running those investigations at the same time as running separate developments that do not come with an EIS and do not come with those environmental assessments?

Mr Ponton: In relation to a particular individual DA that does not trigger the need for an environmental impact statement, the development assessment team in the Statutory Planning Division, Planning and Land Authority, would still be required to consider a range of issues, including the impact on the environment, as it would whether we were doing the investigations or not. Perhaps I could ask Mr Cilliers to talk a little bit about that process and what happens when considering a development application for land use in essentially a rural area.

Mr Cilliers: Thank you, Mr Ponton. I have read and accept the privilege statement. I assume that the DA you are referring to is block 1466 in Belconnen?

MS CLAY: Yes.

Mr Cilliers: It is for a waste collection facility.

MS CLAY: That is the one. The question is whether that is an example.

Mr Cilliers: Yes.

MS CLAY: If that makes sense. It is probably more about any sites, whilst we are doing this environmental assessment of the western edge and also developing it.

Mr Cilliers: I understand. I will quickly give an update on that particular DA. That is for a temporary green waste facility. It includes a shed and landscaping. That was lodged during June. It was notified during July and received about 51 representations. That DA is currently under assessment by the Planning and Land Authority.

To answer the question about how it is assessed when it is outside of that, when a DA is lodged the first test is whether it is lodged in the correct track, in terms of whether it is impact track or merit track, under the current provisions. The requirements for impact tracks are set out in the schedule to the Planning and Development Act. I am not going to go into detail about what those triggers are. In this particular case, it did not meet those triggers because they are applying for a temporary use that is permitted under the merit track.

If an application is considered to be on the impact track, the impact provisions will apply. There is an option for the proponent to then apply for an ESO, or environmental significance opinion, to be exempted from that track and to be considered in the merit track. Despite all of that, in terms of the considerations under the Planning and Development Act, section 120 is the probable environmental impact, so that is something that we will consider as part of our assessment even if it is on the merit track.

MS CLAY: So you are considering the cumulative impact as part of that process?

Mr Cilliers: Yes. That certainly is the case. On top of that, we do a referral, for example, to the conservator, as well as to the EPA, that might cover additional issues as part of that. Once we collect all of that, we look, as you say, collectively at what the impact is and make our decision.

Mr Ponton: Mr Cilliers also would have access to any work, data and information that is being gathered through the work of the planning policy team to assist with that assessment.

MS CLAY: Okay.

MR CAIN: One of the recommendations contained in part A of the preliminary environmental site assessment was regarding unexploded ordnance and exploded ordnance waste. It says that the status and the management of this should be made a priority. What has been the progress on ascertaining the status of this unexploded ordnance and exploded ordnance waste since the report in November 2020?

Mr Gentleman: Thanks, Mr Cain. We usually work with Defence to understand whether there have been some sites that they have previously used for the burial of ordnance. I will ask our directorate officials to give you the detail about those.

Dr Brady: I think I would have to take that question on notice, just to check the status of the follow-up work on it.

Mr Ponton: To be clear, Mr Cain, that is in relation to the western edge, not the eastern border? Yes?

MR CAIN: Yes, the western edge investigation.

Mr Ponton: Thank you.

MR CAIN: I would like a status update and the management plan, if there indeed is any risk from these substances.

THE CHAIR: On page 103 of the 2021 budget statement for EPSDD, the continued development and release of final land blocks in Taylor and Jacka; commercial land in Casey; and residential, commercial and community land in the Gungahlin area is mentioned. I want to know where that is up to, what land has released and what is to be released?

Mr Gentleman: That goes back to ILRP, I think.

Mr Ponton: I might ask Dr Brady.

Dr Brady: Sorry, Mr Milligan; could you give those references again?

THE CHAIR: We have got Taylor, Jacka and Casey, and also Gungahlin. There are final blocks that are to be released in terms of residential, commercial and also community.

Dr Brady: And did you say that was from the ILRP or the budget?

THE CHAIR: EPSDD, the 2021-22 budget statements.

Dr Brady: 2021-22.

THE CHAIR: Page 103.

Dr Brady: Okay. I might hand to Mr Green to speak to some of those.

Mr Green: Certainly. I have read and acknowledge the privilege statement. Mr Milligan, just so that I am clear: which document are you referring to? Are you referring to the budget outlook, the budget statements or the ILRP?

THE CHAIR: In EPSDD—

Mr Gentleman: This could be SLA again.

Mr Green: Yes. I am certainly happy to discuss it, though. I think you mentioned the Casey site, as well as Jacka.

THE CHAIR: Yes. Let's do that. Discuss what you can.

Mr Green: Yes, certainly. With respect to Taylor, looking at the current indicative land release program for 2022-23 to 2026-27, all those sites would be with the SLA to release. They would be best placed to talk about any further sites to be released there.

THE CHAIR: Okay. Yes.

Mr Green: In relation to the Casey site, that is certainly earmarked in the current indicative land release program for release in the 2023-24 year.

THE CHAIR: Yes.

Mr Green: The minister has previously engaged with the Gungahlin community in relation to that site, particularly in the work that we did on the community and recreational needs assessment for the Gungahlin district. We are currently working across government and with the community on potential options for that site. Under the current ILRP it is listed for a yield of 100 residential dwellings, as well as some commercial space.

As the minister has previously acknowledged in other public forums, there is an opportunity on that site to respond to some of the matters raised in the Gungahlin community and recreational needs assessment. This includes things like multipurpose courts and sports facilities. When we looked at the Gungahlin community and recreational needs assessment, it identified a number of areas of potential future gap. The work that we are doing at the moment, and that we will inform government on shortly, is to look at other opportunities for that site.

In relation to the Jacka site, there were significant delays with that, I understand, as a result of an appeal to the development application, which was for the estate development plan. I understand that that is now approved. Again, that would be a matter for the SLA and their release strategy with respect to that particular subdivision. I do note, however, that it is earmarked for a partial release this current financial year of 400 dwellings, and next financial year for a further 280 dwellings.

THE CHAIR: In Jacka?

Mr Green: In Jacka; that is correct.

THE CHAIR: Okay. Excellent. Thank you very much.

MS CLAY: Minister, we have had a Parks and Conservation budget which looks like it has stayed pretty stable for the past few years. It does not look like it has gone up and down much, despite the fact that we have had bushfires and La Niña and invasive species. Can you tell me how you are dealing with all of those new issues with the same level of funding?

Mr Gentleman: Yes. Thanks very much for the question. It is indeed a challenge, and quite often we go through programs that are offered by the ACT government and the directorate to get some outcomes within PCS and the areas that we look after. Sometimes there are programs there, so we do see a little bit of up and down. We see that with staff as well. It has been a particular challenge because of the rain events and, previous to that, the fire events in our parks. I will ask directorate officials to go through some detail for you.

Mr Rutledge: Thanks, Minister. Thanks, Ms Clay, for your question. You were right:

the controlled recurrent payments for the Parks and Conservation Service have been, over a couple of years, around \$46 million. That is core within the parks service. But the government has been providing initiatives. There have been joint initiatives around invasive species and the continued kangaroo management, as two large examples, and additional funding for environment volunteers. They sit within the output class of the environment, as opposed to the parks and cons output class. Even though sometimes there is a Parks and Conservation officer working on a seemingly parks service outcome, it is actually funded via the environment portfolio.

If I look at the past three financial years, you are right: the core funding of parks services, at around \$46 million, has been the same. But the funding for the environment portfolio has increased greatly over that time. So we have seen large investments in the environment portfolio. Part of the recovery from the bushfire was funded via insurance. Part of that was then funded by commonwealth grants. We are still looking for additional commonwealth grants for that. There has been about \$9 million of work directly on recovery over that same three-year period, so we have seen additional investments over that time.

MS CLAY: Given that we have got La Niña on at the moment, have we got the funding we need in either of those pockets, in either the PCS or the environment budget, for sufficient bushfire management?

Mr Rutledge: I will ask Mr Alegria to talk about how we have done with the bushfire management this year. We have had a very wet season, as you have alluded to. There are a couple of things that we have been very successful with on bushfire management. I will let Mr Alegria speak to that.

But we have had to spend a lot more time on tracks and trails, maintenance and upgrades, because, as you know, there is a lot of water already in the landscape. So every time we have another rain event we inevitably find additional roads and bridges that need further work. That is where we have probably spent more time and effort this calendar year than we would otherwise have done. Mr Alegria, how are we going on bushfire management this year?

Mr Alegria: I have read and acknowledge the privilege statement. As you mentioned, Ms Clay, it has been a challenging few years, not only because of COVID but because of the La Niña conditions we have had. As Mr Rutledge pointed out, that means we need to be quite agile in the way we respond to fire threats. Obviously, in a dry year, we are very much looking at hazard reduction burning where the conditions permit, but that is very difficult to achieve in a wetter than average year.

We then put our attention to other forms of hazard reduction and fuel management—a lot more mechanical removal, and a lot more use of grazing, for example, to reduce fuel levels, because obviously the grass tends to grow a lot more quickly and a lot more densely in a La Niña year.

As Mr Rutledge said, the focus on repairing and building a better fire trail network in Namadgi and other parts of the estate is very much a focus for us. That does come with significant challenges; as the weather continues to bless us with much rainfall, it creates challenges in terms of accessing areas to assess damage and get the required machinery

in to undertake those repairs.

We certainly have a very good program. We recently received an allocation from the National Partnership on Disaster Risk Reduction fund, which has enabled us to put on an additional staff member for two years to drill down into the strategic approach to roads and trails through the entire PCS estate, and make sure that we are adopting the best practices we can to build that resilience in the face of a changing climate. That has been a recent source of funding which will complement the other sources of funding that Mr Rutledge mentioned, including insurance and the commonwealth black summer recovery funding.

Mr Gentleman: Whilst we are talking about bushfires, and we are seeing these rain events occur, and the challenges with that, there is also a focus from ESA and government as a whole on bushfire response, should it occur again. And it will occur at some point.

We heard last week at the AFAC conference about some of the work that ANU scientists are doing on looking at lightning strike and identifying whether or not lightning strike has actually ignited. They have been working on a number of the blocks that you are quite interested in, just down from Mount Stromlo. They are using receivers which pick up the frequency of lightning strike; they are then able to identify the actual volume, in terms of power of the lightning strike. We can then use our thermal cameras, which we have up on the fire towers, to identify where that occurred and whether or not it has ignited in the forest or in the park.

This will really help us in the next bushfire season. We could see 400 lightning strikes in an evening, and it will help us to identify whether a strike has actually ignited a burn, and the size of that burn. We can then send the RAFT teams in to deal with that straightaway, rather than letting it grow. That extra work on the technology front is really helping, too.

MS CLAY: How are we going, Minister, with fixing up the roads in Namadgi? They have been in a pretty poor state since the fires. Has that network been repaired and completed in a flood-resistant way?

Mr Gentleman: I think we have only started. Quite a number of roads have been repaired. TCCS and parks people have been working through that. I will hand over to officials to answer.

Mr Burkevics: I have read and acknowledge the privilege statement. Firstly, happy Wattle Day. In terms of the rectification of the roads that we both observed in our field trip some months ago, it has been very challenging due to the wet weather. The team was briefed yesterday by the Bureau of Meteorology, and the expected rainfall levels, close to La Niña, are likely to continue over the coming months. It will be very difficult to continue that body of work.

Of course, there are challenges in operating heavy machinery on wet ground. You can often do more damage than good. As Mr Alegria mentioned, we have been privileged to receive funding under the National Partnership on Disaster Risk Reduction to do this strategic review of the ACT's tracks and trails. It is quite an interesting figure, with

around 3,000 kilometres of these trails across the ACT.

That study, with the officer on board, will allow us to better understand the best practice approaches to fire trail management, what standard they need to be maintained at—for example, whether they are a dozer float standard or just a light unit type standard—and provide advice through to government on the best approaches, moving forward, that are reflective of the changing risk environment that we face, with climate change and by other means. Certainly the work continues, where it is appropriate, to maintain the rural road network, to ensure that any risk to emergency response public safety is minimised.

DR PATERSON: Minister, we went from very serious bushfires straight into COVID, and we have had a couple of wet years. Are we keeping up with our engagement with communities around bushfire safety and bushfire practices, so that that does not lapse while we have been focused on these other things?

Mr Gentleman: Yes, we are. One of the opportunities we have is to be able to use resources in our staff and volunteers to work with the community, and particularly with rural landholders, through PCS and the directorate. That gives us a chance to prepare them for the future, let them know the work that we are doing, and what we expect them to do in the sense of bushfire preparedness.

It has also given us an opportunity to talk about incursions of a different species, particularly pest species in the area. A lot of rain has brought those species up. We are using our ESA resources for that purpose at the same time.

DR PATERSON: Minister, my question is in respect of the Molonglo group centre. I have constituents who are very interested in this group centre. Can you provide an update on where the process is at and where we are heading?

Mr Gentleman: I will let directorate officials give you that update. I think the engagement we have had with the community has been very good. For the details, I will hand over to Dr Brady.

Dr Brady: We have put out a concept plan. We consulted with the Molonglo Valley Community Forum on a draft that we prepared; then we put it out in December. That was also in response to a motion in the Assembly.

We had the concept plan out for consultation early this year. The next step after that is a technical amendment. A technical amendment has been out for consultation. That closed on 6 May. We had that out for just over the 20 days period. We are now taking the responses we have had on that. Those changes will go into the Territory Plan.

We are looking at the timing. Because we are doing a whole new Territory Plan, it is about whether we just proceed with this technical amendment, which we potentially will, in advance of that, because of the timing. We have followed the statutory processes that we need to, for the technical amendment. We are hoping that sometime in the next few months we will get that technical amendment resolved. It will then be part of the Territory Plan, in order to keep proceeding.

DR PATERSON: After that, what are the steps to be gone through?

Dr Brady: That provides the overarching planning direction for the group centre. Some of the sites in that area are proposed for land release. I think 2025-26 or 2026-27 is the first land release in the group centre. There is Denman Prospect stage 3, which is on the western side. That is a land release, and we will probably proceed with a large planned area.

