



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

**(Reference: Auditor-General's report No 4 of 2007:
Regulation of ACT liquor licences)**

Members:

**DR D FOSKEY (The Chair)
MS K MacDONALD (The Deputy Chair)
MR B SMYTH**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 8 JULY 2008

**Secretary to the committee:
Mr H Finlay (Ph: 6205 0136)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

ANDERSON, MS ERIN , Legal Policy Officer, Legislation and Policy Branch, Department of Justice and Community Safety	17
COLBRAN, MR MARK , Acting Deputy Chief Police Officer, ACT Policing.....	11
CORBELL, MR SIMON , Attorney-General and Minister for Police and Emergency Services.....	17
FANNER, MR STEVEN , General Manager, Australian Hotels Association, ACT Branch	1
ISSA, MR EDWARD , Coordinator, Policy Performance and Planning, ACT Policing	11
MANUEL, MS TANIA , Senior Manager, Policy and Community Relations, Office of Regulatory Services, Department of Justice and Community Safety.....	17
PHILLIPS, MR BRETT , Executive Director, Office of Regulatory Services, Department of Justice and Community Safety	17

The committee met at 4.04 pm.

FANNER, MR STEVEN, General Manager, Australian Hotels Association, ACT Branch

THE CHAIR: Welcome, Mr Fanner. Have you had a chance to read the privilege statement?

Mr Fanner: Yes.

THE CHAIR: Do you understand everything contained in it?

Mr Fanner: I understand.

THE CHAIR: Would you like to begin by making an opening statement?

Mr Fanner: Having made a submission to the inquiry, I will not make a lengthy opening statement. I want to highlight a couple of the issues that are contained in our submission.

On the whole, we acknowledge that the Auditor-General's report is generally focused on the efficiency and operational issues relating to the department and how they regulate liquor licences. However, we feel that any discussion of this issue should also look at how liquor licences are issued in the ACT. By that I am referring to the fact that we now have the most liberal licensing scheme in the country in terms of how new licences are issued.

We would like to see new licence applications being subject to and fulfilling the requirements of a community impact statement, as occurs in New South Wales and in various guises in other states. A community impact statement would require licence applicants to demonstrate through a variety of criteria that the proposed venue is in the best interests of the community. We feel this is important because at the moment, as long as the licence applicants are of good character and as long as the proposed premises are suitable in terms of exit size, building codes, number of toilets et cetera, I do not think there is any way for the government to refuse granting a liquor licence.

As a community, we have more than enough licensed premises. A lot of the issues attributed to alcohol could be addressed through having greater control at this end of the licensing scheme rather than bringing about a crackdown on the conduct of licensees on a day-to-day basis. That is the first issue that I highlight from our submission.

The second issue is, once again, looking at broadening the scope of the terms of the inquiry. Much of the focus of hearings and inquiries such as this is to look at the conduct of licensees and how they might be curtailed or punished in the event that the regulations have been breached. We feel it is also important, if we are going to bring about a safer, more secure area in our cities late at night, that we look not just at the responsible service of alcohol but at the responsible consumption of alcohol. I think more could be done to make individuals accountable for their own behaviour when they are out at night.

By and large, our members, being the bars, nightclubs and restaurants, do a very good job of keeping their venues safe. They invest quite heavily in security technology in terms of CCTV cameras, crowd marshals and implementing management practices to minimise the risk to patrons. The vast majority of incidents that occur late at night occur outside licensed premises. So this affects our industry as well, in terms of the perception of public safety.

We would like to see measures brought in that would make people more accountable for what they do late at night. We think that the on-the-spot fines that were introduced by the government earlier this year were a good first step. We supported those. We would like to see them taken further so that they include a broader range of offences, including failure to leave a licensed premises when so directed by the licensee. That has been reported to us as a matter of concern—when people are asked to leave, they decide to cause trouble either for the door staff or for other patrons. There seems to be very little disincentive against undertaking that sort of behaviour. That is another issue we would like to raise. Apart from that, I am happy to take any questions relating to our submission.

MS MacDONALD: Thank you for your submission and for appearing today, Mr Fanner. I am interested in what you said about having a community impact statement for people applying for new licences—new licensees. I wanted to put this argument to you: by doing that, you are placing restricted practices on people who would enter the market while not doing the same for people who are already in the market. What would the AHA say about the idea of doing community impact statements for all existing licensees? I take the point that there may well be sufficient licensed venues in Canberra these days, but there is the possibility that there are some licensed venues which have gone in under the old regime who would not pass if they had to go through a community impact statement.

Mr Fanner: What I should probably do is to explain what I mean by a community impact statement. This is included in detail in our submission to the departmental review of the Liquor Act, which I think is now a publicly available document. It has been submitted. By referring to a community impact statement, we are talking about a statement of the likely impact of the proposed licence on the local community around the area where it is being proposed. It is not a statement or a document or a requirement on business practices going forward; it is saying, “By bringing our proposed venue into this area, this is what we think the impact will be on the existing businesses in the area.” It looks at what schools, churches, places of public gathering and shopping centres there may be, and at what other issues might arise—whether there have been any objections from residents or other businesses about the possible introduction of this sort of business.

It is not something that would apply retrospectively to existing businesses that may have been there for 20 or 30 years, but I think it is an important tool for the development of any licensed premises—especially now that we have ample numbers of premises—that any new licence applications have to demonstrate that they are in the interests of the community. The negative effects of an oversupply of liquor licences can be substantial, and it is something that we should be looking to avoid.

THE CHAIR: When you say “community”, how large do you envisage the community to be? For instance, you might say the community is already well endowed with liquor outlets, but perhaps a particular suburb is not. Are you saying, “We think about the community as the whole of Canberra,” or “We think about the community as just that location there”? Is one of the issues whether there is anything available within, say, a three-kilometre radius or whatever?

Mr Fanner: A model that already works quite well relates to gambling machines. There is a term called the “local community area” which might be a three-kilometre radius from the proposed venue. That is the local community that you have to define for the purposes of your impact statement. You can obtain that data for free from the Australian Bureau of Statistics; it is not a costly or overly onerous process. We are saying that this process would provide the government with a mechanism to refuse a licence application that is clearly not in the public interest.

So if you have a number of late-night venues in an area where there is a cluster of them, perhaps where there are some concerns about the level of late-night activity in terms of noise for residents or public amenity issues, perhaps the government need to say, “We don’t need another nightclub in that area.” At the moment they do not have the ability to do so. A community impact statement, in which the licence applicants would have to address those concerns and define what type of venue they are proposing, is a logical next step to make sure that we have a sustainable liquor and hospitality industry going forward.

THE CHAIR: Karin’s point was that we would not be subjecting existing liquor outlets to this community impact test; therefore they do have a market advantage. We have no test by which we then define whether there are too many, for instance, in a place, and we know where these businesses are clustered. Do you feel that that is okay—that they got there first so that is okay?

Mr Fanner: If you look at the nature of alcohol as a product, I do not think there is any doubt that it is potentially a dangerous product if it is consumed or served irresponsibly. That is why you need a licence to sell it in the first place. When you look at taxi licences, for example, there is not the free and unfettered issuing of taxi licences; there is a recognition that there needs to be some control over the conduct of the industry. That is why they have to meet certain standards for their vehicles and their drivers and that is why not everyone can get a taxi licence. In the same situation, you do not have multiple newsagents or chemists next to each other.

THE CHAIR: Generally speaking, that is a business decision. The chemist does not have to get a community impact statement. I am exploring why you think it is okay for new businesses to do that—

MR SMYTH: That is actually not true. The federal government some years ago bought out pharmacy licences where there was an oversupply of pharmacies in certain areas. Newsagencies are controlled by the newsagency board, which regulates quite heavily the turf and the area of delivery for newsagencies.

