



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry Into Annual and Financial Reports 2022 - 2023](#))

Members:

**MR P CAIN (Chair)
DR M PATERSON (Deputy Chair)
MR A BRADDOCK**

TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 24 NOVEMBER 2023

**Secretary to the committee:
Ms K de Kleuver (Ph: 620 70524)**

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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Privilege statement

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Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

Amended 20 May 2013

The committee met at 9.25 am.

Steel, Mr Chris, Minister for Skills, Minister for Transport and City Services, and Special Minister of State

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Ng, Mr Daniel, Executive Branch Manager, Civil Law, Legislation, Policy and Programs Division

THE CHAIR: Good morning and welcome to this public hearing of the Standing Committee on Justice and Community Safety for its inquiry into annual reports for 2022-23. The committee will this morning hear from the Special Minister of State and officials in relation to his responsibilities for racing and electoral policy.

The committee wishes 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 other Aboriginal and Torres Strait Islander people who may be attending today's event.

The proceedings today are being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used the words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

Today we welcome Mr Steel MLA, Special Minister of State, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw their attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you each please confirm that you understand the implications of the statement and that you agree to comply with it?

Mr Ng: Yes.

Mr Glenn: Yes.

THE CHAIR: Thank you. We are not taking opening statements, so we will move to questions. My first question is related to racing policy. It continues to be one of the policy issues that cannot be agreed upon by the two governing parties. This is something that gives great concern, as stated by the leader of the Canberra Liberals. Minister, what assurances can you give to the two remaining racing codes that they do have a long-term future in the ACT?

Mr Steel: That is set out in the memorandum of understanding that we have with the two racing clubs that came into force during this reporting period, from 1 July 2022, and the work that we are doing with them through the Joint Racing Industry and Government Committee to discuss with them the future of the clubs, welfare issues and a range of other matters. We continue to work with those clubs under that formalised arrangement.

THE CHAIR: Are you concerned by the number of prominent horse trainers who have exited the territory for New South Wales in recent years?

Mr Steel: It is one of the issues that has come up, and certainly one of the potential drivers that has been raised by the clubs is in relation to the issue of workers compensation. That is an issue that is being discussed through the joint committee and one that we will continue to work with them on as they look at the potential option of using Racing NSW's worker's compensation arrangements.

THE CHAIR: Is that to encourage them to stay or to return to the ACT?

Mr Steel: It would potentially in terms of the potential of reduced premiums that would apply in the ACT. We are working with them to explore those options, and that is contingent on Racing NSW agreeing to that, but we are certainly open to working with them on that option.

THE CHAIR: When do you expect to have an update on that?

Mr Steel: That is a matter between the racing clubs and Racing NSW. It is subject to agreement from Racing NSW, as I understand it, and we are certainly open to hearing from the clubs about what they would like to see happen.

THE CHAIR: Just one more on this: what is your involvement? Apart from saying, "Let New South Wales talk to them," what is the ACT government's involvement and how engaged are you with that process?

Mr Steel: I will hand over to Mr Ng to talk about that.

Mr Ng: Thanks for the question, Mr Chair. Certainly, we have been in a constructive ongoing discussion with the club about the options and better understanding the stewardship and the operational challenges that the current framework provides to them. Currently, the status is that the club is doing some internal consideration of what the best option might be to proceed. While we do not seek to obviate our responsibility to progress the issue, I think we have done quite a bit of work to understand the issue and understand the perspective of the club and what issues need to be addressed, and now there is some internal consideration that the club is doing about what comes next.

MR BRADDOCK: I have a supplementary on that. Will injured workers receive the same level of coverage if they were covered under the New South Wales scheme?

Mr Steel: It is too early to say. We have not yet explored what the option might be. It is contingent on that work being done. That needs to happen before we need to consider what the potential effects might be on workers.

MR BRADDOCK: Thank you. Moving on to a substantive, we now have regulation that allows 6,500 signs per party fielding 25 candidates in ACT elections. How has that realistically and practically been able to be enforced?

Mr Steel: This fits under the Transport Canberra and City Services portfolio because that change was made under an update to the moveable signs code of practice under the Public Unleased Land Act. It will be somewhat challenging. I understand that there was some monitoring of signs through cameras at the last election by third parties, outside of government. But, on a practical level, for candidates it will probably just mean tracking where they are putting their signs to make sure that they do not have 250 on public land at any one time. I note that the new provisions do not apply to leased land, so there may be the potential of people putting more than 250 signs on leased land and private households putting up signs. That is not covered under the moveable signs code of practice.