The SLA, as part of the land release strategy, will work out the best way to release some of those sites, particularly around where the commercial centre is identified in the group centre. We are working with SLA, as we hand over to them, on what their land release strategy might be, and on how those packages are put forward. For some of those that SLA has been doing, for example, around the group centre core part, it might be further place planning, and looking at how the aspects that we have put in the concept plan and the Territory Plan are articulated further and come to be realised in the development. They might do a further layer of planning as part of the release package.

MR CAIN: Minister, I make reference to the Auditor-General's report in June this year, *Governance arrangements for the planning of services for Parkwood, Ginninderry*. The report found that the ACT government has not prepared for the potential outcome of New South Wales rejecting its preferred approach of moving the territory border. What is the plan, Minister, for services to Parkwood if the border is not extended?

Mr Gentleman: It is a JV at the moment for that area, Ginninderry. I would imagine that that JV would need to approach the territory, should they need more assistance for that development.

Mr Ponton: In terms of the specifics—

MR CAIN: It is a joint venture with the territory, though, so what is your understanding, as planning minister, of services to that section?

Mr Gentleman: Mr Ponton will answer that.

Mr Ponton: That question might be better directed to our colleagues in the Chief Minister, Treasury and Economic Development Directorate. In terms of cross-border issues, there is a team within that directorate that is responsible for those ongoing negotiations across the ACT, in terms of services, and New South Wales.

MR CAIN: Minister, given that, what is your understanding of the status of the application to extend the border?

Mr Gentleman: I am unaware of the status of the application to extend the border. I am happy to ask the Chief Minister's directorate. I will take that on notice and come back to you, if you like.

MR CAIN: You will take that on notice; thank you. Could you also take on notice, given that you have to talk to others, apparently, whether there has been any discussion about surrendering Jervis Bay territory to New South Wales, as a bit of an exchange in part for extending the border?

Mr Gentleman: No, not to my knowledge.

MS CLAY: Minister, the first objective in EPSDD's budget is to deliver a compact and efficient city, which is a great goal. How are you meeting that objective, given the potential pipeline that we have of housing and industry in places like the western edge?

Mr Gentleman: Thanks for the question. It goes back to that original decision in our planning strategy of 70-30. It is about ensuring that we can have some greenfields into the future, but the majority of development will be in our current urban boundary, if you like. As I have mentioned, good planning shows density around larger centres, local centres and transport corridors. That is what we are focusing on. Of course, not only is that good planning; it is environmentally sound and it is economically sound.

MR CAIN: Minister, I make reference to the Indicative Land Release Program for 2022-23 to 2026-27. On page 55, it states that 16,417 residential dwellings will be added to Canberra over the next five years. The Chief Minister recently announced that a total of 30,000 residential dwellings will be released and suggested that the remaining 13½-odd thousand will be sourced from the private sector. Could I have your comment on that, please?

Mr Gentleman: It is a recognition of the work being done by both ACT government in its forward planning and the private sector.

MR CAIN: How many residential dwellings has the private sector added per year over the past five years?

Mr Gentleman: An incredible amount. I do not have the figure to date.

Dr Brady: One of the figures that we have—and this is based on multi-units over six storeys, so it does not capture all of the numbers—is an average of around 1,300 dwellings per year from the private sector. As I said, that does not capture everything.

MR CAIN: How much of a contribution, in your estimation, will the commonwealth be making to the number of dwellings through land sources like Lawson and CSIRO in Ginninderra?

Mr Gentleman: I forget the numbers at CSIRO; it is certainly quite large. It would be more than in one of the larger suburbs we have in the ACT. The area of Lawson is much smaller. The commonwealth have been assisting land release in other areas, too. You can look at Campbell 5, for example, the Griffin at Parkes, and the Foothills, underneath Mount Ainslie. They have been consistently releasing land for residential across the territory. All of those help us, particularly in our density projection of 70-30 into the future. It is good that Canberrans can look at those for future housing, particularly those people wanting to downsize in the future.

DR PATERSON: We saw in the last census a major boost in our population in the ACT. Does that impact on the Indicative Land Release Program?

Mr Gentleman: We were already aware that the figures provided by the census were not accurate. Treasury were providing us with their statistical projection for the future.

We will wind that into our ILRP. In particular, the ILRP for this budget takes all of that growth into account. Indeed, the figures in this project more housing than we are seeing in population growth. There will be a little bit extra, in case we do see a bubble as well. Dr Brady is pretty interested in the ILRP.

Dr Brady: I think the minister has covered a lot of that. Chair, could I correct something that I said before?

THE CHAIR: Sure.

Dr Brady: It was in answer to your question, Dr Paterson. The first release in Molonglo is in 2023-24. I think I said 2025-26. It is 2023-24.

MR CAIN: In that same table, on page 55, it refers to 1,200 dwellings within two unallocated urban intensification areas, one being for north Canberra, 600, and one for south Canberra, 600. Could you explain exactly what those entries mean?

Dr Brady: I might refer to Mr Green.

Mr Green: I will answer that question, and I might provide a bit more context and detail regarding some of your earlier questions, Mr Cain. As you are aware, we are going through the Planning System Review and Reform Project. As we discussed earlier, there is potential in the outyears for increase through urban intensification. There is also an opportunity within existing suburbs to look at that.

I do note that this is an indicative land release program, and it is very important that government gives a signal to industry and community around its intentions with respect to that.

We need to keep in mind that it is probably not a useful exercise to look at one year in isolation. One of the important things—and I agree that looking back is not necessarily an indication of what it is going forward—is that, if we do look back over the past six years, based on our population figures, which, in the 2016 census data, was growth of around 30,000, it generated demand for around 11,740 dwellings. Over that same period the ILRP targeted 23,950 dwellings, with SLA delivering 22,840.

That is an indication of land through the land release program that was delivered to the market. That does not take into consideration the land that is delivered through the private sector. That, I think, is what the minister's and the Chief Minister's announcement indicates. It is not just the Indicative Land Release Program that provides opportunities to market; it is a combination of a variety of things.

The other factor to keep in mind is building approval completions, which is data that is provided by the ABS. Again, if you look at the past six years of that, 28,551 dwellings were supplied to the market. That not only exceeds demand for the former census data population figures, it exceeds that baseline increase of the territory's experience out of the 2020-21 census. It is important that we have that context in understanding that the supply of housing, not necessarily the supply of land, is met through a number of means, not just the territory's Indicative Land Release Program.

MR CAIN: What further information is needed, Minister, to become available in order for allocation to a district or particular suburb to occur?

Mr Gentleman: Mr Cain, could you repeat that, please?

MR CAIN: Yes. What further information do you need to receive for allocation to a particular district or suburb? At the moment we have north Canberra and south Canberra.

Mr Gentleman: That will work through, I think, the district strategies that we are working through in the reform and review project, as we work with stakeholders across the ACT on the nine different districts. Where we see projected population growth in those districts, that will give us an opportunity to look at growth in those areas.

Mr Ponton: In relation to the district strategy work, we talked about that earlier, so I will not dwell on that too much. Certainly, that work will identify opportunities, and that is building on the ACT Planning Strategy. Mr Cain, if you look at the ACT Planning Strategy, that identified urban densification areas. Those areas that have been identified are informing our current work in terms of identifying exactly where those sites might be. As Mr Green said, that would be in the outyears, to allow us time to complete that work, as funded by government.

MS CLAY: Minister, in the budget statement, page 13, table 18, looking at the accountability indicators for PCS on invasive species management, I note that our invasive species management was less than we expected because of COVID, lockdown and the wet weather. There were quite a lot of factors that got in the way. What sorts of targets and measurables do we have in this area to make sure that we are doing enough invasive species management? How are you measuring whether it is satisfactory or not, if we have done a lot less than we thought?

Mr Gentleman: I will ask Mr Alegria to provide some of that detail.

Mr Alegria: Trying to find the right measure is difficult. In the past we have treated it in the same way that we have treated bushfires, where the amount of area treated is the accountability measure. With bushfire, we have now moved to the residual risk. We are looking for a better measure of how we measure invasive species.

The measure there shows that we did not cover as many hectares as we would have liked. Also, in that same period of time, we have changed the way we do it. We have stood up a rapid response team, which is tenure neutral. If there is an invasive species outbreak—normally, it is weeds; that is the easier example—with tenure neutrality it does not matter whether it is on our land or on neighbouring land; we will go in and do that treatment. We are operating a bit differently from the way our measurement says.

We will continue to work on a better indicator. It is important to note that, throughout COVID and throughout wet weather, we did not really drop the ball at all when it came to invasive species. Only in that harshest lockdown did we not have people in the field. We changed the way we operated. We put additional vehicles on. We put in COVID-safe measures to ensure that we were still out in the field doing invasive species management. With respect to that measure, it says that we did not treat enough, but I

am not certain that that is the right measure. Maybe that is something that I can spend more time thinking about.

Mr Gentleman: I add my congratulations to the team on that work. They are incredibly passionate. You have probably met with them already. They are willing to go out in rain, hail or shine, to make sure they can do a good job for us. I take this opportunity to say thank you.

MS CLAY: It is extremely important work.

DR PATERSON: I have a question about the forestry industry. There is money in the budget for replanting at Ingledene.

Mr Gentleman: Yes.

DR PATERSON: Can you outline what value to the ACT community the forestry industry has?

Mr Gentleman: Yes. It has an incredible value. We manage our forestry areas—I use the term “wash its face”. The value we get out of the plantations relates to harvest pay for the management of that whole area, in environmental management, staff, equipment and everything to do with the forest. That keeps it cycling through, if you like. That allows us to use those forests for recreational areas, sport et cetera; and, of course, for learning for parks officers and the people that are working in there and taking the timber away. It also helps the ACT economy. A number of industries in Canberra use that material for construction. In fact, we have a central batten construction factory in the ACT that sends out its material to quite a bit of south-east New South Wales as well.

Ingledene was originally a pine forest and it was burnt in 2003. It was left alone for quite some time. This re-forestation opportunity investment gives us the opportunity to start that forest again and keep the environment around it in a much better state into the future. It will keep employment going. It will help us to teach rangers how to operate within those sorts of forests and create some great recreational opportunities as well.

THE CHAIR: That brings us to the end of this session. On behalf of the committee, I would like to thank the Minister for Planning and Land Management, and officials, for their attendance today. If any questions have been taken on notice, please provide answers to the committee secretary within five working days.

Short suspension.

Appearances:

ACT Human Rights Commission

Watchirs, Dr Helen, President of the Commission and Human Rights Commissioner
Toohey, Ms Karen, Discrimination, Health Services, Disability and Community

Services Commissioner

Yates, Ms Heidi, Victims of Crime Commissioner, Victim Support ACT

THE CHAIR: Good afternoon, and welcome to this session. I remind witnesses of the protections and obligations afforded by parliamentary privilege, and draw your attention to that privilege statement. When you first speak, mention your name and the capacity in which you appear, and also confirm, for the record, that you understand the privilege implications of that statement.

We have a short session—it is for 45 minutes—so we are not starting off with opening statements. We might keep to substantives with two supplementary questions to allow everyone here to ask a question.

MR CAIN: Commissioner, welcome to our estimates. Has the government, in your opinion, been doing enough to ensure the ACT has adopted all the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse?

Dr Watchirs: At the outset, could I indicate that our Public Advocate and Children and Young People Commissioner Jodie Griffiths-Cook, is ill today, so we would need to take that on notice.

THE CHAIR: Could you please acknowledge the privilege statement.

Dr Watchirs: I have read the privilege statement.

MR CAIN: Will take my question on notice?

Dr Watchirs: Yes. I know there has been some work ongoing about introducing child-safe standards. My colleague Karen Toohey may even have something to say about that.

MR CAIN: Yes, I do have supplementary questions on that.

Ms Toohey: I have read the privilege statement. I think, as Dr Watchirs has said, the children's commissioner has carriage of the matter within the commission. Certainly, we have been involved with the government in looking at the implementation of child-safe standards in the ACT. That work is progressing. I think the children's commissioner would say that she would have hoped it progressed quicker than it has. But certainly we are actively engaged in those discussions, which I think will be a key strategy advancing the issues in the royal commission.

MR CAIN: Thank you. Maybe you will need to take this question on notice, given the absence of the children's commissioner. You might recall that, in its response, the ACT government talked about a bill addressing child-safe standards for introduction in the second half of 2021. That clearly has not happened. What is your understanding of the

status of that, in terms of how you have been engaged? And how important do you think it is that this bill be presented into the parliament?

Ms Toohey: Clearly, it is very important to progress the work of the royal commission. We have been engaging with government in that space. As with a number of programs, it was somewhat delayed because of the pandemic. The commission has been involved in the policy development in that space. In the interim I would have to say that the commission has also been working actively with the community and with government around the child-safe principles, which are a national framework. While they do not have the same effect in the ACT as legislation that we would implement, certainly in the complaint space I can speak to the fact that we have used them very proactively and, I think, very effectively in promoting child-safe principles in the ACT.

MR CAIN: Does the commission support a statutory arrangement and budget for the commission to have oversight of child-safe standards?

Ms Toohey: I think the commission is on the public record on that. Again, we would think that a local implementation of child-safe standards through legislation is very important. Given that that has taken somewhat longer than we would like, we, as I said, have been very active in using the frameworks that we have available through the national principles, and working with children's commissioners across the country around the implementation of those.

Again, we have used those very actively in the complaint-handling space, promoting those. Certainly there has been, over the last two years, quite a lot of work done, particularly, in the independent school space, which is on the public record. While that work is progressing to a legislative framework, and we would certainly support it and do support that, in the interim I would say that that work has not stalled.

MR BRADDOCK: I would like to ask some questions about spit hoods. It is a very topical matter. In your public statement on 30 August, you mentioned that this issue may be highly relevant during the planned visit, in October 2022, by the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which may visit the ACT watchhouse, should it choose to do so. Can you please explain what the implications might be, should they decide to visit the watchhouse?