THE CHAIR: Thanks. I do not want to lose my point, which is that existing liquor outlets are not subjected to a community impact statement.

Mr Fanner: I think their impact on the community is clear, because they are already part of the community. We are saying that we have now reached a point where, if we are looking at our liquor licensing laws, we need to address the fact that we have got pretty much free and unfettered access to new licences, which is a potential source of a problem for the industry going forward. The potential for having an oversupply of certain types of licences can result in intense competition on price. With a product like alcohol, usually when there are price factors it is a good thing for the consumer, but when you have got a lot of venues that are struggling for business and they are tempted to start selling drinks cheaper, that can lead to further problems. So there is a genuine community interest in making sure that we do have a balance between—

THE CHAIR: You are still not answering my question.

MS MacDONALD: I do not think that having a community impact statement is necessarily a bad thing. I understand the point that the AHA is making—that there is potentially a negative impact, if you are talking about a small local shopping centre which has suddenly got a licensed venue in it and there is a lot of noise coming out of it on a regular basis. That can have the potential for a negative impact. I do not think any of us would deny that. You can compare that to a place like Manuka, where there is an expectation that that is where late-night venues are located. But there is the concern that those people who have already gone in under the old regime have a distinct advantage in that they have not had to fulfil the same criteria. Maybe there are places where it is not necessarily in the community's best interest for a licensed venue to be located.

Mr Fanner: I will respond by saying that the requirement for a community impact statement to be fulfilled is a more reasonable position than if we were to advocate putting a moratorium on licences, for example, which has been done elsewhere. We acknowledge that would be anticompetitive and unfair. This scheme would still enable the issue of new licences. People with entrepreneurial flair who come along and identify a need in the community for a type of licensed venue, perhaps in a new shopping centre, are still able, at low cost and with very low difficulty, to gain a licence for that sort of venue.

What we hope to make sure through this process is that a licence application that clearly is not in the community's interest does not just gain automatic approval because the building is suitable and because the licensees are of good character. I think there needs to be a mechanism within the department to refuse an application that is not in the community's interest. That is all we are trying to say there.

THE CHAIR: You seem to have a preference for random, as opposed to targeted, inspections of premises. That is what I picked up from your submission. Please indicate whether that is the case and why that is the case. Are you saying there are not enough inspections? Certainly, the Auditor-General seems to be saying that. Would you agree with the Auditor-General?

Mr Fanner: The Auditor-General noted there was a decline in the number of inspections, but there has always been a focus on the higher risk venues in terms of bars and nightclubs.

THE CHAIR: How is that defined?

Mr Fanner: That is one of the things we would like to address as well. In the on-licence category, we are looking at places that are defined internally within ORS as being a nightclub or bar-nightclub—that type of thing. So ORS know who they are, even though they do not have their own licence category. The Auditor-General noted a decline in the number of inspections but did note—and we know this anecdotally as well—that higher risk venues are the ones that are targeted for inspection. Our members who trade regularly late at night in the city and in Manuka certainly would not have noticed any decrease in the number of inspections over the years because—

THE CHAIR: Because they are getting them.

Mr Fanner: It is not random. They know who is trading late at night and those are the venues that are being targeted. We support that. I think it is logical that a regulatory body uses its corporate knowledge to target more likely high-risk venues. However, 70 per cent of all alcohol is purchased from take-away outlets—from liquor stores and supermarkets. I do not know whether there is any data available on how many inspections of off-licences are done in the ACT but I suspect it is not very many.

THE CHAIR: We will ask the minister about that.

Mr Fanner: When you look at underage drinking, for example, that would be where the majority of underage purchase takes place. Generally, alcohol is not purchased from licensed premises because minors cannot gain access in the first place in order to get to the bar.

MR SMYTH: On that point, I note in your submission you say that a national trend is that an increasing majority of all alcohol purchased is from retail rather than consumption outlets, yet the focus of enforcement is on the consumption rather than, apparently, any activity in retail outlets. Is that fair on your industry and does it actually match the drinking patterns of young people in Australia today, particularly in Canberra?

Mr Fanner: There is no doubt that over the last 30 years we have seen a growing trend of more and more alcohol being consumed away from licensed premises. That is due to a number of reasons—improvement in the quality of takeaway alcohol, for a start, such as bottled beer, and the emergence of big liquor barns that are able to sell alcohol at wholesale prices. We are at a stage now where the vast majority of alcohol is purchased from takeaway outlets and not from the pubs and clubs. At the same time, any time that alcohol emerges as a contentious issue, the first call publicly appears to be to crack down on the licensed premises. So there is what I suppose you would call the “on-premise, off-premise” paradox. It seems that the more that alcohol is consumed away from licensed premises, the more there is a push to crack down on the conduct of the pubs, despite their declining market share.

MR SMYTH: You do go on in your submission to say that 88 per cent of minors who reported consuming alcohol indicated it was obtained from an adult, while only one per cent obtained their alcohol directly from a bar or pub. Does that therefore call

for us to refocus our enforcement effort in a particular direction away from the pubs and bars?

Mr Fanner: I do not think it is a call for shifting the enforcement. I think there is cause to look at an information and education campaign targeted at parents. I raised the recent advertising campaign that has been started by DrinkWise Australia, targeting the attitudes of parents towards their alcohol consumption, particularly in front of children, and recognising the fact that most children pick up their drinking habits from trusted adults, including their parents. Given that an Australian secondary schools study found those sorts of figures, I think it is very important, as a measure of targeting potential youth drinking, that there is some sort of educational campaign aimed at parents and how they deal with alcohol with their children. But I do not think it is necessarily a cause to shift enforcement away from other areas.

MR SMYTH: You then go on in your submission to say that the anecdotal evidence supported by ABS data shows an actual decline in the per capita alcohol consumption in Australia since the eighties. Does that mean we should therefore be looking at different ways of getting people to take responsibility for their own actions?

Mr Fanner: Certainly. One of the things we would like to see raised in these sorts of debates is the concept of individual responsibility. Too often, it is taken as a legitimate excuse for poor behaviour if people were intoxicated or if they were drinking. By and large, I think our members do a very good job in keeping their places safe. Most of the late-night incidents that occur that are reported in the media occur outside licensed premises, where our members are unable to control the behaviour of people once they leave the front door.

We would like to see the on-the-spot fine scheme extended to cover a broader range of offences. We acknowledge that, for minor misbehaviour, it may not necessarily be the best course of action to take someone away and charge them. Apart from taking a police officer off the beat for an hour or for however long it takes to do the paperwork, quite often they seem to end up in the courts and walk away with just a slap on the wrist. We think that the extension of an on-the-spot fine regime for people who think they can go out and misbehave would help to make them more responsible for their own behaviour and help the industry and the police to make public areas around licensed premises safer for everybody.

THE CHAIR: Why do you believe that the Liquor Licensing Board is better as a stand-alone entity and why are you concerned about the amalgamation of tribunals which might absorb that? What are your concerns?

Mr Fanner: The ACT Civil and Administrative Tribunal Legislation Amendment Bill proposes to abolish the Liquor Licensing Board and—

THE CHAIR: Were you consulted on the bill?

Mr Fanner: No. We have raised it in our other submission to the department. We are concerned about that because the Liquor Licensing Board at the moment is comprised of people who are dedicated to serving on the Liquor Licensing Board. They have an understanding of the Liquor Act and of how the industry works. It is a panel of

individuals who are asked by the registrar at the moment to adjudicate on issues involving breaches of the act or policy matters.

