Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

3 JULY 2008

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Thursday, 3 July 2008

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The Assembly met at 10.30 am.

(Quorum formed.)

MR SPEAKER (Mr Berry) took the chair and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Revenue Legislation Amendment Bill 2008

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

Title read by Clerk.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (10:32): I move:

> That this bill be agreed to in principle.

The Revenue Legislation Amendment Bill 2008 amends the Duties Act 1999 and the First Home Owner Grant Act 2000. This bill is a clarifying instrument designed not to impose any new revenue measures but, rather, to provide greater certainty to taxpayers. It makes explicit certain elements that have been inferred from current legislation and also removes an inconsistency in relation to recovering the first home owner grant from a third party.

Mr Speaker, the bill contains two amendments. The first of these relates to duty on an application to register a motor vehicle under the Duties Act. If no duty were payable in another jurisdiction because the registration was exempt or not liable to duty and such a registration is dutiable in the ACT, duty is payable on the application for re-registration of the motor vehicle in the ACT. The amendment inserts an example to clarify this duty liability when transferring registration from another jurisdiction. The amendment also clarifies that if duty were paid in another jurisdiction, duty is not payable on re-registration in the ACT.

The second amendment contained in this bill relates to the First Home Owner Grant Act. The amendment allows the commissioner to require a third party to pay an amount owed by a grant recipient where the third party is a debtor of the grant recipient. The amendment also provides objection rights to the third party if they are dissatisfied with the commissioner's request for them instead of the grant recipient to pay the recoverable amount. These provisions align the debt recovery provisions in the First Home Owner Grant Act with similar provisions in the Taxation Administration Act 1999. I commend the Revenue Legislation Amendment 2008 to the Assembly.

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

ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10:35): I move:

> That this bill be agreed to in principle.

Today I introduce the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008, which is the second bill dealing with the establishment of a consolidated ACT tribunal. I tabled the first bill, the ACT Civil and Administrative Tribunal Bill 2008, in May. The bill I am introducing today makes consequential amendments to legislation related to the establishment of the ACT Civil and Administrative Tribunal. Significantly, the bill collapses most existing ACT tribunals into the new ACAT. I foreshadow that it will be necessary to bring forward at least one further bill to deal with the remaining consequential provisions, especially in connection with transitional arrangements for proceedings currently before the Administrative Appeals Tribunal.

I would like to acknowledge that many of these existing tribunals, boards and committees have operated for a considerable length of time, and many members have served tirelessly on these boards for years and, indeed, sometimes decades. It is a tribute to the care and attention paid by these people that, despite the large transactional volume, there have been very few appeals from the positions of tribunals.

In the past, some boards and committees were established with little by way of administrative support, even to the extent of some members not receiving remuneration for the time they have so selflessly given. After extensive consultation with stakeholders, the government has decided to consolidate most existing tribunals to create the ACT Civil and Administrative Tribunal to address shortcomings such as lack of support to members and registries and a range of other inefficiencies which do not promote access to justice.

The bill I am introducing today makes a wide range of consequential amendments to give effect to the ACAT bill introduced in May. It amends a number of acts to replace references to existing tribunals with references to the ACAT and to effect other necessary changes consequent to these tribunals being replaced by the ACAT. The bill also makes a series of amendments to the ACAT bill. These amendments will help standardise the powers of the ACAT in relation to occupational discipline and the practice around reviewable decision notices.

The bill makes amendments to authorising legislation relating to occupational discipline to remove the jurisdiction to the ACAT. These amendments will create

consistency in the administration of occupational discipline in the territory whilst maintaining specialist procedures, considerations and orders, where appropriate, to specific occupations. The ACAT will deliver major positive reforms to the ACT tribunal sector, including greater efficiency, better support for tribunal members and registries—including a more structured career path for administrative personnel—and increased consistency across the consolidated jurisdiction whilst maintaining unique differences where necessary. Ultimately, the consolidated tribunal will improve access to justice in the territory. I commend the ACT Civil and Administrative Tribunal Legislation Amendment Bill 2008 to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Crimes (Controlled Operations) Bill 2008

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10:39): I move:

> That this bill be agreed to in principle.

The Crimes (Controlled Operations) Bill will provide ACT Policing with a new legal framework to engage in controlled operations. The bill will also enable ACT Policing to work with police from other jurisdictions and the Australian Crime Commission to conduct controlled operations across state and territory borders.