MR BRADDOCK: Will candidates need to demonstrate proof of the tracking of the number of signs to ensure they are under the limit?

Mr Steel: That may be potential evidence that they can provide, but it would be theoretically possible to go out and count the number of signs on the side of the road. I think 250 is probably at the lower end of what some candidates put out in previous elections. It would be pretty easy to count the number of signs in place at any one time and understand how many are on the road.

MR BRADDOCK: Will you be counting your signs?

Mr Steel: I will be tracking where they are. I did that at the last election and I will be doing it again. It is up to candidates to make sure that their volunteers are complying and not putting out more signs than is allowed under the new regulations.

MR BRADDOCK: Thank you.

THE CHAIR: I have another question on racing policy. Minister, during your time as Special Minister of State and overseeing horseracing, there has been a heavy focus on animal welfare in both thoroughbred and harness racing. Are you convinced, as minister, that the two codes are delivering high animal welfare standards?

Mr Steel: Yes. Generally speaking, in the ACT, through the racing rules, we actually have had a higher level of standards compared to other jurisdictions for some time, but that does not mean that we should not continue to review the arrangements that are in place. In fact, there has been a review by the Animal Welfare Advisory Committee into the code of practice to update the code of practice for the welfare of horses. That is a code that I am due to be briefed on by the AWAC shortly. I am expecting that to take into account the updated arrangements under the Animal Welfare Act 1992, which was amended in my other portfolio as Minister for Transport and City Services.

THE CHAIR: So you are assured, as minister, that in both thoroughbred racing and harness racing the operators are complying with animal welfare requirements?

Mr Steel: There may be issues that come up, and that is in relation to animal welfare. It is something that is actually part of the MOU—to have that ongoing discussion—so it has been raised through the Joint Racing Industry and Government Committee. Daniel can talk a little bit about the discussions that have been taking place. Any

incidents that come up are often brought to that committee for discussion and are potentially addressed. There are also some specific issues that we have indicated, through the MOU, that we would like to discuss with industry as well, and they are formalised in the MOU terms of reference.

Mr Ng: Animal welfare matters are certainly a prominent feature of the obligations under the MOU. They are matters that the clubs have ongoing KPI reporting obligations on, but they also feature in the structural process in which we engage with the clubs. One of the committee's mandates is to consider the KPIs and the returns on the KPIs. As the minister indicated, there are also specific matters which the committee is responsible for reporting to the minister on. One of those is the provision of a report on the opportunities and options for whipless racing. We have been working collaboratively with the club to produce that report. Certainly, they have had an opportunity to comment on a framework of how the report will shape up, and we are expecting to deliver that to the minister in the coming months.

THE CHAIR: Your assessment at the moment, Minister, is that the welfare of animals is being well handled by these operators?

Mr Steel: Generally speaking, yes, but there will be incidents that potentially arise, and there are arrangements for looking at those and monitoring them. There is actually a reform process underway at the moment. The clubs have been part of the consultation on the new code of practice, and that will no doubt further strengthen requirements around the treatment of horses as well.

MR BRADDOCK: I have a substantive. Has there been any work performed or planning done for when the current MOU expires?

Mr Steel: The current expiry is in 2027, so no is the answer. Obviously, we have only just begun the current MOU, so at this stage we are focused on looking at the matters that have been addressed in the MOU arrangements. I do not think we will be turning our attention to that until further on in the agreement. That is not to say that new issues do not arise that were not contemplated in the MOU, but the structure that is provided under the MOU through the Joint Racing Industry and Government Committee provides a place for both the racing industry and the government to raise those issues if we need to have those discussions.

MR BRADDOCK: Has there been work performed to move the industry onto a sustainable setting that is not reliant on government subsidisation?

Mr Steel: Certainly, the sustainability of the industry is one of the key elements of the MOU. Mr Ng might have a copy of the MOU for you to be able to specifically reference that section. That is looking at sustainability of the industry, and potential revenue sources is no doubt part of the discussion. We know that the Canberra Racing Club has a master plan of what they would like to see at Thoroughbred Park, so we are closely discussing that matter with them and how that might be progressed as well. That may provide opportunities for more sustainable revenue streams for the club in the future as well.