Dr Watchirs: We are not absolutely sure that the subcommittee on the prevention of torture will visit the ACT, but we are hoping they will, particularly since the federal government is based here and the federal ombudsman is also the national preventative mechanism coordinator. So we are very hopeful they will visit Canberra.

They are visiting a number of jurisdictions, and they will do unannounced inspections. That is their right under local legislation. That is part of the provision of the optional protocol against torture. The main treaty is the convention against torture, and we only ratified the optional protocol a number of years ago. It was to come into force in January this year. It has been postponed for a year due to a request by the former federal government for an extension of time.

The committee will come here and look at our preparedness for the optional protocols

to start in force on the ground in January next year. We thought it was starting this year, so we actually have an ACT national preventative mechanism. It is the Human Rights Commission, the Ombudsman, and the ACT Inspector of Corrective Services, so it is a tripartite cooperative one.

MR BRADDOCK: I understand that the Human Rights Commission wrote to government earlier this year, in March I believe, and Minister Davidson, has publicly released her response to the extent of saying that they have never been used in Bimberi. She has also been on the public record saying that they have never been used in Dhulwa. I also understand from the Commissioner for Corrective Services this morning, that they have never been utilised in the AMC. Did you ever receive a response from Minister Gentleman, on behalf of the ACT Police, to your letter?

Dr Watchirs: No, it was just a single response by Minister Davidson that I am aware of. It was a letter by the Children and Young People Commissioner, as part of a national band of commissioners of children and guardians, that wrote to ministers all over Australia. Jodie signed that letter, and it went to all the ACT ministers, but we only got the one response back.

MR BRADDOCK: Thank you. Another point of clarification. You mentioned how you, the ACT Ombudsman and the Inspector of ACT Corrective Services are, all three, NPMs. Who actually has responsibility for oversight of the ACT Police watchhouse?

Dr Watchirs: The Ombudsman, it is my understanding.

MR BRADDOCK: Thank you.

Dr Watchirs: Jurisdiction for the AMC comes under the Corrections Management Act and our jurisdiction for Bimberi comes under the Children and Young People Act. We do not have any generic jurisdiction over ACT Policing, apart from their being a public authority explicitly under the Human Rights Act.

MR BRADDOCK: Thank you. Would the use of spit hoods constitute a breach of the Human Rights Act?

Dr Watchirs: I think that they are inhumane and dehumanising. I think there would be a strong case for saying that they would not meet the convention against torture standards. When *Four Corners* aired a show on Don Dale and showed someone in a spit hood and a restraint chair, the UN High Commissioner for Human Rights said that it was a shame on Australia for that behaviour, and they thought it was a breach of those standards.

MR BRADDOCK: Thank you.

MRS KIKKERT: What is your view then about police officers deserving to have the right to be safe in their workplace if one of the people they have detained is spitting at them, considering the health circumstances that we are currently under in regard to COVID-19?

Dr Watchirs: Certainly, we absolutely support work, health and safety laws and

principles. And there has been improvement in that because of COVID. Personal protective equipment is now used in many workplaces, particularly where there's high risk. Ambulance officers, correctional officers, doctors and nurses, and anyone in the health area and disability and aged care, use personal protective equipment. We are not convinced that a spit hood was used as a last resort. We think the personal protective equipment is a universal precaution that could easily be used in the Watchhouse. I am not sure about the operational needs outside of the Watchhouse—on patrol and in cars. That would be a different scenario. But, certainly, in the closed environment in the Watchhouse there would be access to personal protective equipment there.

MRS KIKKERT: I have heard of cases of nurses being spat at in a mental health institution, but their protective gear is not sufficient. They still get spit on them because it is just not sufficient. What are your thoughts on that?

Dr Watchirs: I will ask my colleague.

Ms Toohey: Yes. Certainly, it has been the subject of some discussion with the commission. Equally, there are many other settings where spit hoods are not used. Other techniques are used. Personal protective equipment, we recognise, is not always adequate but equally it is a much less intrusive, and as Helen has said, a much less degrading way of dealing with a potential risk.

MRS KIKKERT: Thank you.

DR PATERSON: I have been doing a lot of work over the last year with donor-conceived people. I was really interested to have a conversation with you about the Human Rights Commission's views around the fact that we do not have legislation to register donors in the ACT and about the fact that donor-conceived people have minimal rights to information about their identity. I was just wondering: is this an issue that has come up with the Human Rights Commission, and what are your views on this issue?

Dr Watchirs: Again, it has certainly come up within the commission. Some of the work that we have done is looking, as you know, at the interstate regulatory frameworks, which seem to provide more rights and protections for donor conceived people. It is a piece of work that the children's commissioner, I understand, has done some work on. I am not saying that we defer to her on all these topics, but I think it is a policy space where the commission feels that there could be more work. We know that, for example, in Victoria there is much stronger legislation in that space for any disclosure. It was recognised years ago that there need to be additional rights for donor conceived people, particularly in the health space but also in the identity space. It would be a piece of work that the commission would certainly support in terms of policy development.

DR PATERSON: Great. Thank you.

MR CAIN: I have perhaps a nerdy number question here. I just noticed that in budget statements D, on page 20, for the 2022-23 budget there is no difference between the various targets and estimated outcomes. I mention that in contrast to the 2021-22 budget statements D, also on pages 20 and 21, where there were several variations. Perhaps one would expect that to be the case. I am just wondering if there is an explanation for

page 20 of this year's budget statements D. The targets are exactly the same as the estimated outcomes, whereas they were not in the previous year.

Dr Watchirs: I know it is in relation to legal advice. I think we estimated 100 but in fact there were 110. We just got our annual report back today. They are estimates.

MR CAIN: This is the table with output 1.5 accountability indicators. It is just of interest to me that the estimated outcome is identical to the target in every case, whereas that was not the case in the previous year.

Dr Watchirs: I think we would probably need to take that on notice. My apologies.

MR CAIN: Thank you.

MRS KIKKERT: Commissioner, currently, sentenced and unsentenced detainees are incarcerated together as a matter of routine. Section 19(2) of the ACT Human Rights Act states that these groups must only be accommodated together in exceptional circumstances. Is it the view of the Human Rights Commission that the current arrangement is exceptional?

Dr Watchirs: We did a submission to the inspector's review of healthy prisons this year and we drew attention to that being an ongoing issue—that we do not think there have been exceptional circumstances since the prison has been open, since 2009.

MRS KIKKERT: Do you believe that it is possible that the government could be vulnerable to another human rights based legal challenge on this remandee issue?

Dr Watchirs: Certainly, there could be a legal challenge. There have not been any that I am aware of so far—not any that we have intervened in.

MRS KIKKERT: The government seems to think that it is too complex to separate these two groups. Is it the commission's opinion that complexity is a sufficient reason to house these groups together, especially when considering that there is a still standing former remand centre in the ACT that could be improved, and considering that the last word from the minister on this was that there were no plans to remedy the situation?

Dr Watchirs: It is an issue of ongoing concern to us. In relation to women, it is a small cohort of people, between 20 and 30. But males I think have sometimes been up to 400 and 500 in the past. We think that is a sufficient number that more separation could occur. The Inspector of Correctional Services made a recommendation in the first healthy prisons review, and I am expecting another recommendation in the second healthy prisons review that more work needs to be done.

MRS KIKKERT: Commissioner, you sat on the Blueprint for Change Oversight Committee. Was the issue of remandees being accommodated with sentenced detainees brought up at all during committee discussions?

Dr Watchirs: Sorry; I would need to take that on notice. I cannot recall.

MRS KIKKERT: Thank you very much. Commissioner, earlier this year it was found

that the ACT government had breached the human rights of a detainee. The government rejected the proposition that it had acted in a way that was incompatible with the detainee's human rights. The case seemed to revolve around the rear courtyard of a cell in the management unit and whether that allowed access to open air and provided a suitable space for exercise. The ACT Human Rights Commission submitted that it did not, and the judge made a declaration to that fact. Can you tell us more about this case and, specifically, where the government disagreed with the Human Rights Commission's submission?

Dr Watchirs: We intervened in two cases this year and we were successful in both of them. That was the case of *Davison v Director-General of Justice and Community Safety*. The other case was *R v QX*, in relation to an intermediary issue. We have got guidelines on intervention. We apply to the Government Solicitor for funding for counsel and have been granted counsel in every case we have asked for. There have been two cases this year and we have been granted leave in two further cases coming up. One involves a prisoner who was strip-searched in the AMC—an Aboriginal woman—and the other is in relation to the Canberra Hospital.

In the Davidson case, the government did not concede any of the points, so every legal issue was challenged between the plaintiff and the defendant. We intervened as being an expert on the law and gave submissions on what we thought were public authority obligations of Corrective Services. In our view, we thought that was a breach of the Human Rights Act. There are two sides to the management unit: a soft side and a hard side. In both of them there is a separate exercise yard purpose-built for people who are on management, but Corrective Services failed to open those yards because it required too much staffing to escort people to and from on a daily basis.

They changed the guidelines and, in our view, those guidelines were in breach of the Corrections Management Act. The Supreme Court agreed with us and found that those guidelines were not valid. Therefore, it went back to the actual statutory provision that requires guaranteed access to fresh air and exercise, and referred to UN standards and national standards. In both cases the ACT was in breach by only allowing people to use an area the same size as their cell, at the back of the cell, and it was not truly open—it had a mesh top—compared to the exercise yard, which was purpose-built and had plenty of room for exercise. Something a detainee looked forward to every day was that one hour out of being in solitary confinement.

MRS KIKKERT: Thank you.

MR BRADDOCK: I am interested in the budget line item that says, "Supporting the Human Rights Commission." It provides \$138,000 for this financial year and \$140,000 for the next financial year. Then it stops. I am wondering: is there an expectation that the number of complaints which this funding is meant to address is going to return to a normal level? Why does that stop after those two financial years?

Ms Toohy: We asked for some surge funding to see whether the COVID increase in matters that we had had would plateau over the two years. At the moment, I am not feeling confident of that, given the small number of matters that actually related to COVID. We have had a 25 per cent increase in complaints this year, over last year. We will wait and see what the two years look like and then, if necessary, reapply for

additional resource.

MR BRADDOCK: Okay. Thank you.

DR PATERSON: In our previous hearing, I asked the Public Advocate about the mental health reviews and resourcing for that, and she said that that had increased significantly, yet the staffing had not increased. As part of this surge funding, will any of that go to assist the Public Advocate in conducting those reviews?

Ms Toohey: The Public Advocate and I put in a joint bid for additional resource because we did not get the full request. That funding, as has been said, is effectively for one FTE over two years. Effectively, the Public Advocate and I had to negotiate over where the most immediate need was. Because of the backlogs that I have got at the moment, because of the increase in matters that we have had, the agreement for this year is that I will keep that resource and then we will have another look at it. But I anticipate that the Public Advocate's resource levels will need to be reviewed again.

DR PATERSON: Thank you. We are about to see the territory rights bill go to the Senate and then, hopefully, here in the ACT, within the ACT Assembly, we will be able to debate voluntary assisted dying. I am interested in understanding the Human Rights Commission's position on this issue.

Dr Watchirs: There was a Legislative Assembly committee a few years ago, and we made a submission to that. At that time, it was only in Victoria. Now every jurisdiction in Australia has it, apart from the ACT and the Northern Territory because of the federal ban on that for the last 25 years. There is case law in Canada that says that not having voluntary assisted dying is a breach of humane treatment—that, when people have a terminal illness and are suffering and that pain cannot be alleviated, there needs to be a mechanism for that.

Certainly, when we have jurisdiction, we will look at the issue again. I imagine there has been some development in the last five years, since that Canadian case, that would show it is much more commonplace around the world. Twenty-five years ago the Northern Territory was the first. Now the ACT will be the last in Australia, along with the Northern Territory. But around the world there have been significant changes recognising that it can be inhumane to let people suffer in that way.

DR PATERSON: Thank you.

MR CAIN: Page 3 of JACS budget statements D says that the directorate intends to establish an independent ACT Aboriginal and Torres Strait Islander children's commissioner. What is your understanding of your role in this commissioner's positioning, its powers? Also, is it correct to say that this would have been in accordance with the Our Booris, Our Way review, back in 2019?

Dr Watchirs: We supported the Our Booris recommendation. I know the national children's commissioners have been calling for a national Aboriginal and Torres Strait Islander children's commissioner at the local levels as well. They have them in Queensland and Victoria, that I am aware of. There was a review by Insight that looked into the merger of the commission back in 2016, as well as this issue of creating a

commissioner and whether it should be part of the Human Rights Commission. Our approach was that it was really not up to us; it is really what the community's view is about where that should be located.

Jumbunna were given a consultancy to co-design a process with the community about where the children's commissioner should be located and what its powers should be. They did a very comprehensive and impressive report. The community absolutely believed in self-determination and did not want to be part of the commission but certainly wanted a strong relationship with the commission. We could guide them on how a commission would operate, the kinds of powers that they would need to operate successfully, and that balance between looking at systemic work and referring complaints to us rather than actually taking complaints themselves. With, I gather, the four staff that that commissioner will have, that will be plenty of work, rather than being taken up with complaints that we could handle. We would need to define the boundaries between the work of the general children's commissioner and Public Advocate, as well as the new commissioner.

MR CAIN: Thank you. What other recommendations from the Our Booris, Our Way review do you hope to see action on?

Dr Watchirs: Would you mind if I took that on notice for the Children's Commissioner?

MR CAIN: Sure. Thank you.

Dr Watchirs: We have been advocating for the external review of care and protection decisions, and a consultant was finally appointed this year. There has been a huge delay in that process. We understand there will be a third roundtable. We convened two roundtables jointly with the Community Services Directorate and our Children and Young People Commissioner, in July and September two years ago. A third one will be held this month, with the community, looking at how an external review will look in practice—whether it is part of ACAT or whether it is part of the Children's Court; those kinds of practical issues of implementation.