By abolishing the Liquor Licensing Board in favour of a consolidated tribunal that is going to do about 35 jobs, by the look of the things that are going to be absorbed into it, we feel that you lose a bit of that expert knowledge that you have got on the Liquor Licensing Board. In addition, it has the potential to give the registrar, or the commissioner, as it will be going forward, powers to make decisions on an individual basis without reference to that board of experts. I suppose the concept of fairness of any potential decision could come into play if that decision rests with one person who is appointed rather than a body of dedicated experts who have the power to adjudicate on those matters. We think it is a big concern.

THE CHAIR: Can you give us a list of the kind of expertise that is on the existing board?

Mr Fanner: That is actually listed in the Liquor Act at the moment. I know the chair has to have a legal background. I could not speculate on what else is included, but I know there are requirements set out in the act.

MR SMYTH: You talk throughout your document about the discussion paper—the government’s review of the Liquor Act. On page 3, you make the comment that the discussion paper focuses entirely on measures designed to restrict the sale and supply of alcohol. In the opinion of the AHA, is the sale and supply of alcohol the root cause of the problem with binge drinking and antisocial behaviour or is there some other fundamental issue that needs to be addressed?

Mr Fanner: That goes to the heart of the issue of whether we do have a problem with binge drinking and antisocial behaviour. I think that Canberra, by and large, is quite a safe place to go out at night. Our discussions with ACT Policing show that there has been a decline in the number of incidents that they have had to attend to at Civic, Kingston and Manuka over the last 10 years. I do not think our rates of drinking are any higher here than anywhere else. So while I do not think we have a particular problem with alcohol or binge drinking, we are obviously interested in creating a safer and more sustainable industry all round. When we talk about reforming the way that liquor licences are issued and making individuals responsible for their own behaviour, we do not see that as necessarily being a response to a crisis. We are talking about making improvements at the fringes to make sure that we are going forward in the best possible way.

MR SMYTH: You do go on to talk about a general education program and parents living up to their responsibilities. What form should that take, and is that just shifting the blame to somebody else?

Mr Fanner: I do not think it is shifting the blame. If you look at the success of various drink-driving campaigns over the last 20 years, particularly amongst young people, it shows that that sort of behavioural change can be achieved through education messages. If we are going to identify binge drinking as a concern going forward, I think the best way to do it is through an education campaign. There is federal money available. The Prime Minister has announced over \$50 million in

funding to combat binge drinking. I think that calls for state governments around the country to come up with ideas to do something at their local levels. I think that is something that has to be addressed over time as a behavioural issue.

There is no doubt that there is a bit of a write-off culture in this country. I do not think that is something you can solve by cracking down on the pubs and clubs. If someone wants to go out and write themselves off, telling the clubs to close at 3.00 am is not going to stop that; making staff train in the responsible serving of alcohol is not going to stop it. People can buy a case of beer and drink it at home or they can be on other substances as well. It is the attitude towards intoxication that we need to change. I think the best way to do that is by education. It is going to take time, but we would always encourage looking at that option rather than simply thinking that another crackdown on the licensed industry is the way to quickly solve a perceived problem with binge drinking or general substance abuse.

THE CHAIR: Your members generally have a good, cooperative relationship with police?

Mr Fanner: I think so. In the vast majority of cases the police who are on the beat are well known to the door staff in the venues. They will communicate throughout the night.

THE CHAIR: One of the things you raise in the submission is this difficulty in getting people to leave. Do your members have enough access to police at those difficult times?

Mr Fanner: They do, and the police do a very good job with the resources they have. We would always like to see more police on the beat in Civic, Kingston, Manuka and the districts. Certainly, the way they handle that is something that our members are quite happy to be involved with. I think they do a good job. What we are trying to say there is that if there is a greater deterrent against antisocial behaviour in these public areas around licensed premises, you might see less of this sort of behaviour going on. If people, for example, know that if they go out and start pushing and shoving with someone, trying to cause a fight or intimidate someone, they are going to get hit with a \$300 or \$400 fine, they might not do it in the first place. As I said, we know it is difficult to charge someone with assault or whatever the charge might be in that case. You have got paperwork to do, it will take someone off the beat and you have got to go to court. The deterrence factor from an on-the-spot fine for that sort of activity would really help both my members and the police to keep those public areas safe.

MR SMYTH: The problem with the sit-down rule: is it really a problem? Is it causing patrons grief in that they do not understand why they can sit in one venue and they do not have to sit in another? Is it a problem for the management of those areas?

Mr Fanner: It is a real headache for licensees. I imagine it must be a real headache for the regulators because this is something that patrons just do not understand. We are talking about being required to sit down while drinking in outdoor areas that are leased from the ACT government. It was brought in because when we first started licensing these outdoor areas there was a problem with overcrowding. Rather than just bringing in an occupancy loading like we have for inside venues, which caps the

number of people who can go into that area, an occupancy loading was introduced, as well as the requirement that they all must be seated. So it was basically a double whammy—bringing in two measures when one or the other probably would have sufficed.

The problem is that it does not apply everywhere. So if a venue has its own outdoor area as part of its land, people can stand and sit at their leisure, but if you go down the road to another pub where they lease their outdoor area from the ACT government, people have to be seated. You cannot expect a patron to understand the law in that sort of detail. When the licensee or crowd marshal comes up to someone and says, “Excuse me, sir, you’ve got to be seated,” they quite often raise the ire of the customer. The customer says, “I was just standing at this place down the road and it was fine.”

I use the term “headache” because in addition to creating a risk for our members in terms of being fined by the Office of Regulatory Services, it also means that you have to provide resources to police that. Possibly in some cases that means bringing in an additional security person purely to monitor whether people are standing in the outdoor area, which is a big cost for a small business. In the worst case it can take that security resource away from other areas that might need to be looked at inside the venue. So there is the risk perhaps of missing something or not responding to an incident inside the venue as fast as you might do because you have to look out for a trivial law like standing in an outdoor area, which is something we would hope is on the table for change because it does not achieve anything except being an annoyance for the industry.

MR SMYTH: So the recommendation is to go with the occupancy loading rather than a sit-down rule?

Mr Fanner: We fully support having an occupancy loading in those areas. If you lease an outdoor area from the ACT government, you are issued with an occupancy loading that provides a cap on the number of people that can be there. We think that sufficient responsible service of alcohol laws still apply whether they are inside or out. In that way you would remove a regulatory headache for the industry and for the regulator.

THE CHAIR: Let us hope that there are some good outcomes from the government’s inquiry. Are you happy with the terms of reference for that inquiry?

Mr Fanner: The departmental inquiry?

THE CHAIR: Yes. In fact, it is being done by the Office of Fair Trading, isn’t it?

Mr Fanner: Yes.

THE CHAIR: Is that adequate?

Mr Fanner: I think they raised 55 reform questions, so it is fairly comprehensive. We put in our submission and included two areas that were not addressed in the questions. Those were the future of the Liquor Licensing Board, which we have discussed, and

another area that we briefly discussed as well, which is education activity with regard to people's drinking habits. I suppose it comes back to my theme: while these sorts of hearings and inquiries tend to focus mainly on the regulation of the licensees, we see it as a broader picture.

THE CHAIR: But isn't it a case of the regulator inquiring into itself?

Mr Fanner: That is true. Hopefully, the fact that it is a public process means that the suggestions that are put forward by industry and interest groups get a fair hearing and we come out with a better legislative framework in the end.

THE CHAIR: Thank you very much, Mr Fanner. If questions that did not get asked are sent to you by email, would you be happy to answer those?

Mr Fanner: I am happy to answer.

THE CHAIR: You will get a copy of the transcript and you can check it to see whether it is a fair record of what occurred today. Thank you for your time.

Mr Fanner: Thanks.