A controlled operation is an investigative method used by law enforcement agencies to identify suspects and obtain evidence for criminal prosecution. The aim of a controlled operation is to gather evidence and intelligence against those who organise and finance crime, rather than just focusing on the people who carry out the rudimentary tasks, such as couriers or other intermediaries. Instead of seeking to terminate a criminal scheme immediately, police officers let the scheme unfold under controlled conditions. During the process of allowing this to occur, an informant, agent or undercover police officer may need to engage in conduct that would be criminal unless protected by law.

The bill will empower police to involve themselves covertly in organised crime, under strict operational control, to gain evidence and intelligence about the criminal behaviour. The bill will protect officers assigned to the operation from criminal liability if they need to break the law during the operation.

A controlled operation can only be authorised by the highest ranks in ACT Policing or the Australian Crime Commission and may only be carried out in strict accordance with the details of the formal authority issued for the operation. To ensure the powers are used for their intended purpose, the bill includes a number of important accountability provisions. Any operations that are authorised in connection with the ACT completed in a financial year must be reported to the Minister for Police and

Emergency Services and a copy of the report presented to the Assembly. All operations authorised in the ACT must be documented, and a register of these operations must also be kept.

My department has confirmed with the Ombudsman's office that, should this bill be passed, the Ombudsman will inspect records related to controlled operations to ensure compliance with the foreshadowed act. Every year the Ombudsman must also provide a written report of the inspections under the Annual Reports (Government Agencies) Act 2004.

In order to protect police and other people authorised to engage in a controlled operation, the bill does not change the unlawful character of the conduct but excludes authorised people from criminal liability. If the authority is abused or disregarded, then that protection is negated. The bill also puts beyond doubt that a court should not apply its discretion to exclude evidence obtained during a controlled operation solely because it was obtained through the commission of unlawful acts, provided that the conduct was within the scope of the authority.

However, the bill does not modify the law that would prevent a defendant from being convicted on the basis of acts committed as a result of entrapment or improper police inducement. It is intended that in any prosecution involving evidence obtained by the powers exercised under the bill, where it is alleged that the evidence is the result of inducement or entrapment, the court retains its discretion to receive and exclude evidence or to stay proceedings, consistent with the right to fair trial.

The bill also allows other controlled operations law, whether under common law or statute, to operate in parallel to the law set out in this bill. For example, part 6A of the Tobacco Act 1927 authorises a procedure to obtain evidence that could be characterised as a controlled operation. Likewise, an ACT Policing operation that is a controlled operation governed by common law is not intended to be ousted by the enactment of this bill.

This bill is part of a national project to develop model laws that aid criminal investigation across state and territory borders. The task of developing the model laws was given to a national joint working group established by the Standing Committee of Attorneys-General and the Australasian Police Ministers Council. The joint working group was chaired by the commonwealth and included representatives of police and justice agencies from each jurisdiction.

Enacting this nationally recognised law will enable the ACT to work with other police forces and justice agencies to dismantle organised crime. I commend the bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Justice and Community Safety Legislation Amendment Bill 2008 (No 2)

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.45): I move:

> That this bill be agreed to in principle.

The Justice and Community Safety Legislation Amendment Bill 2008 (No 2) is the 19th bill in a series of bills dealing with legislation within the justice and community safety portfolio. These bills make amendments to portfolio legislation. The bill I am introducing today makes the following amendments to the Administration and Probate Act 1929. The bill extends the time frame within which a will must be proved or probate renounced before the court intervenes from three months to six months. This brings the time frame in the act into line with the time frame reflected in the Court Procedures Rules 2006.

The bill also amends the act to recognise the status of a civil partner upon intestacy as a consequence of the Civil Partnerships Act 2008. The amendments will ensure that if one of the partners in a registered civil partnership dies without an existing will, the surviving partner will have the same entitlement to benefits which a married person would have in the same circumstances.

For the Civil Law (Sale of Residential Property) Regulation 2004, the bill amends the regulation to update references to Australian standards which building inspectors must comply with when undertaking inspection of buildings for the purposes of buying and selling property in the ACT. The bill also amends the regulation to ensure that the obligations on ACT building inspectors in the ACT do not change as a result of the update.