MR CAIN: Commissioner, I am just wondering about the status of future plans for the victims of crime register. Of course, we have to give the televised commissioner an opportunity to speak as well.

Dr Watchirs: I will hand over to Heidi Yates. Thank you.

Ms Yates: Good morning, Mr Cain. I have read and understand the privilege statement. Mr Cain, we are very pleased at this time to have been able to bring together the three victims registers—the adult register, the young offenders register and the affected person's register—with Victim Support ACT.

There was strong feedback from the community at the time that government was undertaking consultation on the charter of rights about the fact that the registers were not easily accessible and they were not provided in connection to the kinds of practical supports and information that would make it much easier for victims to engage and exercise their rights.

We are very pleased, under this year's budget, to be able to bring the registers together. We think the number of people who feel comfortable registering will increase dramatically, understanding that at present, for example, the adult offenders register has only 10 per cent of eligible victims on it.

MR CAIN: Thank you. What is the expected end date of your expression of your desires for this register?

Ms Yates: We are currently in the process of recruiting the many positions funded in the budget. In fact, we are interviewing next week, which is great. The delegations and MOU are either finalised or in draft form for all three registers. We would hope that by the end of this month they will be functional within our office. We will certainly be ready to go.

MR CAIN: Thank you.

DR PATERSON: Commissioner, can you explain why there is a separate register for victims of young offenders?

Ms Yates: Certainly, Dr Paterson. There are three different legislative frameworks for the three registers. I would say the primary reason why we have a different register for victims of young offenders is about recognising the particular vulnerabilities and privacy concerns of young offending. There are different legislative tests, for example, in relation to what kind of information can be shared with victim-survivors about things such as where a young offender may be living, what therapeutic support they may be receiving or whether they are breaching any conditions, say, a custodial sentence.

Given that children and young people at quite a young age may commit a serious crime and be placed within the youth justice system, there are particular measures in place to make sure that that young person's privacy is appropriately considered and balanced with the victim's rights to information and support and safety. It is a common approach across all Australian jurisdictions and one that we will be able to appropriately balance with the rights of the offenders and victims within the commission.

DR PATERSON: If the age of criminal responsibility is lifted in the ACT, will that have implications for victims of crime by offenders who might be younger than that age?

Ms Yates: Indeed. I am pleased to have had the opportunity to be intensively involved with my colleagues in conversations across government and directorates about how we best preserve victims' rights to support, to information and also to participation in the context of any new structure for the engagement and treatment of children and young people using harmful behaviours which may previously have been or currently be criminal offences and that may no longer be when the minimum age of criminal responsibility is raised.

I am confident that we have reached really clear agreement in relation to preserving victims' rights to support, including counselling and therapeutic services and financial assistance. We are still in consultation in relation to victims' rights to information—for

example, information that victims would currently be eligible to receive under the youth justice register. How might information still flow, for example, to a victim of serious behaviour which has had significant impacts on someone's safety in the context of minimum age?

I have also been in discussion in relation to how we ensure that victims' voices continue to be heard by those who are making decisions about what kind of therapeutic or other intervention is appropriate for a young person using harmful behaviours. At present, victims can make a victim impact statement at sentence. I think victims' voices should be heard by, and taken into account by, whatever structure is making decisions for the young people.

DR PATERSON: Thank you. I understand how victim impact statements are used in the courts, but in terms of the Sentence Administration Board can victims redo their impact statement when the offender might be coming out on parole?

Ms Yates: Victims certainly have a right under the victims charter of rights to know when a parole application has made. They have a right to make a submission in writing or in person before the Sentence Administration Board. And part of bringing the registers into our office is to ensure that when victims are informed about a parole application they also receive a practical offer of support if they wish to make a submission and would like the support of our office to do that.

They do not really make their victim impact statement, although often the Sentence Administration Board has read that victim impact statement in the context of its decision-making. But the victim has a right to make submissions, particularly in relation to matters concerning their personal safety and public safety. They have the right for the SAB to take those matters into account, which is incredibly important. We need to pay enough attention to the ongoing safety concerns of victims post sentence.

DR PATERSON: Thank you.

MR BRADDOCK: I have a question in terms of how the commission is supporting the education of the community regarding LGBT conversion practices, to make sure that they are aware of their responsibilities, and also whether you have received any complaints under this legislation.

Ms Toohey: We have not, to date, received any complaints under the legislation. We do some outreach, particularly in response to requests for information and in response to information sessions. It tends to be targeted to particular groups in the community or some particular groups looking for information about the framework but also where the lines are.

There is a national symposium on in a couple of weeks, and we are looking to develop some information in concert with the Victorian Human Rights Commission, who also have recently got the legislation in this space. We are looking to see where there might be practices that in fact might occur elsewhere in the country, with people accessing them online and travelling to them. We are looking to try to develop some consistent information to go out to people about how to detect those sorts of arrangements, how to respond to them and how to avoid them.

It has been, I guess, a soft approach, particularly given the sensitivities of the issues in that particular jurisdiction. We have been very open to going and talking to small groups and talking to interested individuals and to health practitioners, but we have not been out with a public education campaign per se.

MR BRADDOCK: Just for clarification: when you were saying some groups were unsure where the lines were, are they groups who are offering some form of services which they fear might be potentially contrary to that legislation?

Ms Toohey: In the discussions I have had there are some distinctions between our jurisdiction and, for example, the Victorian jurisdiction, particularly in the space of suppression. So there have been some concerns expressed, following the Victorian legislation, about where are the boundaries in terms of what is support? What is psychological support versus what is conversion therapy or suppression? It has certainly not been from people seeking to engage in conversion practices. It has more been from people, I think, seeking some reassurance that in fact what they are doing is not a practice that within the ACT might be unlawful but, rather, what are the distinctions between those legislative frameworks.

MR BRADDOCK: You have just mentioned how people might be accessing LGBT conversions either online or interstate. Do you have an idea of the scale of that problem?

Ms Toohey: We do not. In the ACT certainly we have not been getting active reports in that space. Again, there is this national symposium in a couple of weeks, which we are attending, partly to try to get an understanding of other jurisdictions' experience of that and also to look at the development of the jurisprudence and jurisdiction, both within Australia and internationally.

MR BRADDOCK: Thank you.

DR PATERSON: There has been a lot of publicity Australia-wide around cosmetic surgery and the implications of that versus plastic surgery, and people ending up with serious complications. Have you received, as health commissioner, complaints about cosmetic surgeons in the ACT?

Ms Toohey: We do get complaints about some of the practices of medical practitioners in the cosmetic space. Those complaints can already be dealt with under the existing health service frameworks that we have, from the point of view that, even if they are cosmetic, they are still a health service. So, because of the breadth of definition that we have, we are able to deal with those matters. Bear in mind, compared to some of the bigger jurisdictions, we get quite a small number of matters relative to our population, but they are matters that we currently do get and can regulate.

The issue that has certainly been highlighted by the report that was released this morning is in that space around qualifications and the fact that, unlike other types of medical practitioners, there are no specific qualifications relating to cosmetic versus plastic. It is a significant concern. I think the issue that the report identified is that there is low reporting, and sometimes that is because an issue might arise in a procedure but it is settled privately or it might be that the person does not want to draw attention to

the fact that they now have some injury as a result of those procedures—I think the ones that we get are more along the lines of things like laser or injections, as opposed to procedures themselves.

DR PATERSON: Do you think there needs to be more awareness in the community of your services in that cosmetic surgery space?

Ms Toohey: Yes. We obviously do generic promotion around health services, health practitioners—those sorts of things. Again, coming on the back of the report this morning, not only have we had some calls already but we will look at what we do in terms of making sure that people understand that those services are covered. There is a breadth of matters that we get within the health jurisdiction. As I said, we already get complaints around laser, around tattoos and things like that, so there is a fairly broad understanding.

We certainly promote it as: “You can bring any health service to us,” which I think is why we continue to see an increase in the number of complaints. It is an area where, because it is treated as cosmetic, people sometimes do not relate it back to the Health Services Commissioner. Collectively, the health services commissioners are looking at how we better promote the fact that people can bring those concerns to us directly.

DR PATERSON: Just out of pure interest: would tattoos be considered a health complaint?

Ms Toohey: Tattoos are covered in a number of ways, but, because there are health services around it, we would take those complaints, yes.

DR PATERSON: Very interesting. Thank you.

MR CAIN: Do you believe the commission receives sufficient resourcing and funding to meet your mandate? You can ask for an extension of time, if you like.

Dr Watchirs: Broadly, no. We did put out to tender a budget rebasing process, to get a consultant to look at that. It came in at a very high price, so we are narrowing it to put out to tender again. I know the Australian Human Rights Commission have done a similar process, saying that they are only funded for half their functions. I would not say it as dramatically, but the complaints, I think, have increased dramatically. Regarding legal advices, as I said, we had 110. In January I appointed a third lawyer. The Human Rights Commission has only ever had two lawyers appointed to that role over 18 years. COVID smashed the amount of work we did, so we have just appointed an unfunded lawyer and we will carry that risk internally. Ms Toohey may like to speak about complaints.

Ms Toohey: Just very quickly, I think we will see in the annual report that, in each area of the commission’s work, demand has increased. The evidence of that is that the numbers are going up, but equally I think all the commissioners would say that we have backlogs, which we do not like, because it means matters are getting delayed, which means they take longer to resolve in all of our settings. It means that both individuals but also businesses in particular are waiting to get their matters dealt with. That will be apparent once the annual report is tabled.

MR CAIN: Dealing with your complaint workload is obviously something that is of concern. Is there any particular project or priority you would love to get onto to enhance the work of your charter?

Ms Toohey: In our space, the area where we have seen an increase which is of concern, and we will look at what additional policy work we do, is in the space around elder abuse, neglect and exploitation. We have only had that jurisdiction for two years. We are only one of two jurisdictions that have a complaint mechanism in that space. Obviously, they are some of the most vulnerable people in the community. In the first year we had 20 matters, which does not sound like a lot, except that this year we have had over 40, so it is a growing area of concern for people. I am pleased that people are utilising the jurisdiction. I understand that shortly there will be a review of the equivalent criminal provisions, and we will look at what is the additional policy work that we need to do in that space.

Dr Watchirs: On the human rights side, certainly we have been pursuing the right to a remedy and the need to have a complaint mechanism under the Human Rights Act, as Victoria and Queensland have. That will increase our complaint load, of course, but I think it makes it much more real to the public that they can actually assert their rights, and that kind of direct implementation will mean that public servants will take it more seriously and implement it. The kinds of areas we would focus on would be housing, economic, social and cultural rights. The government is currently considering the right to a healthy environment. Our 9 December International Human Rights Day will be focused on that. We are just finishing our submission on that issue at the moment.

DR PATERSON: We spoke to the Public Trustee and Guardian about elder abuse and he was saying that it really comes through in the power of attorney type issues. Are those the sorts of issues you are facing as well?

Ms Toohey: Yes. We certainly get the matters around private attorneys and where there are concerns around, often, financial exploitation. They come from a range of sources, including some of our colleagues at the PTG and in the financial management space. I think, collectively, now that we have had the jurisdiction for a couple of years, we have got a better sense of where the gaps are. Often those matters are about people's inexperience or misunderstanding about what their rights and responsibilities are, so we need to acknowledge that. I think that is one of the benefits of us being involved: it enables us to have an educative role with people about when you get these powers, they are not plenary. You cannot just do whatever you want. Sometimes part of the work that we do with people is trying to bring their understanding of their responsibilities back into line.

I think the other important work that government is doing in that space is around supported decision-making: looking at what the obligation is on government and the guardians, but also in the EPOA space, around what responsibility people have to make sure that people are engaged in decisions about their own life, even if they may not have capacity in some of those spaces. We see that with accommodation, in particular, with decisions being made about where someone is going to live without actually talking to them about what their preference is. There is a very big educative role that I think we can have, and certainly PTG has, in that space.

DR PATERSON: Great. Thank you.

THE CHAIR: On behalf of the committee, I would like to thank the Human Rights Commission for their attendance today. If there have been any questions taken on notice, could you provide answers to the committee secretary within five working days. The committee will now suspend. We will reconvene at 4 pm.

Short suspension.

Appearances:

Cheyne, Ms Tara, Assistant Minister for Economic Development, Minister for the Arts, Minister for Business and Better Regulation, Minister for Human Rights, Minister for Multicultural Affairs

Justice and Community Safety Directorate
Glenn, Mr Richard, Director-General
Ng, Mr Daniel, Acting Executive Group Manager, Legislation, Policy and Programs

Chief Minister, Treasury and Economic Development Directorate
Pryce, Mr David, Deputy Director-General, Access Canberra
Rynehart, Mr Josh, Executive Branch Manager, Planning and Strategy, Access Canberra
Engele, Mr Sam, Coordinator-General, Office for Climate Action
Chan, Ms Yu-Lan, Executive Branch Manager, Corporate Support and Capability
Wild-River, Dr Su, Senior Director, Environment Protection Authority
Cubin, Ms Derise, Executive Branch Manager, Licensing and Registrations, Access Canberra

THE CHAIR: In this next session we will hear from the Minister for Human Rights, Ms Tara Cheyne, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. When you speak for the first time, can you confirm for the record that you understand the privilege implications of that statement?

As we are not beginning with opening statements, we will go straight to substantive questions. I will pass mine to Mr Cain.

MR CAIN: Minister, the JACS committee report on petition 32-21 stated, in its only recommendation:

... that the ACT Government support and enact the terms of the petition to create a system that mirrors the current approach with respect to discrimination complaints.

What progress, Minister, has the ACT government made in relation to implementing this recommendation?

Ms Cheyne: I confirm that I have read and acknowledge the privilege statement. Mr Cain, you would be aware that committee reports have a statutory time frame in which the government is required to respond. I believe that the committee handed down its report just a few months ago, in June, and the government is required to respond in October. The government intends to respond then.

MR CAIN: In the committee report—I am looking at page 8—it formed a view of your own concerns about implementing this petition. You said that it was novel. In what way is this recommendation novel, Minister?