COLBRAN, MR MARK, Acting Deputy Chief Police Officer, ACT Policing
ISSA, MR EDWARD, Coordinator, Policy Performance and Planning, ACT Policing

THE CHAIR: I now welcome the Acting Deputy Chief Police Officer, Mr Mark Colbran, and Mr Edward Issa. Have you been presented with the yellow privilege card?

Mr Colbran: Yes, I have.

Mr Issa: Yes.

THE CHAIR: So you know what it is and you understand it. Do you have a statement or some kind of general overview that you would like to give?

Mr Issa: We did not prepare a submission to the committee so we have no opening statement to make. We will do our best to answer any questions you may have.

THE CHAIR: Thank you for coming. You did not prepare a submission. Did you prepare a submission for the OFT review that is currently going on?

Mr Issa: Yes, we have prepared a submission.

THE CHAIR: We will, of course, be looking at those submissions.

MR SMYTH: Perhaps we could get a copy of that from the government, or you might like to forward us a copy of that one.

THE CHAIR: Whichever way, thank you very much. I believe they are public. Would you like to comment on the comments made by Mr Fanner about the role of the police? You heard him say that he obviously appreciates what you do, and the industry has a rather large reliance on your services. Could you tell us how it affects you—the provision of services, officers, rosters and so on—by needing to provide policing around licensed premises?

Mr Colbran: Policing around licensed premises is one of the issues that we do as a matter of course. I did note all the comments that were made, and I certainly endorse and support most of them. Police in general have a very good relationship with most of the licensees and licensed premises around Canberra. We provide the police services, as I say, as a matter of course, particularly on Friday and Saturday nights, when we get very busy and have a lot of issues in relation to alcohol consumption.

THE CHAIR: As it gets later at night and, one would assume, police officers, like all good people, go to bed, that sounds like it could be the busiest time of all. Is that a stretch of your resources?

Mr Colbran: No, it is not a stretch but it certainly depends on what evening we are talking about. If we are talking about alcohol-related issues, certainly we are referring to later in the evening on Thursday, Friday and Saturday nights. Friday morning, Saturday morning and Sunday morning in the very early hours are very busy times, particularly around the clusters of licensed premises that we have in Canberra.

THE CHAIR: What about the comment that was made that a lot of the binge drinking and problem drinking relates to the supply by retailers rather than licensed premises? Do you ever get called in to those? Do you have any way of knowing how big that problem is? I do not suppose that it shows its public head very often.

Mr Colbran: Certainly, there is some evidence that a number of people will consume alcohol in private premises before they go out for the evening, so a number of them are fairly well intoxicated by the time they get out to the premises.

THE CHAIR: Are they driving their cars?

Mr Colbran: Some of them are but some have a designated driver, which is what we encourage, and a lot of people are responsible in that regard. But in many cases when they actually get to the premises it only takes two or three more drinks before they are well affected by alcohol.

Mr Issa: Our patrolling is generally targeted. That is in response to information received from members of the community, as well as anything that officers on the beat observe. It is fair to say that most of the activity in relation to this issue is focused on licensed premises as opposed to retailers, for those reasons.

Mr Colbran: In general, the retail consumption of alcohol is consumed in private premises. The issues that we face in general relate to the people who are out to have a good time but they consume too much alcohol. Then, in the early hours of the morning, they are on the streets; they are moving or migrating from premises to premises. That has the potential to exacerbate any antisocial tendencies they might have—the fights and the other antisocial activities such as graffiti, damage, urinating in public or offensive behaviour.

MS MacDONALD: I want to ask about a slightly different area which was touched on by Mr Fanner—the issue of underage drinking and sale to minors being most problematic with off-licences as opposed to licensed venues. How do you deal with that? What level of information do the police give out about that and how do you work with shops et cetera that actually sell liquor?

Mr Colbran: Most of the off-licences are fairly well regulated in relation to the sale of alcohol to minors. An issue is the people who purchase, on behalf of minors, or supply to minors, alcohol that they can legally obtain themselves. Are you asking whether we proactively go out and speak to retailers?

MS MacDONALD: It is not necessarily a role just for the police but also for inspectors. I am curious to know what sort of information is given out. Interestingly, in the last few days, I picked up my husband after he had been letter-boxing in Tuggeranong. He had been approached by some kids who wanted him to purchase alcohol for them. They had been hanging around and asking all manner of adults to do it, and he said, “Rack off or I’ll call the police.” But it had been problematic in that they had been hanging around for a couple of hours, apparently.

Mr Colbran: If we receive a report of that nature, we will take action on it. But I do

not have the statistics with me regarding how many reports we may actually receive of people requesting others to buy alcohol for them, so I would really have to take that on notice and get back to the committee.

Mr Issa: I think it would be very difficult to obtain statistics on that issue, mainly because I am not sure how often it is recorded. We would basically need to read about a large number of jobs and look at the text to ascertain whether that was an actual issue. We do not have a job code for that, so that is why the searching would be very problematic.

MS MacDONALD: The anecdotal evidence, and certainly the information that we were given before—and I think the AHA put that in their submission—is that 80 per cent of minors who are getting alcohol are doing it through adults who are purchasing it for them. I suppose there is that concern about how many of them are the parents, and how many of them are people who have just turned 18 and then go and purchase alcohol for their younger friends, without realising what the implications are. I suppose there is a question mark around the education campaign that needs to go on around that. That was more of a statement than a question.

MR SMYTH: If there was one thing the AFP could change to make it easier to enforce the consumption of alcohol and reduce drunkenness and binge drinking and the aggression that stems from it, what would that be?

Mr Colbran: One thing?

MR SMYTH: Or a number of co-related things, but is there a standout thing that would make your job easier?

Mr Colbran: Environmental assessment.

Mr Issa: In my view it is a very complex issue and it demands a multi-pronged approach. Obviously, there are issues such as the introduction of RSA, the trialling of a lockout arrangement. As has been mentioned previously, on-the-spot fines have some potential, both for licensees and for patrons. It is very difficult to single out one, mainly because it is a complex and difficult issue. I think it would require a multi-faceted and multi-pronged approach.

MR SMYTH: Would you like to explain a little more what you meant by environmental assessment?

Mr Colbran: At the moment, the only ground for the refusal of a liquor licence is that the person is not a fit and proper person. ACT Policing would certainly support the imposition of an environmental assessment as well. I think Mr Fanner referred to something like that.

MR SMYTH: He spoke about community impact statements.

Mr Colbran: In relation to the clustering of licensed premises in a given area—we are talking about the same type of licensed premises; obviously there are different types of licensed premises—if you have a large number, for example, of nightclubs,

where you have a large number of people going in to each one, having them all in a given area, whether it be in the centre of the city or in a residential area or semi-residential area, which has its own impacts as well, has the potential to exacerbate the antisocial behaviour. You have people walking from one to the other in the early hours of the morning and they are in an uncontrolled environment, often affected by alcohol. That is when a lot of the problems occur.

MR SMYTH: So stop the problem before it occurs through better planning?

Mr Colbran: Yes.

Mr Issa: Clustering is certainly an issue. It was touched on as well by Mr Fanner. It also contributes to rivalry between businesses. There is competition—cheap drinks, happy hours and so on—and that is detrimental to the responsible service and consumption of alcohol as well.

MR SMYTH: You mentioned on-the-spot fines. The AHA in their submission mentioned an increased provision for on-the-spot fines. Do you support this suggestion? What would it mean in operational terms and in terms of additional resources, or does it in fact make the job easier?

Mr Colbran: We support the imposition of on-the-spot fines for certain prescribed offences. The imposition of on-the-spot fines for refusing to leave premises is fairly problematic and it is not something that we would support in the form that Mr Fanner put forward.