Mr Ng: Further to that contribution, Mr Braddock, the most recent meeting of the

Joint Racing Industry and Government Committee brought together a range of officials from across government to support the clubs in their diversification and sustainability endeavours. One of the things we identified when we spoke to them was the largeness of the ACT public service and the different parts that might be called upon to support their offerings and enhance their offerings, with financial sustainability in mind.

At the last meeting, we were able to have folks from the public transport area of TCCS come, given that they potentially have a really positive contribution to make into the race day offerings and event offerings—how they might be able to get patrons to events. We also had a senior executive from the economic development component of CMTEED and they were able to provide some really interesting information to the clubs about the different partnership arrangements that government can have with industry to support business development through the territory. That is the type of connection piece that we are endeavouring to have as part of the committee but with the macro objective of supporting the financial sustainability of the clubs in the longer term.

MR BRADDOCK: Thank you.

THE CHAIR: I have some questions now regarding electoral policy. As you are aware, Minister, the ACT Electoral Commission will not deploy the overseas electronic voting system for the 2024 election. Does this not contradict your recently passed legislation that promotes online voting?

Mr Steel: It does not promote it, but it certainly still allows for the ability to conduct it if it is feasible in another election. Obviously, technology changes, safety and security arrangements may change and there still may be a need to deploy that in the future. I will certainly take advice from the Electoral Commission about what is appropriate in delivering safe, accessible and secure voting at future elections. The act simply provides a framework to potentially allow that in the future, noting that they have decided, in this particular case, that they will not be deploying that in the coming election.

THE CHAIR: Why introduce it in the legislation when it was not going to happen?

Mr Steel: We take advice from the Electoral Commission and that is what we continue to do. They have decided not to deploy it at this particular election and that is fine, but the provision is still there if they provide advice in the future that they may need that type of system.

THE CHAIR: The Electoral Commissioner stated, “The increased security challenges of the 2024 electoral environment,” were prohibitive for reusing OSEV. What challenges, in your view, have risen that were not present in 2020?

Mr Steel: That is probably a question for the Electoral Commissioner. We certainly are aware that the security environment has changed. We have seen the uptick in the number of cybersecurity incidents across the board. That is not to say that technology in the future will not be able to manage those, but at the present time, obviously, the commissioner has made a determination and they will not be deploying that particular

technology.

THE CHAIR: Do you have data from the 2020 election recording how many ACT residents overseas voted electronically and how many via a postal ballot?

Mr Steel: That is probably a question best directed to the Electoral Commission.

THE CHAIR: What measures will be used to prevent widespread—I would say you do not know the answer to that either.

Mr Steel: It is a question for the Electoral Commission, so you can provide that question to them on notice.

THE CHAIR: Mr Braddock, a substantive?

MR BRADDOCK: I have a question on the electronic voting system. Some security experts have questioned the auditability of the results of that system, as to what is actually displayed on the screen versus what is recorded at the back end. The Electoral Commissioner is of the view that paper records being able to verify that and being able to withstand a court challenge of any results is important—sorry, they said that it is not required. The electronic experts are saying it is. Does the government have a view on this issue?

Mr Steel: Again, we take advice from the Electoral Commissioner as to what might be appropriate. Of course, the views of experts have been made through the ongoing reviews into the election that are undertaken in the term after by the Assembly. We will continue to consider those, but we also consider the views of the Electoral Commission and at this point we are supportive of their approach.

MR BRADDOCK: Thank you.

THE CHAIR: I have a supplementary on that. Can you confirm whether we have a verifiable paper record of a vote as part of the EVACS poll-site e-based voting system?

Mr Steel: The operation of the election is a matter for the Electoral Commission to answer.

THE CHAIR: But, as a matter of policy setting, do you support the notion that there should be a verifiable paper record of an elector's vote?

Mr Steel: You are asking for a statement of opinion, but certainly, if you want to ask—

THE CHAIR: As an expression of policy, though—

Mr Steel: An expression of policy opinion? You would want to ask the Electoral Commissioner about what their plans are for the election. That is probably the best approach.

THE CHAIR: Does that mean that it is not your policy to require a verifiable paper record?