For the Civil Law (Wrongs) Act 2002, the bill amends the act to provide protection from civil liability for businesses that donate food for charitable purposes. While the onus is still on food donors to make sure the donated food is safe for consumption at the time of donation, this legislation will provide them with significant protection against civil action if they handle the food appropriately. This protection, however, will only apply if the food is donated to a not-for-profit charity and distributed as free food to those in need; where the food is safe to eat at the time it left the possession or control of the donor; and where the donor informs the charity receiving the food of appropriate arrangements for the safe storage and processing of the food after donation.

The proposed amendment will still enable legal action to be taken against the business where a person is harmed by the consumption of the donated food if the food was unsafe when it was received from the donor. This protection will not extend to charities or other organisations responsible for the distribution of donated food. In circumstances where a person is harmed by the consumption of the donated food, the person will be able to take legal action against the charity which distributed the food. The proposed amendment is consistent with amendments made in New South Wales, Victoria and Western Australia.

For the Crimes Act 1900, the bill amends the act to reconcile the operation of section 54 dealing with sexual intercourse without consent with the existing common law. The amendment resolves the interpretative contradiction raised in R v Maddison, where the court inferred that sections 54 (1) and (2) should be interpreted as two offences for each subsection because each subsection refers to mental elements of recklessness and knowledge.

The original intention of the offence in section 54 was to enable a jury or a judge to decide on the facts that the mental element of either knowledge or recklessness was satisfied. It was never intended that the prosecution would have to nominate in advance of the trial the prosecution's determination of what mental element the evidence would prove. Evidence that might prove knowledge or recklessness or both could be tendered. It would then be up to the judge or jury to determine whether the evidence meets either test. This amendment will permit the Director of Public Prosecutions to lead evidence which satisfies knowledge or recklessness without having to conduct separate prosecutions and without having to elect the mental element in advance of the trial, consistent with the common law.

For the Crimes (Restorative Justice) Act 2004, the bill amends the act to remove a referring entity's obligation to explain restorative justice to eligible victims or parents before the entity refers an offence for restorative justice. Referring entities lack the financial resources to properly train staff in the dynamics of the restorative justice process and the potential consequences for victims. Amendments will instead place the obligation on the chief executive of the restorative justice unit, who is better equipped to provide an adequate explanation. The explanation will be provided before an eligible victim or parent gives written consent to take part in the restorative justice process. In addition, the bill amends the act to clarify the appropriate training required of a non-lawyer convenor.

For the Discrimination Act 1991, the bill amends the act to reinsert a vicarious liability provision which existed in the act until 2004 before it was inadvertently removed in 2005. The vicarious liability provision provides that unlawful conduct engaged in by an employee or agent of a person within the scope of their actual or apparent authority is taken to have been engaged in by the person, unless they took all reasonable steps to prevent the employee or agent from engaging in the unlawful conduct.

For the Legal Profession Act 2006, this bill amends the act to provide the disciplinary tribunal with new powers to require witnesses to attend the tribunal to give evidence and to issue arrest warrants where such witnesses fail to attend, consistent with the powers in the ACT Civil and Administrative Tribunal. The bill also makes amendments to various definitions in the act to accord with current ACT drafting practice.

For the Legal Profession Regulation 2007, the bill amends the regulation as a consequence of the amendments made to the Legal Profession Act 2006 by this bill.

For the Magistrates Court Act 1930, the bill amends the act to ensure that where a convicted person is lodging an appeal against their conviction or sentence, the court

will be able to remand the convicted person in custody where bail has not been granted.

For the Regulatory Services Legislation Amendment Act 2008, the bill amends the act to delay the commencement of the amendments to the Door-to-Door Trading Act 1991 until consultation can occur with consumer and business groups to address concerns about the application of the amendments to telemarketers. I commend the bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Sexual and Violent Offences Legislation Amendment Bill 2008

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

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10:53): I move:

> That this bill be agreed to in principle.

Today I introduce the Sexual and Violent Offences Legislation Amendment Bill 2008, which will amend the Evidence (Miscellaneous Provisions) Act 1991 and the Magistrates Court Act 1930 to make it less stressful and traumatic for victims of sexual offences at committal proceedings and at trial. It will also provide special measures for victims of violent offences and other vulnerable witnesses when they give their evidence in court. These amendments are designed to minimise the potential re-victimisation that these witnesses can experience when interacting with the criminal justice system.

It is widely recognised that sexual assault has a devastating impact on its victims. Notwithstanding any physical injury that may occur as a result of the assault, the emotional impact, in terms of trauma and stress, can be significant and long lasting. The effects of sexual assault are also felt by the victims' families, the health system and the criminal justice system.