THE CHAIR: How would you describe that as an offence? What would be the nature of such an offence? Is that an offence in itself—refusing to leave premises?

Mr Colbran: It is an offence in itself, but from ACT Policing's point of view, if a person refuses to leave the premises, obviously there is a reason why they have been asked—whether they are creating a disturbance, whether they are affected by alcohol or for some other reason. The issue of an on-the-spot fine for refusing to leave does not achieve the purpose that we are trying to achieve. If the person leaves the premises, the purpose is achieved. If the person does not leave the premises after being directed in the presence of the police then the police have no option but to apprehend the person, arrest them and take them away, to achieve the purpose of getting them out. If they are issued with an on-the-spot fine, they are still on the premises.

THE CHAIR: They are still there. Do you think that it requires the ability to arrest someone in that instance?

Mr Colbran: If the goal that is to be achieved is to get them out of the premises, if we can get them out just by directing them, we have achieved our goal.

Mr Issa: There is merit in the suggestion of looking at extending on-the-spot fines for employees and licensees where they, for instance, breach provisions in the RSA or for continuing to serve someone who is intoxicated. There is certainly some merit in that.

Mr Colbran: That is a separate issue from the patrons.

Mr Issa: In relation to that, it is separate from the patrons.

MR SMYTH: In regard to the patrons, the AHA talks about extending on-the-spot infringements to involvement in a melee where no assault charge is otherwise made; intimidating behaviour; and the one we have discussed, failure to leave the area surrounding the licensed premises when directed by a licensee.

Mr Colbran: We do have move-on powers to cover that contingency. As far as an on-the-spot fine for being involved in a melee is concerned, I am not really sure, once again, that that would achieve the goal that we want, which is to disperse the crowd, have them move away and stop anything happening in the future. If an offence has been committed then we will take action in relation to the offences that have been committed. Giving an on-the-spot fine will not necessarily achieve our goals.

THE CHAIR: Thank you for making that point. Clearly, there is a strong reliance on the police by a lot of licensees. Is it your practice to routinely do the foot patrol or is it to be around and respond to calls? If calls are made, do they come directly to the police on the beat or do they go to a centre and then the police come out? And what is the response time?

Mr Colbran: The short answer is that it is both. We have the dedicated beat team and their sole responsibility is to do the proactive patrols around the licensed premises, particularly on Thursday, Friday and Saturday nights. They do proactive patrols not only around the areas where licensed premises are located, and particularly in the city, Manuka and Kingston, but also inside the licensed premises so that the police are seen inside them. While they are doing that, they are also doing compliance checks, looking for underage drinkers and those sorts of things.

We also have a response capability, as you know, and if an issue, a disturbance or some other problem occurs, the calls go through to our central operations and then a patrol is dispatched. It depends on where the closest patrol is as to which patrol is dispatched. As you may know, we have recently redone our rostering system. As a result of that we do have more patrols available for dispatch during the busy times, particularly on Thursday, Friday and Saturday nights, and our response times have been improving over the recent period for that time period.

THE CHAIR: When people are letting their hair down, you guys have to put yours up.

Mr Colbran: ACT Policing, like all police agencies, is a response agency. Therefore, we are required to respond when the demand is highest. We have done a lot of research on it and our high demand periods are now the times when we have a lot of police on.

THE CHAIR: Is it considered dangerous work to be on the foot patrols around the licensed clubs? Is that desirable work? Do people put up their hands and want to do it?

Mr Colbran: Yes, it is a very popular posting to go to the beat team, but it can be dangerous work. The people who work there are very highly trained and they are very highly motivated as well.

MR SMYTH: Since the change in the roster, are you seeing a change in behaviour in Civic particularly, and in the other high-visibility areas?

Mr Colbran: It is still too early to get the statistics on not only the response times but also the number of incidents that occur. As a result of the change of rosters, we definitely have more police visible during those periods, but we have to take a lot of factors into account. For example, in winter it is always quieter than in summer. Strange, that! But we have brought the roster in only fairly recently, so it will take some months before we can look at it and say that, because we have extra police visible, therefore people see the police and if people see the police more often they may be less inclined to do some actions.

MR SMYTH: There is no anecdotal evidence from the troops on the street?

Mr Colbran: I have not been speaking to them recently about that issue.

MS MacDONALD: I was fortunate, with another committee, recently to go and visit the sobering-up shelter. I know that the police do work with the sobering-up shelter quite well. I know that they also have quite a bit of information on display in the sobering-up shelter for people that need to get assistance with alcohol addiction, drug addiction et cetera. What work do the police do with the sobering-up shelter in those peak hours of Thursday, Friday and Saturday nights when they are open? Those are, of course, the busy times.

Mr Issa: We have a formal arrangement with the shelter. We have a practical guide for our officers in relation to using the shelter. As you say, it is mainly geared towards those busy times.

MS MacDONALD: Yes, they are not open on the other nights. I was thinking that that could possibly be an opportunity for information sessions to be run for the community in terms of the effects of alcoholism in the long term.

Mr Issa: It is certainly something that our crime prevention area would be interested in dealing with.

THE CHAIR: Thank you very much for coming along today. We will certainly be looking forward to receiving the submission that you gave to the government's inquiry. A copy of the transcript will be sent to you and you will be able to check it.

Mr Colbran: Thank you.

CORBELL, MR SIMON, Attorney-General and Minister for Police and Emergency Services

ANDERSON, MS ERIN, Legal Policy Officer, Legislation and Policy Branch, Department of Justice and Community Safety

MANUEL, MS TANIA, Senior Manager, Policy and Community Relations, Office of Regulatory Services, Department of Justice and Community Safety

PHILLIPS, MR BRETT, Executive Director, Office of Regulatory Services, Department of Justice and Community Safety

THE CHAIR: I am quite sure that each of you is familiar with this yellow card and that you have read it many times. I just want to check that you remember its contents.

Mr Corbell: Yes.

THE CHAIR: Would you like to make a statement of some kind, minister?

Mr Corbell: Thank you, Dr Foskey, and thank you, members of the committee, for the opportunity to be here today and for accommodating us at this time. I do have a statement which, if you do not mind, I will just read through, in order to give you a bit of context. I know it is a little formal but I will just do that for the record.

By reviewing the efficiency and effectiveness of certain regulatory activities relating to liquor licensing in the ACT, the Auditor-General's report No 4 of 2007 is an important report and it covers an area of significant importance to the ACT community. The government has welcomed the Auditor-General's report. As she indicated in her report, alcohol is a regular feature of Australian social, cultural and interpersonal interactions and the misuse and abuse of alcohol impacts across Canberra society. To ensure public, and to some extent business, confidence it is therefore vital that government effectively regulates liquor licensing.

The Liquor Act 1975 was developed to promote and encourage responsibility in the sale and consumption of liquor through the establishment of a scheme of liquor licensing and permits. The Office of Regulatory Services—ORS—has responsibility for the regulatory activities in respect of liquor licensing under the act. The act also provides powers to regulate management and behaviour in licensed premises.

As the committee would be aware, I have recently announced a review of the Liquor Act to determine whether the current liquor laws are adequate in satisfying community expectations about the responsible sale and safe consumption of liquor in the territory. I released a discussion paper for community consultation in April this year. That paper explores a range of issues with the aim of creating a healthier drinking culture here in Canberra, particularly in our licensed venues.

Some of the issues examined included the merits of extending on-the-spot fines to liquor licensees for serving alcohol to minors and intoxicated people; lockouts to prevent patrons entering licensed premises after a certain time; prescribed alcohol-free areas at family events; and the development of a code of conduct for the liquor and licensed hospitality industry. The closing date for those submission was 30 June. As at 30 June, the government has received 22 submissions. I am also aware that a number of extensions have been granted for a number of individuals, agencies and

organisations to make late submissions. Once all of those submissions have been examined, I anticipate that my department will prepare a final report with recommendations for my consideration.