Mr Steel: I do not believe the current provisions in the Electoral Act require that. We might be able to confirm that. I can take that on notice. There are operational matters associated with the election that obviously the Electoral Commission has some remit over, and so—

THE CHAIR: But it is clearly a policy position that you either adopt or not.

Mr Steel: No—there are operational decisions that are made by the Electoral Commissioner to ensure the appropriate conduct of elections. That fits within their remit.

THE CHAIR: So you are saying there is no policy position that a voter's electronically recorded vote—you do not have a policy position that it should verify that—

Mr Steel: The commissioner makes operational decisions. That would be an operational decision.

THE CHAIR: It sounds like there is a policy element to this. If you have a policy to say that there should be a way to verify an electronic vote, operationally something would happen. This is clearly a role that you have to play—

Mr Steel: The policy position that we have is that we respect the operational role of the commissioner to be able to conduct transparent and fair elections and they have the remit to make those decisions. But we can certainly confirm the legislative position that is currently in place with respect to that particular matter.

THE CHAIR: So it would seem, Minister, that your policy is to not have an opinion.

Mr Steel: Our policy is to respect the expert advice of the Electoral Commission in conducting transparent and fair elections.

THE CHAIR: It is back to me for a substantive. I will continue on that but in a substantive capacity. Is it your understanding that votes made in the EVAC system are transferred over the internet or over a server or will they be contained in an off-the-grid client?

Mr Steel: That, again, is probably best directed to the Electoral Commissioner.

THE CHAIR: You are comfortable with the integrity of the EVAC system?

Mr Steel: We certainly take advice from the commissioner and we are satisfied with their advice in relation to those matters.

THE CHAIR: In July this year, at estimates, you advised that a draft service delivery plan for the 2024 ACT election would be ready 12 months in advance. We are now 11 months from the election. Have you had any involvement in the production of that

draft delivery plan? And why has it been delayed?

Mr Steel: That was probably coming from the Electoral Commissioner's statement, so it is again a question for them.

THE CHAIR: Thank you. Mr Braddock.

MR BRADDOCK: I have no further substantives.

THE CHAIR: I have just a couple more questions on the overseas voting system. Are you aware of whether overseas telephone voting would be available as per recommendation 6 of the JACS inquiry into the Electoral and Road Safety Legislation Amendment Bill?

Mr Steel: I believe that is the case.

Mr Ng: I might take that on notice, Mr Cain, and come back to you.

Mr Steel: Obviously, the arrangements for the next election are a matter for the Electoral Commission—to provide some clarity on what they are planning.

THE CHAIR: What is your role in setting electoral policy? What are the policies that you are monitoring to ensure that, operationally, they are being enforced and acted upon?

Mr Steel: Obviously, my major role is in relation to legislation—whether we enact policy. We have provided quite an informed package to the Assembly, which has now been passed, and many of the operational aspects are part of the remit of the Electoral Commission. Quite a significant amount of work has been done by the Justice and Community Safety Directorate, working with Transport Canberra and City Services, on the public and leased land elements of that legislation and road safety elements. That has now been enacted into law. Now the Electoral Commission will play a major role in using that legislation to put in place the election for October next year. They needed those reforms passed, as we understood it, by October so that they would have time to actually undertake that implementation. Then, following the election next year, we will be going through the process again of reviewing what happened at the election and making any further policy and legislative changes required to address any issues that came up.

THE CHAIR: Have you had discussions with the federal Special Minister of State, Senator Farrell, regarding the prospect of the territory's Senate representation increasing?

Mr Steel: I met with Senator Farrell on one occasion in my capacity as Special Minister of State. We discussed the previous reforms that had been made federally in relation to foreign donations. That was quite a while ago. I know that they were certainly interested in making changes in relation to Senate representation, but I think that was some time before. Thinking has probably evolved since that point in time, and I am not exactly sure when that meeting occurred.

THE CHAIR: What is your understanding of the current plans by the federal government to increase the number of senators available? And, if they do plan to increase the number of senators available, when would that happen?

Mr Steel: I am not sure about what their current thinking is. The last time I met with the minister was some time ago.

THE CHAIR: Isn't it something the ACT government should be engaged with actively, given it goes to the heart of our representative system? Do we have the correct number of senators? Surely you have a view on that.