While the right to a fair trial is a central pillar of the criminal justice system, for too long now maintaining the balance of fairness in the prosecution of sexual assault has been heavily weighted against the complainant. The criminal justice system has failed to treat complainants with the respect they deserve, leaving many complainants feeling betrayed after participating in the prosecution process, the very process through which they seek justice.

National and international statistics have revealed that sexual assault is also notoriously under-reported. Even where it is reported, only a small proportion of cases ever proceed to trial. Although there is a range of factors why this occurs, the most obvious factor is the victim's expectations of how he or she will be treated by the

criminal justice system. This bill is aimed at alleviating some of those fears and ensuring that potential victims are not discouraged from coming forward.

These legislative reforms arise out of recommendations made in the *Responding to sexual assault: the challenge of change* report, prepared by the Office of the Director of Public Prosecutions and the Australian Federal Police. The report represented the outcome of the sexual assault response program, which was funded by the ACT government, to look at ways of improving practices and procedures in the ACT criminal justice system as they affect victims of sexual assault offences.

The report contained 105 recommendations to improve the criminal justice response to sexual assault in the ACT. The recommendations in the report not only highlighted the need to amend legislation and procedures affecting the prosecution of sexual assault offences, but were aimed at bringing about a cultural shift in the way sexual assault offences are investigated and prosecuted and the attitudes of key stakeholders within the criminal justice system, including the judiciary, court staff, the police, the DPP and the legal profession.

In response to the report, the ACT government formed the sexual assault response program reference group, consisting of high-level representatives from both government and non-government organisations responsible for service delivery in the area of sexual assault to consider the recommendations and to oversee a process of implementation.

I am pleased to report to the Assembly today that a majority of the recommendations considered by the SARP reference group have either been implemented or are currently undergoing a process of implementation. I take this opportunity on behalf of the government to express my sincere appreciation to the individuals of the SARP reference group for their hard work and efforts in relation to these very important reforms.

I should add that the legislative amendments made in this bill are not only a product of the recommendations in the report and those made by the SARP reference group but also reflect the detailed consultation process undertaken during its development. As a consequence of the collaborative process, additional reforms have been identified, and I will be requesting the SARP reference group to further develop these reforms.

While it is generally accepted that victims of sexual assault offences should be protected from stress, trauma and intimidation often associated with giving evidence, there has been a noticeable failure by legislatures generally to recognise that victims of other violent offences, such as torture, threat to kill, kidnapping and stalking, are also susceptible to mistreatment and re-victimisation in the criminal justice process. The amendments in this bill recognise that victims of certain violent crimes are deserving of protection through the use of special measures to aid the giving of evidence to realign the balance of fairness between victims and alleged offenders.

These reforms will introduce special measures for the giving of evidence by children and adults with an intellectual disability to ensure that the best evidence is given by

these witnesses. The bill acknowledges the deficit these witnesses suffer in being able to communicate in unusual environments like a courtroom and makes it easier for them to give their evidence as well as providing a better balance of fairness between the accused and these witnesses.

I now turn to the detail of the bill. Amendments made by the bill to the Magistrates Court Act 1930 are twofold. Firstly, they will permit the admission of a transcript of an audio or visual recording of an interview between police and children or adults with an intellectual impairment as their evidence at a committal proceeding. These amendments will reduce the number of times these witnesses are required to give evidence throughout the criminal justice process and help mitigate the problems that result from inconsistencies and omissions which are unavoidable when a child is forced to recount their story repeatedly. They will also alleviate similar difficulties which can be faced by the intellectually impaired. The defence will be provided with a copy of the transcript and will be able to hear and view the recording in order to prepare its case.

Secondly, amendments to the Magistrates Court Act 1930 will also prohibit absolutely the calling and cross-examination of alleged children or adult victims of sexual offences at a committal hearing. A written statement or a transcript of a police interview will be admissible as their evidence, and they will not be required to attend the committal proceeding to give alternative evidence or be cross-examined on their evidence. Cross-examination of alleged victims at committal, which is often more rigorous and intimidating in the absence of a jury, leads many alleged victims to seek to have the proceedings discontinued for fear of having to go through additional trauma and humiliation at trial.