Turning to the Auditor-General's report, her recommendations mainly concerned operational rather than legislative mechanisms in relation to liquor regulation. The only recommendation that related to legislation was recommendation 6, which suggested that the department should consider reviewing and amending the legislation to prescribe a time frame for the assessment of occupancy loadings in order to enhance the integrity and accountability of the process.

The discussion paper presented two options for reform in this area. The first option suggested reversing the onus and cost of determining the occupancy loading by placing an obligation on the licensee to organise an occupancy loading assessment within a specified time frame instead of the current situation where the preliminary obligation lies with the registrar. Under this proposal, the licensee would be required to use the services of an independent, appropriately qualified occupancy loading assessor who would be required to have regard to the Building Code of Australia and the liquor licensing manual in making their assessment. A time limit could be imposed on the licensee, requiring the licensee to submit the occupancy loading assessment to the registrar within a specified time frame or to submit the occupancy loading assessment prior to lodging their liquor licence application.

The second option for reform was to amend the Liquor Act to specify a time frame within which the registrar must determine an occupancy loading prior to the issue of a licence. Currently, there are around 644 liquor licences in operation in the ACT which allow licensees to sell liquor for consumption on the premises and/or away from the premises.

At the time of the report's collation—that is, the Auditor-General's report—ORS was relatively new and was in the midst of establishing new processes and procedures in relation to various licensing issues in the ACT. However, since this audit report was completed, much work has been done to implement many of the recommendations outlined by the Auditor-General.

The ORS has prepared a package of relevant documents for the committee, which I will ask Mr Phillips to provide to you, that demonstrate many of the improvements that have already occurred in the regulation of this area. I have also anticipated an increase in compliance activities in relation to liquor licensing. I am sure the committee is aware that in the last budget the government provided ORS with an additional \$1 million over the next four years to improve the liquor regulatory regime in the territory. This funding will allow ORS to employ an additional two liquor inspectors, which equates to approximately an extra 160 inspections to be carried out on licensed premises throughout the ACT each year.

In relation to the other matters raised in the Auditor-General's report, I would be very happy to outline the government's response to each of those items in due course. I would also be very happy to answer any of your questions.

THE CHAIR: What is the date of your response? We got it yesterday but no doubt it

was prepared quite some time ago?

Mr Phillips: The response was actually prepared in November last year.

THE CHAIR: One of the concerns that we have heard about, minister, is the consolidation of tribunals and the impact that might have on regulation of the liquor industry, because at the moment there is a specific board. Could you explain how the reform of the tribunal system will impact on that particular function?

Mr Corbell: I do not believe it will have any detrimental impact. The reason is that, whilst we are consolidating all of those statutory bodies into a single entity, they will still perform their functions discretely and separately. For example, the tribunal will meet as the Liquor Licensing Board for the purposes of dealing with matters to do with liquor licensing and disciplinary actions. So the consolidation of all of those tribunals, boards and other bodies into the consolidated civil and administrative tribunal is to achieve efficiencies in terms of the use of resources, and a consolidated registry so that there is a single point of reference for all of the civil and administrative functions, rather than citizens having to find the relevant registry which is spread out both in physical location and in terms of access right across the ACT bureaucracy. Instead, it is designed to be a single point of reference, a single registry, with common procedures and forms wherever possible. At the end of the day, when a matter is heard, it will still be heard by people with the relevant expertise and exercising the same powers that currently exist for the Liquor Licensing Board.

MS MacDONALD: So the people who actually hear the liquor licensing matters will not necessarily have any less expertise than is currently the case? That was the concern expressed by the AHA.

Mr Corbell: As I said in my announcements around the establishment of the ACAT, as it probably will become known, the government will continue to appoint people with relevant expertise to hear those specific matters.

THE CHAIR: Will that be permanent? At the moment, there is consistent membership of the board, but if it is called together on an ad hoc basis, would it still be those people with that expertise? I am wondering how it will operate. I saw the ad in the paper on Saturday calling for people to express an interest in being on a board or tribunal. Does that mean the whole thing is being opened up?

Mr Corbell: I have written to all members of existing tribunals and boards, indicating that the government will continue their appointments until early next year, which is when the new tribunal is due to commence. That will allow for consistency in the ongoing operation of the tribunals until the new ACAT is established. With respect to all the tribunals and boards, I have invited those people who are currently members of tribunals and boards to express an interest in continuing to perform their functions in the new tribunal. I will be giving very serious consideration to the reappointment of many of those members as part of this process.

There is no intention of removing the expertise that exists for the range of functions that will be consolidated into the ACAT. The ACAT will be established with three presidential members, a range of senior members and a range of ordinary members.

For example, when it comes to the Liquor Licensing Board, the government will appoint a range of ordinary members who will hear matters in the Liquor Licensing Board, who have expertise in dealing with those matters. Almost certainly, some of them will have been members of the previous Liquor Licensing Board.

There is no reason to fear that there will be any diminution of expertise, experience or knowledge. People who are dealing with liquor licensing matters will be exercising the same powers that are available to them now and the government's expectation is that they will have the same experience and expertise as they have now.

THE CHAIR: A review of the liquor licensing system is being conducted by ORS. Is there any outside expertise or oversight or is anyone being brought in to assist? Otherwise it is the ORS reviewing—

Mr Corbell: No, it is not being conducted by ORS. It is being conducted by the legal policy branch within my department.

THE CHAIR: So that is once removed but it is still government looking at an area of government?

Mr Corbell: That is correct; it is a government review, which is not an unusual process for the review of legislation. Most legislative review is done by the department responsible to the minister who has responsibility for that legislation.

THE CHAIR: Will all the submissions be made public?

Mr Corbell: Yes.

THE CHAIR: By what means?

Mr Corbell: I will make them available along with the government's response to the submissions. The only reason that a submission would not be made public is if the person or organisation making the submission had sought for it to remain private and we would have to consider whether or not that is the case. But I do not believe that is the case for any submissions at this stage.

THE CHAIR: What is the range of people who have put in submissions? Have you got a feeling for the different areas?

Mr Corbell: Yes, I do. As I said, there have been 23 submissions so far. They range from about half-a-dozen private individuals to operators of licensed premises.

THE CHAIR: How many of them?

Mr Corbell: About four or five of them. There are some advocacy groups such as ACTCOSS, the AHA and ClubsACT. There have also been submissions from security firms, from the courts and from large companies that hold licences, such as Coles and Woolworths. There have also been other non-government organisations such as North Belconnen Community Association and the Alcohol Education and Rehabilitation Foundation, amongst others.

THE CHAIR: A good range.

Mr Corbell: I am very pleased with the response to date.

MS MacDONALD: Can I go on to a different matter. The AHA raised—and I believe they included it when addressing your issues paper—the idea of having community impact statements, as is done in New South Wales, for anybody applying for a new licensed venue, so that there is a mechanism which could assess the impact on the local community in which the proposed licensed premises was to be set up.

I asked about doing it for existing licensees. There was quite a bit of discussion about that between the committee and the AHA representative. My concern is that while it is a good idea it will create a two-tier system regarding those who pre-date the need to have a community impact statement and those who come afterwards. Would you like to make a comment about the proposal by the AHA?

Mr Corbell: I am not really in a position to make a comment about proposals that any party has put forward in their submission at this stage. I have not actually seen the detail of these submissions at this time. They are still being compiled by my department. The closing date has only just passed in the last week or so, in any event. I would be reluctant to comment about any specific future policy approach ahead of the government's consideration of the issues and our response to all the submissions.