Ms Cheyne: Mr Cain, we are rehashing an inquiry that you chaired.

MR CAIN: This is an estimates committee, Minister.

Ms Cheyne: This is an odd line of questioning. Mr Cain, it is novel because the exact terms of the petition, as I discussed at length at the time, are not currently in any other jurisdiction in Australia. If you would like me to go over it again, we have officials here who would be prepared to do so. As you know, Victoria and Queensland have human rights acts and have ways in which human rights issues can be, for lack of a better word, raised and prosecuted. The process that has been outlined in the petition is not what occurs in Victoria or Queensland. If the ACT were to do it, we would be the first. That is well understood by the petitioners and the advocates, before and since.

MR CAIN: Minister, is being first a bad thing? That seems to be what you are suggesting.

Ms Cheyne: No, Mr Cain.

MR BRADDOCK: I am interested in how we ensure that the ACT police are abiding by the Human Rights Act and ensuring that all that they do is incorporated as part of our human rights framework.

Ms Cheyne: Mr Glenn will be able to speak to this in some detail. ACT Policing fall within the commonwealth's jurisdiction. Dr Watchirs explained this in some detail before, when you were going to your line of questioning regarding spit hoods. They are within the remit of the commonwealth jurisdiction, the Human Rights Act and the way it applies. They are a public authority. The way it applies to ACT Policing is not how it applies across other public authorities. Mr Glenn will be able to talk you through the more technical legal aspects of that situation.

Mr Glenn: I have read and acknowledge the privilege statement. To build on the minister's answer, Mr Braddock, ACT Policing are an emanation of the AFP. They are subject to commonwealth laws, so the oversight mechanisms that apply to them are broadly those that apply in the commonwealth. Whilst individual ACT police officers can be taken to be public authorities under the ACT Human Rights Act, the broader framework for the regulation of ACT Policing sits in the commonwealth.

DR PATERSON: Minister, next week the territory rights bill will go to the Senate. If that passes then the ACT will be in a very—

Ms Cheyne: Novel.

DR PATERSON: exciting position to be able to bring on debate here in the Assembly on voluntary assisted dying. What is the ACT government doing to prepare for this moment that hopefully is coming soon?

Ms Cheyne: There are two parts to that question. As members are aware, for 25 years, the ACT has effectively been banned from being able to debate and legislate for voluntary assisted dying, following a private member's bill that was introduced in 1996 and passed in 1997. Effectively, it inserted into our self-government act, both ours in the ACT and in the Northern Territory, that voluntary assisted dying could not occur,

in short, in either jurisdiction.

The commonwealth does not have that same ability to do that with the states. That is why this has been such an important issue for us, not least because now all of the states have legislated for a voluntary assisted dying scheme.

That, I think, has put a very fine point on the broader issue at hand here, in that we have been treated in a way that is democratically different to the states. One of the fundamental human rights principles that is recognised internationally, and that our Human Rights Act gives effect to, is democratic participation.

Whether people are for or against voluntary assisted dying, I certainly hope that all members in this place—I am not sure that it is the case at this stage—support territory rights and have been advocating with their federal colleagues. I hope that Australians, no matter where they live, hope that their fellow Australians have the same democratic rights. I hope that, given the resounding vote that we saw in the House of Representatives—I believe it was 99 to 37—we will see a similarly strong showing in the Senate when the bill is introduced there next week by Senator Gallagher.

I put on the record my thanks to this federal government for prioritising this issue and ensuring that a bill is not only able to be introduced but also debated in the House of Representatives, and voted on, now that Minister Gallagher, as Manager of Government Business in the Senate, has confirmed that it will be brought on, on Monday.

As to when the vote happens, that will be up to the number of people who feel the need to speak on this. I expect there will be a lot of senators who wish to share their views, whatever they may be. But I am very hopeful that, on this issue, after 25 years, finally our rights will be restored here in the ACT.

In advance of that happening, maybe in September, but at least, hopefully, by the end of this year, I have directed officials within the JACS directorate to begin work on what community consultation would look like. There is no legislation prepared. I have seen some views put forward that we will rush through legislation. That is absolutely not the case. There would be a community consultation process, similar to what has occurred in the vast majority of the states. That work is underway with our colleagues in the Health Directorate, as well as Canberra Health Services, because it will be very important that clinicians' views are sought on this.

One of the fundamental aspects on which we have been able to do quite a bit of work is drawing from the experiences in other jurisdictions, given that they have all legislated for a scheme. It is important to note that two, perhaps now three—if it is three, it is very recent—schemes are operational. Some states still do not have an operational scheme. It will be interesting for us to talk to states where it is operational and to some who are in the process of operationalising their scheme.

That has led us to a process, it is fair to say, where we will have some quite direct questions that we wish to put to the ACT community. Again, that community consultation process will only be underway once those territory rights are restored.

DR PATERSON: There is a rights issue, and Territorians feel very strongly that their

rights should be reinstated. As Dr Watchirs, from the Human Rights Commission, said, internationally, it is recognised that not to offer people a way to die with dignity is a human rights issue.

In this discussion, I know that you said we will do it in a very considered way. There are people who are terminally ill in our community, or very sick, and who want to see this come to fruition relatively quickly. How will you go about balancing those different competing interests and pressures?

Ms Cheyne: That is a challenge that all states have found, Dr Paterson. We know that there is very strong community support for this, and many people would like to see it not only passed but enacted as quickly as possible. We do have to balance that with having a genuine community consultation process that goes to the heart of some of the more complex issues that are at hand and that some of the other states have identified so far, including the states where it is operational. We have had some very good feedback so far, particularly from Victoria, about what some of the issues have been for them in the operational nature of the act.

I think that we can balance having that community conversation. I would be hopeful that any legislation that we introduce is a bill that already has broad community support. If that is then reflected by and understood across the chamber, that might assist us in ensuring that at least the legislative processes can be undertaken in a smooth way.

I am certainly not pre-empting what might happen. As I said, a bill has not even been drafted. I am hopeful that, given we will be learning from the experiences in the other states, we will be able to put something together that is robust, has support of the community and, importantly, has support of our clinical community as well. Ultimately, they will be the people who are undertaking this work. If their views are not represented and reflected, immediately, even if we passed a scheme, we would meet some hurdles.

I would hope that the community has an appreciation of that. If we do not get it right from the outset, even if it passes, even those people who might want to make use of it sooner rather than later would potentially find it difficult. That is the balance.

DR PATERSON: In my experience in this role, people have very strong views about this issue. How will we go about ensuring that all of these different voices are heard? The consultation might need to be a bit more in-depth than the normal, broad government consultation.

Ms Cheyne: That is a great question, Dr Paterson, and it is a live one before us at the moment. Again, we have the benefit of the states having been through this, and through quite different models as well. Queensland, of course, did a major review before the government introduced its legislation, whereas in other states there have been private members' bills. They have gone through quite a different community consultation phase.

The standard, at least, at a minimum, would be a six-week consultation. We would be hoping to release some form of paper that would direct people to some context, and any issues in particular on which we would value the community's feedback, as well as potentially holding some public roundtables to perhaps focus on some areas that we know are of interest to the community.

Of course, once the bill is introduced, it would be referred to a committee. If the committee decided to inquire, that would be another layer of community consultation, and an effective way of ensuring that everyone who wants to have a say will get one.

MR CAIN: Minister, regarding the child safe standards, a recommendation that came out of the royal commission into institutional abuse, one of the recommendations which was a commitment by this government was to introduce a regulatory framework in the ACT requiring organisations to comply with child safe standards. What is the status of that work and your involvement with that?

Ms Cheyne: I can confirm that work is progressing on a child safe standards scheme here in the ACT, which reflects what you heard earlier from the Human Rights Commission. This work is being led by Minister Stephen-Smith and me, in conjunction with CMTEDD. Regrettably, the pandemic has impacted on our capacity to progress a range of matters in the first half of this parliamentary term, and that is one of them.

I can confirm for all members that we remain committed to establishing that scheme here in the ACT. Ms Toohey commented on some of the work that they have been involved in. For the benefit of members, recent work has included holding in-depth discussions with the Human Rights Commission on resourcing requirements and initial drafting options, and consulting with New South Wales officials within the Office of the Children's Guardian about the establishment of the New South Wales child safe standards scheme. This establishment occurred in 2021, and that occurred through amendments to the Children's Guardian Act.

We have also been engaging with the Education Directorate and the health directorate teams on the internal implementation of child safe standards in their respective sectors. We have been engaging in discussions being led by the National Office for Child Safety, under the national strategy to prevent and respond to child sexual abuse, to harmonise implementation of the national principles for child safe organisations across jurisdictions.

We have also been engaging with policy areas across the ACT government to consider how the scheme would interact with other ACT mechanisms, including working with vulnerable people, the reportable conduct scheme and any other ACT reforms which are currently in development, including, for example, the new Aboriginal and Torres Strait Islander children's commissioner.

The scheme will be focused on education and capacity building for organisations engaged in child-related work to meet the child safe standards. Mr Cain, you may not be aware that those standards have been incorporated into those national principles for child safe organisations. The scheme will be intended to help organisations to create that culture of safety which protects and empowers children and young people, rather than increasing the regulatory burden for organisations.

To echo the sentiments expressed at the previous hearing, there is work underway; it has not gone as far as any of us would like, but progress is still being made. At this stage, and subject to meeting delivery time frames, we hope that a scheme would be established in the second half of 2023.

MR CAIN: The government made a commitment to introduce a bill in the second half of last year. You do cite COVID, Minister, but the government has been able to introduce many pieces of legislation in the term of this Assembly. Why isn't this one important enough to be introduced?

Ms Cheyne: I cannot speak to what happened in the previous term, Mr Cain. I was not the minister then.

MR CAIN: No, this term; since October 2020.

Ms Cheyne: I have explained what has happened in this term, Mr Cain. We have had many competing priorities. This work, as you have just heard, I hope, has a number of elements to it, and requires extensive consultation, engagement and support across many directorates. That takes time.

MR CAIN: You are saying that this regulation and supporting legislation are less important than bills that have been put through the Assembly and passed?

Ms Cheyne: No, Mr Cain.

THE CHAIR: I think the minister has made it quite clear.

MR CAIN: Late 2023; Minister, as you would be aware, the Human Rights Commission is of the view that this is taking a lot longer than it would have liked. Again, I wonder whether that time frame can be accelerated, given the importance of this issue.

Ms Cheyne: Mr Cain, the Human Rights Commission—I was listening to the hearing—made it clear that they are involved. They are pleased to see that progress is continuing, and we—

MR CAIN: It is about timeliness, Minister.

Ms Cheyne: Mr Cain, is that a comment or a question?

MR CAIN: A question. Isn't timeliness more important than waiting until the end of next year?

Ms Cheyne: Mr Cain, I would suggest that a thorough approach to a scheme that is so important is the right approach.

MR CAIN: It is a long time to wait.

Ms Cheyne: Chair, this is a bit silly.

THE CHAIR: Thank you, Mr Cain. We will go to Mrs Kikkert, on a substantive.

MRS KIKKERT: Minister, the Our Booris, Our Way final report recommended that there be an Aboriginal and Torres Strait Islander children's commissioner, who would have not just review and advocacy roles, as in other states, but "the additional capacity

to specifically intervene and engage in child protection processes". Jumbunna's co-design report states that "within individual advocacy, community stakeholders outlined a mandate that extended to the authority to intervene in matters" and to "intervene in systems in real time". The government's response to the report only mentions individual advocacy. Minister, can you guarantee that the legislation that you introduce will give the new Aboriginal and Torres Strait Islander children's commissioner statutory authority specifically to intervene in child protection processes, as stated in Our Booris, Our Way?

Ms Cheyne: This is a commitment of this government. It is something that you may have seen; I hope you have welcomed the significant budget funding for the establishment of the commissioner position. We are currently working on the legislation that establishes the power and functions of the commissioner. That is still intended to be introduced later this year.

We are keen to implement all of the legislative recommendations in the Jumbunna report in full. You may have seen the response, which notes that we do agree to all recommendations, and one of them is the right of intervention. The policy aspects will be co-designed with the establishment of the commissioner.

If you do not have a copy of the government's response, or you would like me to draw your attention to that specific area, I am happy to do so.

MRS KIKKERT: Your website shows the existing Children and Young People Commissioner's roles including individual and systemic advocacy, representation, investigation and monitoring. She can also join matters, including as a party in court proceedings. Minister, will the legislation that you introduce give the new Aboriginal and Torres Strait Islander children's commissioner any additional statutory authority not currently exercised by Commissioner Jodie Griffiths-Cook? If not, what will the creation of this office actually change?

Ms Cheyne: The role is an incredibly important one. As you reflected, it has been called for, for some time, and we are very proud to be delivering it. The legislation is still being drafted and it is subject to cabinet processes. For that reason I am reluctant to go into any further detail at this stage, except to refer you to my previous answer, that the government has agreed to all of Jumbunna's recommendations.

MRS KIKKERT: Minister, what role, if any, did you and/or your office play in getting intervention powers removed from the final model of the new Aboriginal and Torres Strait Islander children's commissioner? How do you explain this outcome, considering that the need for intervention powers is mentioned on pages 7, 11, 12, 21, 22, 30, 38, 53 and 60 of the Jumbunna report?

Ms Cheyne: Mrs Kikkert, I will refer you to our government response, which states that the new commissioner will have a broad mandate to promote the rights of Aboriginal and Torres Strait Islander children and a mix of individual and systemic advocacy functions and powers.

MRS KIKKERT: Would that include intervening in child protection issues?

Ms Cheyne: Mrs Kikkert, I refer you to my previous answers. The legislation is still being drafted.

THE CHAIR: It is still being drafted; so you cannot confirm either way?

Mr Ng: Perhaps I could provide some assistance. I have read and acknowledge the privilege statement. I can add to some of the evidence that the minister has already given. In relation to the powers of the commissioner and the different positioning of the commissioner, compared to the existing protection of rights framework, one of the key aspects which is part of the government response that differentiates the proposed Aboriginal and Torres Strait Islander children's commissioner regarding the assisting framework is the government's connection parts.