Amendments to the Evidence (Miscellaneous Provisions) Act 1991 will allow the admissibility in court of a prerecorded audiovisual recording of an interview between police and a child, or an adult with an intellectual impairment who are complainants in sexual and violent offence proceedings as their evidence at trial. The defence will be provided with a copy of the transcript of the recording and will be able to hear and view the recording in order to prepare its case.

Children or adults with an intellectual impairment who are complainants in sexual offence proceedings will also be able to give their evidence at a pre-trial hearing which will be held as soon as possible after a committal proceeding and before the actual trial is held. The prerecording of evidence at a pre-trial hearing aims to redress fundamental problems with the criminal justice system and how it deals with children's evidence. Delays in the court process are inevitable, but they work against children's ability to recount events long after they occur. For young children and people with a disability, the ability to give cogent evidence many months or years after the event might be beyond their developmental and intellectual capacity, despite the fact that they were able to give coherent descriptions at a time closer to the events in question.

A pre-trial hearing is a unique pre-trial process designed to shield alleged victims of sexual offences from further trauma in having to repeat their evidence again in open court proceedings. The pre-trial hearing allows the victim to give their evidence

before trial without having to confront the accused personally in the courtroom. The witness gives evidence in a separate room to the courtroom and is then cross-examined and re-examined via audiovisual link by the defence in the courtroom in the presence of the judge, prosecutor, accused and anyone else the court orders should be present. This evidence is recorded and then later played at the actual trial as a substitute for the witness's oral testimony at trial, eliminating the need for the witness to attend the trial to give their evidence.

It is also recognised that there may be occasions where prerecording other witnesses' evidence might be necessary to ensure that the best evidence of that witness is taken. For example, it may be necessary for an adult complainant in a sexual offence proceeding to give their evidence at a pre-trial hearing because of a special vulnerability where they might suffer further severe emotional trauma as to be prevented from giving satisfactory evidence at a later time at trial. These amendments will ensure that the court has the discretion to order prerecording of such witnesses where the court is satisfied that it is necessary.

Evidence which is prerecorded, either as part of a police interview or at a pre-trial hearing which is admissible in a sexual assault or violent offence proceeding will also be admissible in later proceedings, such as a rehearing or appeal or in another proceeding arising as a result of the original proceeding, for example, in Family Court proceedings. In these circumstances, appropriate safeguards will remain for the defence to recall the witness to give further evidence, if required.

These amendments will also permit alleged victims of violent offences and witnesses in sexual or violent offence proceedings who are giving similar evidence in relation to abuse they allege has also been committed upon them by the accused to give their evidence via audiovisual link in a room separate to the courtroom, similar to other sexual assault victims. Where a witness chooses to give their evidence in court, arrangements will be made to block the view of the accused from the victim in sexual and violent offence proceedings and similar act witnesses.

Witnesses will also be protected from the distress, intimidation and humiliation that can occur as a result of being questioned by an alleged offender by prohibiting a self-represented accused in sexual and violent offence proceedings from personally cross-examining certain witnesses. Complainants, similar act witnesses, children and witnesses with a mental or physical disability which affects their ability to give evidence will be protected from this further humiliation. In the interests of justice, the accused will continue to be entitled to cross-examine these witnesses, but must do so via a legal representative and will be entitled to free legal representation for this purpose if necessary.

Complainants and similar act witnesses in sexual and violent offence proceedings, and children and witnesses with a mental or physical disability in any court proceedings will be entitled to have a support person present while they are giving evidence. The court will have discretion to close the court to the public while alleged victims and witnesses in sexual assault and violent offences proceedings are giving evidence. This measure will reduce the embarrassment these witnesses might experience while giving evidence about highly personal details. The court will also have discretion to order closure of the court for other witnesses where the interests of justice require it.

In conclusion, these reforms are consistent with the approach taken in many other common-law jurisdictions, including other states and territories in Australia. The bill achieves the necessary balance of reducing the trauma experienced by victims and other vulnerable witnesses in sexual and violence offence court proceedings while at the same time protecting the human rights of the accused to a presumption of innocence and a fair trial. I commend the bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Education, Training and Young People—Standing Committee
Report 7

MS PORTER (Ginninderra) (11:08): I present the following report:

> Education, Training and Young People—Standing Committee—Report 7—*Report on Annual and Financial Reports 2006-2007*, dated 2 July 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Question resolved in the affirmative.