The only thing I would say in relation to those sorts of matters is that the government has previously said to the AHA and others that, whilst we understand the rationale for that type of approach, we would take the view that any regulatory approach that is adopted should also have regard to the potential for anticompetitive arrangements to be put in place. We would want to make sure that such measures were not used as a mechanism to restrict competition in the market unduly or unreasonably. But leaving that aside, it does not mean the government is closed to that idea; it is clearly an issue that has been raised in submissions and the government will take full account of it.

THE CHAIR: Have you got a time line for the progress of the rest of the review?

Ms Anderson: We are still awaiting some submissions from various stakeholders who have called and asked for extensions. Initially in the paper we stated that we would supply the minister with a report with recommendations by 31 July. However, we will obviously need to make sure that we have considered all stakeholders' views before that report is finalised.

THE CHAIR: It looks like this might be a matter for the next Assembly, minister?

Mr Corbell: I do not think there is any doubt that there will not be any legislation before the Assembly in this term. But, regardless of the outcome of the October election, I am sure whoever is the government and the responsible minister will want to progress this work, and the department will be well placed to continue that program.

THE CHAIR: Indeed.

Mr Corbell: My expectation is that I will outline the government's preferred policy approach before the election, at least in general terms, but we will not be in a position to have detailed legislation before the Assembly before the caretaker period.

MR SMYTH: Recommendations 5 and 6 talk about the occupancy loadings. What is the process to get an occupancy loading at the moment?

Mr Corbell: I might ask Mr Phillips to outline that.

Mr Phillips: What happens is that during the course of the building process plans are submitted to ORS in relation to seeking approval for occupancy loadings. The deputy registrar and his staff liaise with the applicant and with the fire brigade, who go out and have a look at premises as early as possible during the course of construction to mark out the indoor public areas and the outdoor public areas, to determine where the bar is going to go, where the entertainment area is going to go and where the outdoor area is going to go.

Once they mark those areas on the plans to people's satisfaction, the plans are forwarded to the fire brigade. The fire brigade make an assessment of two things: firstly, the potential occupancy loading according to the public area that has been identified; and, secondly, occupancy according to the methods of escape from the premises. They send back two figures and the registrar will go for the lowest figure in relation to assessing an occupancy loading.

MR SMYTH: How many such assessments will you do in the course of a year?

Mr Phillips: At present there are about 40 new applications.

THE CHAIR: Forty?

Mr Phillips: Yes, and we do them in relation to extensions and also new applications for premises.

MR SMYTH: The Auditor-General says you need to ensure that that these assessments are done in a timely manner. What is the cause of the current lack of timeliness?

Mr Phillips: We are putting in place a process whereby we are doing them in about six weeks from start to finish.

MR SMYTH: What is a "timely manner" then? Six weeks is obviously therefore too long?

Mr Phillips: No. The Auditor-General was critical of some that simply had not been done for years, and there was a significant delay. We are putting in place processes whereby we are becoming a lot more proactive in relation to the way that we are having them assessed and we are putting in place a six-week period from start to finish.

MR SMYTH: Do you have to have your occupancy loading renewed?

Mr Phillips: No. If you extend your premises or move your premises, if you change the structure then you will need a reassessment of your occupancy loading.

MR SMYTH: In your answer you agree to recommendation 5, but you say that the Office of Regulatory Services is in the process of working through outstanding occupancy loading assessments to ensure that all licensees have a current occupancy loading. Does that mean you can be open without a loading?

Mr Corbell: No. As Mr Phillips outlined—and I am sure Mr Phillips can outline this further—in the Auditor-General’s audit she discovered that there were a number of premises that had been trading for a significant period of time without an occupancy loading. Following this audit report, ORS have gone through and identified all of those premises that have been operating without an occupancy loading and are currently processing that to ensure that they all now get an occupancy loading. So that is what is meant by a current occupancy loading: they would get an occupancy loading for the first time, because they have not had one. As Mr Phillips outlined, the process that has now been put in place is that we expect to be able to complete applications for occupancy loadings within six weeks.

MR SMYTH: Of the outstanding premises that never had a loading but have been in operation, how many are there, for how many have you now put in place a loading assessment, and how long will it take to complete the rest?

Mr Phillips: Our assessment is that 162 have yet to be properly assessed, and we propose to have all of those determined by the end of this financial year.

MR SMYTH: All of them by the end—

Mr Phillips: Yes.

Mr Corbell: By the financial year just passed?

Mr Phillips: No, by 30 June in this financial year.

MR SMYTH: All done by 30 June 2009?

Mr Phillips: Yes.

Mr Corbell: It is important to note, Mr Smyth, that following the Auditor-General’s report an assessment was made to ensure that all of the high-risk premises were done first. The premises that are now left are those premises which are considered to be a lower order of risk, such as smaller cafes and restaurants, not the large nightclub-type premises.

THE CHAIR: You said there were 40 applications for licences. These are new; they are not included in the 122 or whatever that you just mentioned. What criteria are used to determine whether a licence is going to be granted to an applicant?

Mr Phillips: The criteria are such that it requires planning approval, so if a licence is

applied for within an area that is suitable for a liquor licence, for one of the various types of liquor licence, the criteria really boil down to somebody being a fit and proper person or, if it is a company, having their directors who are fit and proper people, in having premises that are suitable for the conduct of the business. So there are not too many criteria that an applicant has to abide by to obtain a licence.

Mr Corbell: The key constraint is the planning control.

Mr Phillips: Yes.

Mr Corbell: The lease that is held by the business or the owner must permit a drink establishment, or a restaurant or a cafe, or it must be, in the case of an off-licence, a supermarket, shop or something like that.

THE CHAIR: Is it made public and are people invited to give comment on the suitability, for instance, of such a licence being granted?

Mr Phillips: There is no requirement for that provision to occur.

THE CHAIR: So if someone applied for a licence to open a new club in Civic, you would not look at issues like there already being a lot of clubs in Civic?

Mr Phillips: No.

Mr Corbell: No, there are no criteria currently in the act in that regard.

THE CHAIR: It has certainly been raised as an issue here.

Mr Corbell: Yes, it has been raised as an issue, and it is something which is also raised in the discussion paper which the government is currently seeking comment on.

THE CHAIR: One of the issues that seems to be common to many Auditor-General's reports in relation to many topics is the record-keeping process. I note that the licensing issue is a kind of paper trail, because the OFT ensure that documentation for licensing applications is complete and properly maintained on file. What have been the problems there, and how will that be overcome?

Mr Phillips: I think the problems largely have been that all previous systems have been paper based and files have been hard copy, so it relies upon the relevant officer at the time making the proper notes. We have put in place an extensive review of our business systems right across ORS. We are in the process of developing an ICT strategic plan. We are upgrading our IBS database in relation to a number of forms of licensing, including liquor, to get all the information that we can onto it. One of the benefits that ORS has is that we subscribe to Objective, which is an electronic-based management system, so we have a paperless management system that we have installed right across the office. OFT were not part of the IDMS system; they are now part of it, and we are moving towards having a lot better business processes for the whole office.

THE CHAIR: That will be helpful.

Mr Corbell: This is one of the benefits. The question you raised, Dr Foskey, highlights one of the benefits of consolidating a range of these smaller regulatory functions into a larger agency. It has given us the ability to deploy technology across a range of functions to address this type of weakness. I am pleased that we have been able to identify and target that.

THE CHAIR: By way of a response to the first recommendation and a couple of other recommendations, there will be a practice manual. I see something sitting there that looks like a practice manual.

Mr Phillips: Dr Foskey, I am leaving for you a practice manual, a risk assessment and a number of the new application forms that we have developed.

THE CHAIR: So these are all post Auditor-General?