I will refer you, Mrs Kikkert, to page 4 of the government response, which relates to the clear connection and expectations of accountability to the Aboriginal and Torres Strait Islander community that the commissioner is intended to have. This is intended to include at least annual reporting to the ACT Legislative Assembly and the Aboriginal and Torres Strait Islander community in the ACT.

In relation to this question about the capacity to intervene in individual proceedings, Mrs Kikkert, you would be familiar with the top item of the functions and powers section on page 5 of the government response, which indicates authorisation for individual and systemic advocacy. The final item on that page, which I believe is the power you are referring to, is that the commissioner is authorised to join matters at any stage, including as a party in court proceedings. That is a power of intervention in children's court proceedings.

As the minister said, we are still working through the legislative model, but I hope that is of assistance in terms of providing a bit of colour and movement regarding the government response.

MRS KIKKERT: Stakeholders have actually read that as advocacy and court proceedings instead of intervening in child protection issues.

Mr Ng: Yes, the ability to join as a party in proceedings might be said to be the manifestation of the individual advocacy in a court context.

DR PATERSON: My question is about the foundational differences between the children's commissioner and the new Aboriginal and Torres Strait Islander children's commissioner, and how the Aboriginal and Torres Strait Islander commissioner will also engage with the UN Declaration on the Rights of Indigenous Peoples.

Ms Cheyne: It is a detailed question, Dr Paterson. I will ask officials whether they are able to step you through that.

Mr Ng: Dr Paterson, we are still working through the details of how that will be implemented in the model. Certainly, we are aware of the content of the UN Convention on the Rights of the Child and the UN Declaration on the Rights of Indigenous Peoples. It was something that came out strongly in the co-design process. Participants in the co-design process included participants from the Our Booris, Our Way implementation

committee and members of the elected body. Across the group it was felt that it was important to reflect that in legislation. How, technically, those are worked into the model that we land upon is not yet settled. Some of those matters could be dealt with in an objects clause and the like. There might be some more practical manifestations in some other parts of the legislation. In the absence of a settled model, I am not sure whether I can assist any further at this time.

MRS KIKKERT: I have a question, Minister, in regard to sentenced and unsentenced detainees. What is the government doing to resolve the apparent breach of human rights occurring with the routine housing of sentenced detainees with unsentenced detainees?

Ms Cheyne: You might be aware that, as the Minister for Human Rights, I have a role, broadly, about policy responsibility, including for the Human Rights Commission and the Human Rights Act. Under the act, every minister has a responsibility and their own obligations to fulfil, regarding human rights and responsibility for compliance. That question is best directed to the Minister for Corrections, Minister Gentleman.

MRS KIKKERT: Minister, do you agree with the concerns of the Human Rights Commission that mixing remanded and sentenced detainees can unduly expose remandees to potential criminological or traumatic experiences while awaiting trial?

Ms Cheyne: Mrs Kikkert, the Human Rights Commission is an independent statutory agency. It does have a broad remit to provide that commentary and to advocate for improvements to protections of rights. Mr Gentlemen is working through human rights issues, as it is his responsibility.

MRS KIKKERT: As the Minister for Human Rights, do you agree with the Human Rights Commissioner on this topic and what she said?

Ms Cheyne: Mrs Kikkert, I refer you to my previous answer.

MRS KIKKERT: I do not think you answered it, actually. Do you agree with the concerns of the—

Ms Cheyne: Mrs Kikkert, I have answered it. You cannot direct me how to answer. I have answered it.

MRS KIKKERT: The government agreed in principle to recommendation 2 of the JACS 2019-20 annual reports hearing. This stated that the government should consider amending the Corrections Management Act to acknowledge the inability of the AMC to meet section 44 of the act. The Human Rights Commission, in their submission to the Inspector of Corrections 2022 healthy prison review, stated that they were not supportive of any proposed change that purports to qualify the content of establishing human rights. They consider it to be a seriously retrogressive step to take. Is the government still considering changes to CMA as per recommendation 2?

Ms Cheyne: Mrs Kikkert, I am not responsible for that act. That question is best directed to Minister Gentleman.

MRS KIKKERT: Do you agree with the Human Rights Commissioner's statement?

Ms Cheyne: Mrs Kikkert, I refer you to my previous answer.

THE CHAIR: If you have any further questions, you could direct them to the Minister for Corrections as a question on notice.

MRS KIKKERT: Thank you very much.

DR PATERSON: We spoke with the health services commissioner before, and she mentioned briefly that they had received quite a significant increase in complaints about elder abuse. We have talked in previous hearings and at previous points with the Attorney-General and the Public Trustee and Guardian around elder abuse, scams and those kinds of thing. What role do you see here, as human rights minister, in addressing that? Is it just through the Human Rights Commission and supporting them to address these types of complaints?

Ms Cheyne: The lion's share of the acts and responsibilities sit with the Attorney-General. Certainly, within my responsibility as the minister with responsibility for the Human Rights Commission, we are keeping a close eye on complaints. Of course, it was very important for us to create this jurisdiction for the Human Rights Commission. I certainly note Ms Toohey's comments earlier about there being 20 in the first year, then essentially a doubling in the second year.

It is an unusual time. The point I am making is about resourcing, and about resourcing for complaints generally. I know that went to some of the questions and discussion in the hearing before. It is something on which we continue to maintain a really positive dialogue with the Human Rights Commission. I certainly noted their comments before. We are in that strange position at the moment where the elder abuse jurisdiction for the Human Rights Commission was introduced in COVID times, I suppose. We are still within the pandemic. We are still trying to see whether the surge that we have seen in complaints, and not just in elder abuse complaints but across the complaints jurisdiction, will taper off or whether it will be maintained at this stage.

I acknowledge Ms Toohey's comments before that it seems that things are not necessarily tapering off. We need to keep a close eye on the modelling here and on how things are trending over time, including whether the resources that the Human Rights Commission has received through this budget process for complaints handling make a difference, in addition to resourcing that it has had in previous budgets.

That is where my direct responsibilities lie. The Attorney-General would be well placed to speak to some of the other policy initiatives in that space.

DR PATERSON: Even with Legal Aid, because they have had funding increased to address this issue, too, are there conversations going on, with Minister Davidson as well, in her role, around trying to get to the root causes of this and a more preventive approach as opposed to when a complaint might come to the Human Rights Commission?

Ms Cheyne: I am a bit reluctant to respond, even though I know Mr Glenn could certainly respond, simply because I am not the minister responsible. Mr Glenn is happy to assist, so that we can be as helpful as possible.

Mr Glenn: Dr Paterson, some of the other measures that you spoke about, regarding Legal Aid and the Attorney, to an extent go to preventive mechanisms. Some of the Legal Aid work, for example, facilitates older people being able to ring up and seek advice if they think they are at risk of elder abuse. It is about trying to get to the front end of that process, as they think about financial transactions and other things.

There is certainly a body of work there across the justice system, and it extends a little bit further into the work of the Public Trustee and Guardian, and elsewhere, about precisely what in our society at the moment is creating risk for older people, in terms of elder abuse, and the spectrum of activities that take place that cause difficulties for older people, from financial pressure to quite serious physical abuse.

MR CAIN: Minister, regarding the exposure draft for the Discrimination Amendment Bill, what is the current status of that consultation process and when do you expect to table a bill in the Assembly?

Ms Cheyne: Consultation on the bill closed a little over a month ago. The directorate has been working hard on the considerable amount of feedback that we received on the draft bill. All of the feedback that we have received is being taken into account as a means of further refining the proposed reforms, to ensure that they strike the right balance between competing rights. We still anticipate introducing a discrimination amendment bill this year, in the spring sittings.

MR CAIN: How many submissions have there been? How many are for the bill and how many are presenting concerns about it?

Ms Cheyne: I know we have those figures somewhere, about exactly how many submissions were received. I believe it was over 1,000. I will turn to officials in a moment who will be able to provide that information. I do note that the majority of submissions were from religious bodies or people of faith. It did appear that there was an organised campaign from the Australian Christian Lobby and ValuEd Voices. Officials might have those figures.

Mr Ng: Mr Cain, it was 1,148 submissions, with a breakdown variously across organisations, individuals and, as the minister said, campaign contributions to the consultation process.

MR CAIN: Are these submissions publicly available? If not, is it planned to make them available?

Ms Cheyne: Not yet.

Mr Ng: Mr Cain, the discrimination reforms have gone through two stages of public consultation now. The first was from October 2021 to January 2022, and that was that release of a discussion paper with a range of discussion guides to seek community feedback on a range of proposed streams of activity in discrimination reform. Those submissions were subject to a listening report. This is the second stage of refinement of the proposed reform agenda. An exposure draft bill has been released. It is now ministerial-in-cabinet. We are hoping to refine the bill, based on the feedback that has

been received, and support the government to consider what the final form of the legislation might look like.

MR CAIN: Is it planned to make these submissions publicly available, subject to the approval of the lodger?

Mr Ng: Those submissions came through the usual YourSay process. We would not generally release individualised distributions of the submissions that we receive in that process.

MR CAIN: Thank you. Back to petition 32-21, Minister. The committee, also on page 8, noted your concerns about the resourcing that might be required to implement the terms of the petition. Have you done any estimation of the extra resources required, either at the ACAT or by the Human Rights Commission?

Ms Cheyne: Mr Cain, as I flagged, the government response is due in coming weeks. It is being crafted and it is subject to cabinet processes, so I am limited in what I can say, but I would note that costs remain a live consideration for us. I appreciate that there are a variety of views held there and I know that you might disagree with me, for whatever reason, but we do, I believe, need to get a better understanding of what the costs might be. It is difficult to quantify at this stage and in the short period of time.

MR CAIN: So is it your recommendation, as Minister for Human Rights, that the JACS recommendation be accepted or opposed?

Ms Cheyne: Mr Cain, I have explained to you the process of a government response.

MR CAIN: And I am asking a question about the process.

Ms Cheyne: Mr Cain—

THE CHAIR: I think the minister—

Ms Cheyne: Chair, this is bordering on absurd. It is subject to a cabinet process.

THE CHAIR: Minister, could you please let me respond.

MR CAIN: I have asked a question—

THE CHAIR: You have asked a question and I think the minister has indicated the process that this is going through. I do not see that there is anything further that she can add in terms of that until it goes through that process.

MR CAIN: That seems to be what she is saying, Chair.

THE CHAIR: That is exactly the point. Have you got another supplementary?

MR CAIN: I know that the response from government is by October. Do you have a sense of when that response would be issued? Is it prior to October or—

Ms Cheyne: Government responses are due within four months of a report being handed down, Mr Cain.

MR CAIN: So you are expecting it to be delivered in October?

Ms Cheyne: I have said that several times. Yes.

MR CAIN: Not earlier?

THE CHAIR: Thank you. That brings this session to a close. On behalf of the committee, I would like to thank the Minister for Human Rights and officials for their attendance today. If witnesses have taken any questions on notice, would they please provide answers to the committee secretary within five working days. Thank you.

Short suspension.

THE CHAIR: In this final session we will hear from the Minister for Business and Better Regulation, Ms Tara Cheyne, and officials. I remind all witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. The first time you speak, please confirm for the record that you understand the privilege implications of that statement.

We will not go to opening statements. We will go straight to substantive questions. I have a question in relation to environmental protections in the ACT. What outcomes will the additional support for the EPA provide and what KPIs will be in place to ensure that those outcomes are met?

Ms Cheyne: I confirm that I have read and understand the privilege statement. Mr Milligan, sorry to be obtuse—would you just explain in a little more detail what you are specifically referring to?

THE CHAIR: The government will strengthen environmental protections in the ACT by providing additional support to the ACT Environment Protection Authority for its compliance monitoring and regulatory oversight activities.

Ms Cheyne: Thank you, Mr Milligan. We covered this a little bit last week. We do have Ms Wild-River online, who will be able to speak in a little bit more detail. The headline information, really, is that that EPA has maintained a current staffing level of 17 FTE since the establishment of Access Canberra in 2015. What we have been able to do with this funding is have an additional two environment protection officers, over two years, who will be supporting the compliance monitoring and regulatory oversight activities. That is because we know that we have had an increase in the number of EPA complaints generally and there are also some systemic issues that we wish to be proactive on.

In addition to that, there is funding for a senior policy officer, who will be developing a three-year action plan, because we do appreciate that the environment that we are in—not to use a pun—is changing rapidly and we believe that we need to produce and deliver an enhanced and modernised environmental protection framework. That officer will be embedded in EPSDD, under Minister Vassarotti.

THE CHAIR: Okay. When is the expected release date for that three-year action plan?

Ms Cheyne: Mr Milligan, the senior policy officer funding is for 12 months, so I believe we would be hoping that that review is completed in that 12 months.

THE CHAIR: Okay.

MS LAWDER: With the additional support for the EPA, I wonder whether there will be some more site inspections made of projects?

Ms Cheyne: Yes. I think Ms Wild-River is on the line and will be able to guide you through, Ms Lawder, how those resources will be used effectively.

Ms Wild-River: Absolutely. Thanks very much for the question, Ms Lawder. Just coming back to the substantive, I was advised only half an hour ago that the two TO 3 positions that are funded through the budget have been advertised today. So one of the first KPIs will be to fill those positions within the EPA. I would really like to express appreciation to Minister Cheyne for recognising that the KPIs to be achieved by that need to be established through the project itself and will not be actually available until they are in the pipeline. We do have someone in that senior officer position working on that project at the moment and we hope to be able to bring them up to speed quite soon about the kinds of things that we would recommend, including KPIs.

In terms of what we expect to achieve, the team that does site inspections every day, including being on call for 24 hours a day, 365 days a year, is a team that at the moment has just seven staff in it, who actually take up that role for all of the time. Those TO3 positions are going to boost the numbers of that team from seven, as they are at the moment, to nine. That team already do an enormous amount of work in going out and doing site inspections. The statistics in the annual report really attest to that. I am just trying to pull up the specific table and not quite managing to on time, but it is around 1,000 or so site inspections that we record from that team of seven people on an annual basis.