Mr Steel: I think you are asking me for a statement of opinion in relation to that matter. I am sure you would have an opinion as well in relation to that, as would many members of the public. Obviously, we would like to see greater representation for the territory in the Senate. That will provide us with more clout in decision-making in the interests of Canberrans. That would be a good thing. We certainly will be engaged in any reforms that are put before the parliament, so there may be the opportunity for the government to make a submission if there is a view that we want to put in the future as well.

THE CHAIR: You are saying that the ACT government's position is that there should be an increase in the number of senators?

Mr Steel: Yes—we think there should be an increase in the number of senators.

THE CHAIR: By how many?

Mr Steel: We have certainly noted that other jurisdictions have more senators compared to the population. Per capita in the ACT, we do not have enough representation compared to some of the states, and that goes as far as Western Australia as well, so there is an opportunity, I think, to have more. Mr Ng might be able to comment on the specific submissions that have been made in relation to the matter, but we might be able to take that on notice and provide any submissions that relate to that from the ACT government for your interest.

THE CHAIR: But you would know how many the ACT government thinks there should be. How many does the ACT government think there should be?

Mr Steel: The view generally is that it should be increased because the current level is not satisfying the requirements of fair representation in the upper house, the states' house.

THE CHAIR: Increased to what?

Mr Steel: We think it should be increased. There will be different views about exactly how many that should be, but certainly a fair level of representation is what we would like to see and we think that is currently not adequate. Ultimately, these are matters for the federal government around decision-making. We will certainly try to have input into those decision-making processes through various inquiries into any legislation that may be put forward, because this is a matter that can be enacted

through legislation. It does not require a constitutional change.

THE CHAIR: Are you satisfied that you are being adequately engaged by Senator Farrell and the federal government on this issue?

Mr Steel: They would certainly provide an opportunity for us to have engagement at the appropriate time.

THE CHAIR: You are satisfied that you are being consulted appropriately and regularly?

Mr Steel: I am satisfied that we have engagement with the federal government in relation to these matters.

THE CHAIR: Yet you cannot recall the last time you engaged with the federal senator on this.

Mr Steel: I can recall it. I do not have the exact date in front of me.

THE CHAIR: It was obviously quite a while ago.

Mr Steel: No; not necessarily. I am happy to provide the date of that meeting on notice. It has probably already been published on the publication of ministerial meetings.

THE CHAIR: Finally, do you believe we warrant an increase in the number of members in the House of Representatives? Is there an ACT government position on that?

Mr Steel: That is a matter that is prescribed under legislation, and we get our share in relation to our population size. I think that is—

THE CHAIR: You are satisfied that we are being treated appropriately, as far as our representation in the House of Representatives is concerned?

Mr Steel: I am not sure what your concern is in relation to that.

THE CHAIR: You are satisfied that we are being treated on an equal basis as the states as far as representation in the House of Representatives is concerned?

Mr Steel: We are clearly not treated in an equal way. Tasmania has five House of Representatives members—the minimum required under the Constitution—so it is clearly not equal to the other states. There are also provisions in place that provide a bias towards electorates in the House of Representatives that have rural areas, in terms of redistribution thresholds and so forth. Other than that, the House of Representatives distributions are constituted based on population share, and I do not think that is particularly controversial. It is the Senate where there is malapportionment of seats compared to population. As a rapidly growing jurisdiction, we would hope that there would be an increase in representation.

THE CHAIR: So the government's view is that there should be more House of Representatives members for the ACT?

Mr Steel: If we have more population—yes.

THE CHAIR: Even though, as you said, Tasmania has five and has just a slightly larger population than us.

Mr Steel: It is well known that the decision was made at Federation. Are we actively seeking to overturn the founding fathers' decision? No. The answer is no.

THE CHAIR: Are you actively seeking to increase the House of Representatives numbers for the ACT?

Mr Steel: There is a process that is set down for redistributions and increases to electorates based on population share, and, yes, we would hope that, if there were an increase to our population that warranted another seat, that would be taken into account by the Australian Electoral Commission when they undertake that redistribution work.

THE CHAIR: Thank you. On behalf of the committee, I would like to thank the witnesses for their attendance today. If you have taken questions on notice, please provide your answers to the committee's secretary within five business days of receiving the uncorrected proof of the *Hansard*. On behalf of the committee, I would like to thank the witnesses who have assisted the committee through their experience and knowledge. We also thank broadcasting and Hansard staff for their support. If a member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as practical and no later than five business days after the hearing.

The committee adjourned at 9.57 am.