Mr Phillips: These are all ongoing things, all post Auditor-General.

THE CHAIR: That is very speedy, Mr Phillips.

Mr Phillips: They are all on our website. If you have a look at the ORS website, it has been completely rebadged. I am not too sure about the bright green of the titles, but there you go.

THE CHAIR: So you are tabling these?

Mr Phillips: I will table these for you.

THE CHAIR: Thank you, that is much appreciated.

MR SMYTH: Just on the practice manual, in your response, minister, to recommendation 2 you say that you will integrate best practice into the practice manual to ensure operational efficiency. What is best practice in this case?

Mr Corbell: I would need to take the advice of my officials on that one, Mr Smyth, so perhaps Mr Phillips can answer.

Mr Phillips: It is making things as simple as possible with respect to liquor applications. In the past the applications have been quite onerous in relation to assisting people to apply for liquor licences. So the aim is to make the document as simple and as readable as possible.

MR SMYTH: Has the in-house training been developed and undertaken by all the staff?

Mr Phillips: The deputy registrar has conducted some basic in-house training with the licensing staff. We are about to interview for new liquor inspectors. The deputy registrar will conduct extensive training when those two new people come on board. So the inspectors and the licensing staff will get the benefits of the deputy registrar's intensive training.

MR SMYTH: What is the existing number of staff?

Mr Phillips: We have 2½ currently applied to licensing to get rid of the backlog; they are dedicated there. There are a number of other staff that do little bits and pieces of the licensing area. We currently have seven inspectors in our fair trading side and four to five of those are predominantly liquor.

MR SMYTH: So the two new staff will go where?

Mr Phillips: The two new staff will go to liquor.

Mr Corbell: To the inspectorate function.

THE CHAIR: I assume this will need to be updated after the government acts on the process of the review?

Mr Phillips: I will also point out one of the benefits that we found on the weekend. We sent an OH&S inspector out with the liquor team after hours. He was very effective in looking at some of the ways in which places had their ventilation, heating and various things like that.

MR SMYTH: Four or five staff are liquor; are they liquor inspectors?

Mr Phillips: Liquor inspectors.

MR SMYTH: So four to five are liquor inspectors; how many work on licensing?

Mr Phillips: Two-and-a-half are dedicated to licensing.

THE CHAIR: Is there any way of working out the proportion of inspections that take place of licensed drinking premises compared to licensed retailing premises?

Mr Phillips: The vast majority take place out of hours in relation to pubs and clubs. There are inspections that are done across the board for a number of things like workers comp, liquor and tobacco for the licensed premises during daytime, but they look for different things.

THE CHAIR: I do not know if it has actually begun, but I remember passing legislation that allowed ACT Health to try and trip up store owners who were selling cigarettes to under 18-year-olds. Has any thought been given to extending that to liquor sales?

Mr Corbell: Not at this time, but clearly, if that is a matter that people wanted to raise, we could certainly look at that in the context of the review. We have encountered some difficulties with the controlled purchase type operation that is provided for now in the Liquor Act, in terms of finding minors willing to participate, but that is something which is being addressed in an ongoing way.

Mr Phillips: One of the issues that differentiates between tobacco and liquor is that it

is an offence for a minor to purchase liquor; it is not an offence for a minor to purchase tobacco. So the controlled operations would need to be flavoured with a different focus.

THE CHAIR: And there is that issue of secondary on-selling to young people, which I expect would be very difficult to enforce.

Mr Corbell: Yes.

THE CHAIR: Were extra resources given to the relevant part of JACS to do the review?

Mr Corbell: No, it is a normal part of their job.

THE CHAIR: The government's response to recommendation 7 states:

The ability to inspect all entities within a set period of time and the higher risk entities being subject to more frequent intensive visits would be resource intensive.

Does that mean you have already circumscribed acting on any recommendations that the review might come up with because resources are a rather major constraint?

Mr Corbell: No, not at all. It simply highlights the obvious, which is that if you want an inspection regime that inspects each and every licensed premise regularly, it is a resource-intensive exercise and one that goes beyond what this government and previous governments have provided for. I think the trend in other jurisdictions is to take a risk-based approach and to identify those premises that present the most risk in terms of harm to individuals, harm to others, damage to property and so on, and focus on those, with necessarily a lesser degree of focus—not no focus, but a lesser degree of focus—on lower risk premises.

The best example is a nightclub in Civic that is trading until 5.00 am, which is licensed, and which sells a large volume of alcohol after midnight, compared to a restaurant which is licensed in a residential shopping centre, in the middle of a Canberra suburb, that closes at 9.30 or 10.00 pm on a Friday or Saturday evening. The order of magnitude, the order of risk, is entirely different and regulatory response should have regard to that. I think that is what the government is saying in its response.

THE CHAIR: And the government is pretty sure that that restaurant did close at 9.30 and is not operating an illegal shebeen out the back?

Mr Corbell: Those are always issues that you have to bear in mind. Of course, in our experience, adjacent residents usually draw our attention to circumstances where they believe there is a disruption in their local neighbourhood. It does not mean that there is no inspection function, but clearly complaint-based response is also an important element. I must admit I do not think that I know of any that do that, Dr Foskey.

THE CHAIR: No, they would not be there if you did, Mr Corbell!

Mr Corbell: None have been drawn to my attention by constituents or others.

THE CHAIR: No, it is just a possibility. That is why I raised it.

Mr Corbell: You are looking for one, are you?

THE CHAIR: No, I just wanted to use the word “shebeen”.

MR SMYTH: Recommendation 4 talks about a new computer system. It is seven months since you tabled your response. What has been done? What work has the IT steering committee done? What investigations have been carried out and what action has occurred?

Mr Phillips: As I said, the very first thing we needed to do across the ORS was to find out what business systems we had in place, what they did, whether they worked and whether they could talk to each other. We have just got a draft report and a draft strategic plan in relation to moving forward in our business systems.

The IBS, which is the system that runs the liquor, is currently being updated to put all the occupational health and safety material on it. So there is ongoing work in relation to that. It is also being used to put all the tobacco licensing information on it that we receive from Health, and all the charitable collection licensing that we receive from TAMS. So there is ongoing work in relation to the IBS. It is also being upgraded to contain and hold all of the information that the liquor licensing regime requires it to do.

MR SMYTH: What does IBS stand for?

Mr Phillips: Integrated business system.

MR SMYTH: And that will cover all Office of Regulatory Services functions?

Mr Phillips: Some. It does not cover the lands titles systems, it does not cover rental bonds, it does not cover births, deaths and marriages, parking or whatever. Ostensibly, it covers all of the business registration and licensing, together with the OH&S.

MR SMYTH: What does the IT steering committee consist of?

Mr Phillips: It consists of the senior director of client services, Danielle Krajina, who is the chair; somebody from InTACT; and a number of senior managers in ORS.

MR SMYTH: What is the path forward now?

Mr Phillips: We have got funding to continue upgrading our IBS database.

MR SMYTH: And that is how much?

Mr Phillips: We have \$250,000 that has been rolled over. We have \$360,000 for OH&S. We have \$360,000 for AIMS, which is the workers compensation information system, and we have half a million for checks for working children.

MR SMYTH: The last part of the government's position is that the current system was not developed for this capability. Is there an off-the-shelf product that meets this or will you just continue to use the IBS?

Mr Phillips: I think we have gone so far down the track with IBS that we just need to continue to build and buy separate parts for it.

MR SMYTH: Who supplies the IBS?

Mr Phillips: A firm called SBC in Sydney.

THE CHAIR: Thank you very much for your time today.

Mr Corbell: Thank you very much.

THE CHAIR: It has been rewarding.

The committee adjourned at 5.47 pm.