That recording actually is under-reported, in that when they, for instance, go around checking construction sites to check that the controls are in place, what they actually do is drive around and eyeball several streets worth of construction sites all at once. They will pull over if there is a site that needs a bit of assistance. They count each of the sites where they have noted an issue, but they do not actually count that they might have driven past an additional 10 sites and given them a tick in their heads and not observed any issues.

So what we will see is a proportionate increase in the capacity of people to go around to the sites. An example of that is our response to the Commissioner for Sustainability and the Environment's report on the lakes and waterways of the ACT. As a result of that report, we have implemented an enhanced inspection program specifically targeting the avoidance of sedimentation in waterways. But, because of the limited number of staff, that has come at the expense of being able to get around to other types of activities. It is a trade-off. What we try to do is target the resources to the highest risk activities, where they can have the biggest improvement. What this will allow us to do

is to raise the bar so that a few more activities can receive that face-to-face, targeted intervention to ensure that they are really complying.

MS LAWDER: Thank you. Perhaps I could rephrase my question slightly: are site visits carried out when someone like a member of the public might make a complaint or are there proactive visits to places and sites that have applied for an environmental authorisation and are undertaking some work, and you make a surprise spot visit?

Ms Cheyne: Yes. Ms Lawder, Ms Wild-River will be able to talk to you in detail, but it is a mix. The EPA has a very important complaints function, and responds to those complaints, but it also has a proactive function. I think this is also part of the work that we are hoping this review of the policy nature and the framework, and then that three-year action plan, will help better crystallise for us—that is, what is the best balance of the EPA's efforts, particularly because we know that we have a significant amount of construction occurring across the city?

One of the very good examples that Ms Wild-River will be able to speak to, as well as others, I am sure, is the recent rain event in early August, where the EPA went around the different sites in the Molonglo Valley, where there is a very intensive amount of construction work being undertaken and, I believe, engaged with those sites in preparing for that rain event. They then did a follow-up afterwards, and I believe there was no real sedimentation there. So the EPA does have both of those functions. I think we are all very curious about what is the right balance here to ensure that we have the right amount of environmental protection. Ms Wild-River, do you have anything further to add on that?

Ms Wild-River: Yes; thanks. I absolutely confirm that the EPA does the proactive as well as the reactive. It was very much part of that budget allocation to help us to increase the proactive work. That is where you get the best bang for buck. If you can prevent an event from happening that causes environmental harm, you are well ahead.

Access Canberra, overall, has an approach of engaging, educating and enforcing when it comes to our whole regulatory program. In the case of the Environment Protection Authority focusing, as we are, on those construction sites and their potential for sedimentation, any site that is over 0.3 of a hectare is required to submit an environmental management plan indicating exactly how it is going to manage sediment control on that site.

There are online guidelines for construction and land development that detail all the considerations and steps, and best practice. They are very generic so that they can be applied to any site. They include requiring the proponent to put forward their own plan for how it is going to work, and then that plan is approved and checked by the EPA. If there is significant change to what is going to happen on the site, they need to update the plan, resubmit it and have it approved again. All of that is in that space of proactive work that then stops harms from occurring in the first place.

If it is a site a lot smaller than 0.3 of a hectare then they are obliged to follow the general environmental duty and also the guidelines so that they prevent and minimise environmental harm. They just do not have to have a specific environmental authorisation to do that.

Really, the bulk of the work that the EPA does to prevent environmental harm actually happens outside of the complaints space, outside of the compliance space, and very much in that prevention space. It is hard to report on the quality and the outcomes that are achieved by that. It is like reporting on nothing happening. It is very easy to point out when there has been a terrible sediment flow because you can see it, but what you cannot see are all the times that we stop that from happening.

MR BRADDOCK: The government submission to the Standing Committee on Economy and Gender and Economic Equality inquiry into housing and rental affordability includes the statement:

The Better Regulation Taskforce has heard that further review of the regulatory framework for short term rental accommodations may now be warranted in light of the impact of the COVID-19 pandemic on the ACT's economy and tourism sector ...

Without pre-empting that inquiry, I am keen to know: is that review being planned? Has it started? What is the status there?

Ms Cheyne: Yes, Mr Braddock, I can confirm that this is a priority for the task force, a priority that is being undertaken this year. It is in its early, preparatory stages. I will hand over to Sam to give you some more detail.

Mr Engele: Thank you, Minister. I acknowledge the privilege statement. That is correct. The review has commenced for short-term rental accommodation. A few of the initial phases of work are to run a YourSay survey for the broader community, to understand their experience with short-term rental accommodation. That went out this week. I think it may have been on Tuesday. We have had over a thousand responses thus far. Separate to that, we have sent out a broad invitation to these stakeholders—that is, within the short-term rental accommodation and other sectors that are impacted by short-term rental accommodation—just seeking their views. We have not tried to pre-empt what their views might be; we are starting with a blank slate and seeing where those key issues are.

All that information will be brought together and analysed to try and understand the key issues that the community is concerned about, and that will be teamed up with analysis of the economic impact and also the experience of other jurisdictions. We are at the stage now of just having released those two pieces of consultation.

MR BRADDOCK: Thank you.

DR PATERSON: My first question, Minister, is in relation to Access Canberra audits and investigations of gaming machines in territory venues. There are around 3,500—slightly more—gaming machines in operation. In the last annual report there were two instances of a gaming machine not operating the correct percentage payout. How many of the 3,500 machines get checked each year?

Ms Cheyne: Thank you, Dr Paterson. I am just pulling up my information, but we do have Yu-Lan Chan here, who will be able to speak to that, and then I will see if I have

anything useful. You will probably get something much more useful out of Ms Chan.

Ms Chan: I have read and acknowledge the privilege statement. We do a number of checks each year—compliance checks. I will have to take on notice the exact number that we have done in the last year.

DR PATERSON: Okay. Thank you.

MS LAWDER: Minister, I recently had some correspondence with a teacher asking about the disposal of toxic waste from schools, from their chemistry curriculum. Either they are forced to pay over \$1,000 to transport this waste to Sydney for disposal or they can dispose of it in small quantities in their water waste or landfill, but inevitably that adds toxins to our environment. For one school it might not be a lot, but there may be other schools doing it as well. Why do we not have somewhere here in the ACT for schools to dispose of their toxic waste? They cannot really cut out the use of these toxins, because then they will not meet the science curriculum.

Ms Cheyne: Thank you, Ms Lawder. We do acknowledge that there are several challenges for the disposal of such waste in schools and some of those challenges are that we have a limited set of options and that there can be prohibitive costs. There are necessary elements of the systems that we have in place to protect human safety and also to prevent environmental harm.

There are two principles in the Environment Protection Act that I draw attention to. The first is the polluter-pays principle, which requires polluters to bear the appropriate share of the costs that arise from their activities. The other is the waste-minimisation principle, which requires that generation, storage, collection, transportation and disposal of waste must be managed to reduce, minimise and, where practical, eliminate harm to the environment.

The polluter-pays principle means that costs associated with the safe disposal of toxic waste generated at the school are properly ascribed to the school. Those costs might be helping to drive that other waste-minimisation principle, either by encouraging the school to rethink its decision to generate toxic waste on site or to consider safer alternatives. If safer alternatives are not possible, another way is minimising waste generation.

There are additional controls and requirements set out in the Work Health and Safety Regulation regarding what is required of anyone who is working in that sort of environment—spill containment, health monitoring and emergency procedures. The type of hazardous waste determines the disposal method. While some household chemical items can be dropped off at the hazardous waste section at ACT resource management facilities, that does not apply to commercial operators, including schools, so schools need to dispose of their waste through specific waste industry specialists.

There is an option of disposing of toxic waste in allowable amounts down the sink, provided by Icon Water through liquid trade waste arrangements, but the school has to apply to Icon Water—

MS LAWDER: I understand, Minister, that you have provided all this information in

the correspondence with the teacher who asked about this. They wanted to point out that reducing their use or using something else is not really an option, because it would mean they are not meeting the Australian curriculum. They do not have the option of waste reduction in that regard.

On the polluter-pays principle, it is perfectly acceptable for most people, but in this instance it is almost robbing Peter to pay Paul. It is government money that is going towards the disposal of something that is required. It is training, hopefully, our scientists of tomorrow in the STEM curriculum area, but, in an environment of increasing competition for dollars in our schools, it is really difficult for schools to have to pay that amount. Have there been any costings done on whether we could have such a facility here in the ACT, or collect and dispose of it all in one go, rather than individual schools paying for that transportation and disposal?

Ms Cheyne: Ms Lawder, it is a good question and I appreciate where you are coming from with it, as well as the constituent. I think it is heading into Minister Berry's space, because it is quite a particular issue in that it relates to schools. I might see, given that it is an EPA responsibility, whether Ms Wild-River has any further thoughts or considerations that she might wish to add.

Ms Wild-River: Thank you. I forgot to say when I spoke last time that I have read, understand and accept the privilege statement. Echoing what has already been said, obviously we need to train our future scientists. The only further thing that could really be said is that we are stuck between a rock and a hard place. It is critically important that we protect the environment and our future scientists and teachers from the hazardous nature of these chemicals. There is no money being added on here; there is a genuine cost associated with the disposal of hazardous waste. If you cut corners on that, you put lives at risk. The only way of cutting down the costs, really, would be to cut out the protections that we have carefully put in place to protect people and the environment.

The idea of sending chemicals in a bigger set to Sydney actually increases the risks associated with it and would increase the costs associated with it. If you imagine you have a giant truck full of toxic chemicals and it has an accident, you have an absolutely catastrophic environmental event, whereas what we actually do in the hazardous chemical management space is very carefully package chemicals up into smaller containers and label them very carefully. We are extremely careful to make sure that they are separated into their different types and protected from joining together and becoming a giant toxic hazard.

Even though the teacher, in this case, has suggested that these are essential things, I know from having 10 years of managing hazardous waste in the chemistry areas all across the ANU—that was a previous job that I had—that there is a lot of traction that you can get from trying to swap out hazardous chemicals with less hazardous chemicals and trying to reduce the toxicity and the quantity of chemicals. You can actually really significantly cut down. It is a project in itself. An interesting chemistry project for the students to engage in is to really have a look at the problem of how to reduce the toxic nature of investigations that they do. I would encourage us to think a bit more creatively in this space about what can be learned from the fact that some chemicals cost a lot of money to get rid of.

MS LAWDER: Okay. Thank you. To be fair to the person who wrote in, I do not think they are in any way suggesting that there should be harm to the environment or that they want to take any shortcuts.

Ms Cheyne: No, no, no, Ms Lawder. None of us is suggesting that.

MS LAWDER: I am also unsure whether I want year 11 students swapping out toxic materials as a bit of an experiment to see to how they go! But thank you for your answer.

Ms Cheyne: Of course, Ms Lawder. Ms Lawder, if I might just follow up on your very good point before about robbing Peter to pay Paul: I think the issue here is that, no matter what or who assumes responsibility, government is still paying. I appreciate your points about education and schools, and the cost there as well. To provide an exception to the polluter-pays principle, in this situation, simply to then have the cost absorbed by another part of government, I think, from a policy point of view, is not something that would pass muster. But it is certainly worth reflecting on and I appreciate the points that the constituent raised. I am glad we were able to have that dialogue and I appreciate you bringing it here today.

MS LAWDER: Thank you.

MR BRADDOCK: I want to go into the Access Canberra regulatory compliance and enforcement policy. I want to understand a bit more about the basis of it: what research or experience lay behind the development of this policy and how to apply or make the decisions about what compliance or enforcement actions should be undertaken by Access Canberra.

Ms Cheyne: Thank you. I might go to Mr Pryce in the first instance, Mr Braddock.

Mr Pryce: I will start. Thanks, Mr Braddock. I have read the privilege statement. The document that you are referring to is part of our accountability framework suite. It was set up when Access Canberra started, but it is based on a whole bunch of experience across regulation in Australia which was drawn upon. I will hand over, in a minute, to executive branch manager Derise Cubin, who was part of the development of that document.

Our framework has been checked with other regulatory agencies, and other enforcement bodies too, to make sure it remains robust and contemporary. We only just recently updated that suite of documents, so it remains contemporary and we continue to check it. I will hand over to Derise, who can give much more detail about the background to the development of those documents.

Ms Cubin: Thank you, David. I have read and acknowledge the privilege statement. With regard to the regulatory compliance and enforcement policy, as David highlighted, it has taken best practice regulation from considerations of the OECD and the ANAO, the Audit Office, when they have put guidance out around best practice regulation. We have leveraged off that.

When the documents were developed, we also sought input from the Office of Best

Practice Regulation in the commonwealth, so they also signed off on that. It was endorsed through cabinet—I am going back in time—maybe in 2016, so the documents were contemporary in their consideration of being a risk-based regulator, recognising that no-one can do everything, so focusing on the greatest harm and the greatest risk to the community is where we need to deploy our resources.

MR BRADDOCK: Thank you. Best practice in terms of what considerations? What have made it best practice?

Ms Cubin: There are complexities around that. It is around resource allocation and risk and harm. With an agency like Access Canberra, because we have a broad remit of regulatory responsibility and a finite number of staff to deploy to certain incidences, we look to determine, through either complaints or proactive activities or if we have reactive response requirements, where we should deploy resources. So I guess it is best practice in the sense that being a risk-based regulator is an established approach across a range of regulators. We aligned ourselves with other Australian regulators who take the same approach, recognising that it is a methodology and an approach that is embedded across the OECD and other international, as well as Australian-based, regulators.

MR BRADDOCK: Is there any consideration of the behaviour of the public, in terms of trying to encourage the desired behaviours that we are seeking from the outset, as part of those considerations?

Ms Cubin: Do you mean from the perspective of education?

MR BRADDOCK: I mean as a range of regulatory responses, from education all the way to enforcement. I just want to make sure that there is effective consideration of how we ensure that we actually get the highest level of compliance or best behaviour in the first place, by applying the right regulatory response.

Ms Cubin: Yes; very good point. Part of that is that when we take an action there is a responsibility on us to also disseminate information. Sometimes, in taking an action, we might have a specific deterrence approach where we are dealing with a particular noncompliance, but on the other hand there is also the consideration of general compliance.

For example, we have responsibility in the road transport space, so recently we have provided some information to the community with regard to their awareness of reporting any medical conditions they might have. So that is a compliance obligation on the individual, but it is also a broader benefit for the community. We need to manage those aspects from a road safety perspective but also for that particular individual.

Across the range of activities we take, there are sometimes compliance obligations on individuals. We will generally try to support people or businesses to reach a level of compliance so that they understand what their obligations are, because sometimes they can be varied. In other instances, depending on the risk and the harm and the conduct that we have detected, or that has been reported to us, we need to take a different, more enhanced, regulatory compliance approach.

MR BRADDOCK: Thank you.

Ms Cheyne: Chair, Ms Chan has some information on that previous question that she took on notice.

THE CHAIR: Go for it.

Ms Chan: Thank you. Your question was about the inspection program. We do have a number of licensees. The number of electronic gaming machines at each licensee can vary. Some of them actually have zero gaming machines active. The numbers range from: some have seven, some have 30 and some have over 200. So the numbers do vary quite a lot. We, in the last financial year, conducted 124 inspections of gaming and racing licensees.

THE CHAIR: Thank you.

DR PATERSON: So you could assume from that that every single venue in the ACT was inspected, their machines?

Ms Chan: I will need to confirm that. I will take that on notice.

DR PATERSON: Sorry?

Ms Cheyne: We might be able to come back to you in the hearing, Dr Paterson, depending on how many more questions you have got.

DR PATERSON: Yes. Minister, my substantive question is in respect to amendments that were made to the Working with Vulnerable People (Background Checking) Act last year. I note that these amendments were aimed at strengthening protections and simplifying the process for applicants. Can you talk now, as they have been implemented for a while, about how these reforms have been enacted and what they mean in a practical sense?

Ms Cheyne: Yes; sure. Thank you, Dr Paterson. You are right: there were quite significant amendments to the working with vulnerable people act, which commenced in the beginning of February last year. As you mentioned, critically they were about strengthening those protections, simplifying the application process, but also extending the registration period to five years, when I believe it used to be three. That is really about achieving that balance there—strengthen protections, a bit of a higher threshold, but you get your card or your approval or your registration for longer.

This has been a busy time, I think, for the team. Due to a range of different factors, we have seen a flow of renewals come through, and it is due to some of the processes we put in place during COVID. Pausing, extending and so on has meant that we do have a large number of applications coming up for renewal. I will get this confirmed in a moment, but I believe that 130,000 Canberrans have a working with vulnerable people registration. So it is a significant body of work for Access Canberra. They do it at a very high level and of course take it very, very, seriously.

You may have seen, Dr Paterson, that there is a decent amount of funding for Access

Canberra in this year's budget, including 16 jobs in our customer-facing areas. While some of that funding is for our service centres, for the 2022-23 year only we will have another 11 people working with the registration team. We have done some quite extraordinary modelling, I would have to say—an absolute credit to the team. But we know what numbers are coming and so we have resourced that properly. Mr Rynehart will be able to talk to you about the WWVP journey over the last two-ish years.

DR PATERSON: Thank you.

Mr Rynehart: Thank you. I have read and acknowledge the privilege statement. Dr Paterson, the reforms last year fundamentally shifted the working with vulnerable people scheme. It had been in place since 2012. When it was implemented it was the first of its kind to extend beyond our working with children check. So we had disability services and general social services and others included in that regime.

Last year the amendments to the act included the National Disability Insurance Scheme workers screening check. The ACT already had a disability screening check in the working with vulnerable people program, but we now have national consistency for that as well. Within the ACT, unlike many jurisdictions, a person only needs to hold the working with vulnerable people registration, rather than holding a working with children check and an NDIS registration. We have a single check to cover off that protection for vulnerable people.

One of the other reforms that came through was that originally the scheme had a relevance test in assessing a person's suitability for the scheme, so for each application that came through that had relevant information, we would assess it on its merits, and it was often quite a complex assessment. The amendments have now moved to a disqualification regime for some matters. For the most extreme types of offences, such as murder or sexual offences against a child, for example, a person is now disqualified from the scheme. That serves two purposes. One is that it ensures that those people who should not be registered are not; also, it shortens the time and the assessment process. We were finding that the way that it was previously structured was leading to some lengthy assessments which had a really inevitable outcome. The amendments to the act clarified that procedurally for us.

As the minister mentioned, that also moved the registration, which was originally for three years, into a five-year scheme. The main reason that that was able to be done was that we now have a continuous monitoring scheme. We have direct links with the courts and with policing and other entities, which provide us with information on people when necessary. That allowed for the extension of the registration scheme because now we can monitor throughout, automatically, rather than having to manually check.

From the individual's perspective, the 130,000 people who hold a card now only need to come in every five years. From our perspective, we have an automatic and immediate flag to say, "This is a person that we should potentially have a look at." If and when that occurs, all that happens is that, effectively, it triggers a new risk assessment under the act. So if we become aware of information we will contact that person and we will commence a risk assessment with them. They will have natural justice and procedural fairness, as everybody else does through that process, and we will assess the application on its merits.

In this financial year we anticipate that close to 36,000 renewals will come through. That is a peak that is going to come through this calendar year. We are actually in it at the moment. The additional staff that we have in place are dealing with that large group of people coming through. Essentially, it is a consequence of the amendments during the COVID period. During that period we pushed all registrations out in order to minimise the need for people to move around the city to register et cetera. So what it does mean is that this year we need to push through a significant number of registrations. We are in the middle of it at the moment. Currently, it is taking somewhere between two and three weeks to finalise an average registration. Particularly for renewals, there is no disadvantage to an individual, because by applying for the renewal they are automatically registered until we make a decision.

For context, somewhere between 88 and 90 per cent of people coming through will come through with no information that is relevant to us. Of those remaining, most information that comes through is low level that we deal with quickly. But there are a small number of people that we work through as a risk assessment and then make a decision based on the info.

DR PATERSON: Does the working with vulnerable people scheme talk directly to the Reportable Conduct Scheme?

Mr Rynehart: Yes. We are an active participant in the Reportable Conduct Scheme. We are part of that information provision. We also have direct connection with the care and protection systems. We gain information through both of those avenues, and, information that comes through the Reportable Conduct Scheme is absolutely relevant to our assessment.

DR PATERSON: When that information comes through, when that red flag comes up for that person, does that trigger an immediate reaction to ensure that they are not around vulnerable people while you assess?

Mr Rynehart: It obviously depends on the circumstance about what comes through. But, yes, in the cases where there is high-level relevant information that comes through, it triggers, as I said, a risk assessment. Those risk assessments can be done quickly. It can also trigger a suspension. There is an ability for us to suspend a registration if the commissioner has reasonable grounds to believe that they are an unacceptable risk to vulnerable people. There is a way for us to deal with the immediate issue while we then undertake a risk assessment for that person. That, as I said, depends on the circumstance. We look at the cases as they come through and we consider how best to respond.

DR PATERSON: In the last financial year, how many people would have been suspended or de-registered?

Mr Rynehart: The numbers are quite low. I do not have them at hand.

Ms Cheyne: I have some.

Mr Rynehart: You have some?

Ms Cheyne: Yes. I am contributing! Thank you, Dr Paterson. What I have is that 16 applications resulted in a negative notice in the last financial year. That is where the commissioner was satisfied that the person posed an unacceptable risk of harm to vulnerable people while engaging in a regulated activity. In terms of the suspension numbers, they are probably a little more difficult to get because some might be suspended and then not suspended, so how they are actually captured might take time to get. But where an applicant failed to comply with requests for further information, it was 191 for the last financial year, and that meant that their registration was cancelled.

DR PATERSON: Thank you.

MS LAWDER: I think some of your officials may have been here a few times in the past, but I feel it would not be estimates without me asking about the smell from the tip.

Ms Cheyne: I am so ready for this as well.

MS LAWDER: In the last quarter of the past calendar year, there were, I think, some trenching works that were undertaken at the tip, and there were a number of complaints. Can you tell me how many complaints you received during that period of time and how that compares to other years?

Ms Cheyne: Yes, I can, Ms Lawder. In this calendar year, 2022, we have had 53 complaints received, and 48 of those complaints were received on or after 22 March, which was when I believe that trenching work began. How that compares to previous years I will just quickly run through; it will not take too long. In 2021 there were four; in 2020 nine; in 2019 three; in 2018 seven; in 2017, 28; and in 2016 there were 83.

MS LAWDER: Okay. There was a letterbox drop in the area which, I think, was very well received. Many residents said to me that it was the first time they have had, or that they could remember having, a letterbox drop.

Ms Cheyne: Yes.

MS LAWDER: How many households did you drop letters to?

Ms Cheyne: I think, Ms Lawder, that might actually fall within Minister Steel's responsibility because, while the EPA was aware of the activity and obviously receives and records the complaints, the EPA did work closely with the team that is ultimately responsible for the tip and spoke with them about proactively communicating. I think the responsibility sat with Minister Steel. If you would like, I think we can take that on notice and at least endeavour to find out.

MS LAWDER: Thank you. That would be good. Anecdotally, the people I spoke to in the area were less likely to complain because they were of the view that it was a temporary disruption, rather than on the never, never—who knows how long it might go on for. So I think it was a very positive result.

Ms Cheyne: That is great feedback. Thank you, Ms Lawder. I know your longstanding interest in this and representations on behalf of residents as well. That is certainly the approach, as you have heard Ms Wild-River speak about before: that proactive nature

and encouraging others, even if the EPA is not directly responsible, to be proactive about the works. Sometimes people just simply want to know.

In that spirit, Ms Lawder, there is another round of works scheduled which you just might appreciate knowing about, from October to November. Odour impacts are possible, again, given that there will be exposed trenching during excavation. If it is useful—it is just short—the additional works are the installation of lateral or horizontal extraction wells in the active tipping area. The exact time frame is to be confirmed, but it is likely in October-November 2022. There is an extension to the ring main 315-metre pipe, with lateral line connections and the remaining three wells connection, to be confirmed but likely in October 2022. We have heard your feedback today and we might use this opportunity to go back to our colleagues in TCCS and perhaps—

MS LAWDER: And gently encourage them.

Ms Cheyne: We can do that, Ms Lawder. Happily.

MS LAWDER: Great; thank you.

MR BRADDOCK: What is there in the budget that encourages the establishment of cooperatives or social enterprises here in Canberra?

Ms Cheyne: Thank you, Mr Braddock. There is nothing specifically in the budget, but I do recall from questioning from Mr Davis at a previous hearing. Ms Cubin, I am looking at you. You are the right person? Yes. I believe we recently updated our website with a bit more information about that, providing general assistance for the establishment of those. but in terms of actual budget funding, at this stage I do not think there has been anything identified where budget funding is useful and necessary. Ms Cubin will have more to add.

MR BRADDOCK: Thank you.

Ms Cubin: Thank you. I do not have too much more to add, Minister, but you are correct: we had a review of our website to update the information and make sure it was easy to understand. However, further consideration has also been given to the inclusion of information about cooperatives in the whole-of-government website review so that it remains easily accessible, so we are working with our colleagues in the economic development directorate as well.

MR BRADDOCK: Thank you.

Ms Cheyne: Chair, I have an answer to your earlier question to Ms Chan: all venues with electronic gaming machines were inspected.

DR PATERSON: Okay; great. Thank you. Just a brief one, Minister: are you able to provide an update on the uptake of EasyPark?

Ms Cheyne: Yes, I can. Thank you for the question. I think the important thing to note is that EasyPark remains just one option that drivers can use when paying for parking in the ACT. The credit and debit card option is still available, as is cash, at the meter.

Very pleasingly, our transition to the EasyPark app has gone very smoothly for Canberrans who are using the service.

Previously, the service was ParkMobile. Essentially, the way it works is that we contract a provider, which is Duncan Solutions, and, as part of our contract requirement with them, they are required to provide a pay by phone, pay by app, option. Initially, Duncan's provider was ParkMobile but then ParkMobile was acquired by EasyPark and so, as a result, ParkMobile was discontinued and EasyPark came in. That occurred on 31 March.

EasyPark is used in all states and territories, so from a simple consumer and user perspective, having just the one app, I think, is a very good thing, as is the fact that the National Capital Authority was already using EasyPark as well. In the ACT people did have two different apps; it was not just for when they were travelling interstate. So being able to move to just the one app has been, I think, a very good outcome.

In terms of the uptake, it has been strong. I think that the very good news story about this is that the spend for people with EasyPark, compared to ParkMobile, has been lower and, in fact, substantially lower. This is because with ParkMobile you had to pick your time period. You would say, "I am going to be there for three hours," and that is what you paid, whether you used all those three hours or not.

With EasyPark you set the timer, it starts ticking down, and as soon as you get back to your car you hit stop, and that is the amount that you pay. So you might say that you needed it for three hours but if you only use it for two, as soon as you get back, you use it for two, and you pay for two. We have been tracking the spend in ACT government parking areas, as compared to previous years with the ParkMobile app. For June 2021 the ParkMobile average spend was \$6.79, but using EasyPark the average spend is \$4.62. So I think people are really taking up that "Do not pay for more than you are actually using" option.

DR PATERSON: Great. Thank you.

THE CHAIR: On behalf of the committee, I thank the Minister for Business and Better Regulation, and officials, for your attendance today, and all other ministers and officials who have appeared. If witnesses have taken any questions on notice today, could you please get those answers to the committee secretary within five working days of receipt of the uncorrected proof. If members wish to lodge any questions on notice with the committee, please get those to the committee secretary within five working days of the hearing. The hearing is now adjourned.

The committee adjourned at 5.41 pm.