Public Accounts—Standing Committee
Report 14

DR FOSKEY (Molonglo) (11:09): I present the following report:

> Public Accounts—Standing Committee—Report 14—*Report on Annual and Financial Reports 2006-2007*, dated 30 June 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

I would like to speak briefly to the report. Mr Speaker, the public accounts committee, as you know, is a very busy committee. This is our 14th report in this term. Given that we have a couple of fairly weighty government departments, including Treasury, I thought it might be a good idea to point out some of the recommendations of the committee and to put on the record some of the highlights.

One thing that we noted with concern is that only 63 per cent of financial reports were rated good or satisfactory in 2006-07. That is 63 per cent this last financial year, compared with 75 per cent in 2004-2005. This is a concern if our agencies are performing worse in preparing their financial statements over time.

There are issues, of course, for smaller agencies. We do think, now that we have got a Shared Services Centre, it is an appropriate time for the government to focus on the improvement of financial statements. In fact, our first recommendation is that the ACT government undertake a whole-of-government approach to improve department financial statements, with a particular focus on assisting smaller agencies to meet that standard.

In relation to Treasury, we also questioned the officials and the minister about regulatory impact statements. We were interested in knowing why their responsibility for those was transferred from the Attorney-General to the Treasurer and whether there was any intention for the government to make regulatory impact statements public. We are concerned that frequently they are labelled as cabinet documents, and that of course makes them difficult to release each time. The committee does not see why they need to be cabinet-in-confidence, and we recommended that the government move to a process whereby all regulatory impact statements are publicly released after they have been considered by cabinet.

Mr Speaker, it would not be a surprise to you that I followed up concern that the Greens have had for several years now, before my time, about the implementation of triple-bottom-line reporting. It is a concern for me that, in my term, I have been promised action on this—that is nearly four years now, and I believe that that inaction preceded my time; but I am only able to judge from my time—but something that looked imminent now looks as though it is as far away as ever.

Officials did say that the rules are in place; it is just that we cannot see them; and they are still working on a framework as to how to implement them. So the committee recommended that the framework be submitted to the ACT government and made public before the ACT election and that annual reports include triple-bottom-line reporting.

Similarly with socially responsible investment, we did believe that the Treasurer should report to the Assembly on progress in implementing the recommendations of the review that the government had conducted and that reporting on socially responsible investment also be included in annual reports.

Another issue that concerned the committee was why the ACT Insurance Authority's liabilities outstripped its assets by $22.5 million, which of course does make it technically insolvent. We were told that, because the authority was not a private insurer, it could rely on government solvency rather than its own balance sheet. So there are issues on that, I expect, though being part of a government agency is some protection. But there are concerns that, technically, the Insurance Authority is insolvent.

Finally, the committee did question the Commissioner for Public Administration about employment issues. There were concerns. One was that the commissioner is no longer a stand-alone position but she has to juggle those responsibilities with her other roles in the Chief Minister's Department. But what we did see was that there is a continued turnover in staff and there is an issue about staff recruitment.

We do know that, since 2006, the superannuation provision contributions by the employer are not as attractive for public servants who have the choice to nearly double that at the federal level. We heard again that the government was working a new whole-of-government directions paper, redesigning its website for jobs in the ACT, providing a revised graduate program, presenting executive awards, improving senior executive service networking and developing executive and senior officer coaching and mentoring.

We are all vitally interested in our public service. They are, after all, the people who do the work that the Assembly sets them, and it is very important that we have the best available public servants and that they feel happy in their jobs and are likely to stay, because really the success of this territory depends entirely upon them.

So the recommendation to the government that our committee made is that the ACT government should conduct exit surveys of all staff leaving the ACT public service. At the moment that information is not collected. We do not know why people leave the public service. And it would assist us greatly in recruiting and retaining staff if we knew why they did not find it attractive to stay in the ACT public service.

I commend the report to members and ask that it be noted.

Question resolved in the affirmative.

Executive business—precedence

Ordered that executive business be called on.

Housing Assistance Amendment Bill 2008

Debate resumed from 8 May 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

DR FOSKEY (Molonglo) (11.17): This bill gives the Commissioner for Housing comprehensive powers over affordable housing and community housing providers. Given that we are, in essence, talking about public assets of the territory, then certainly some kind of oversight and regulation are absolutely essential.

This bill establishes a regulatory framework for not-for-profit housing providers and it divides them into affordable housing providers, which at this stage means CHC Affordable Housing, once upon a time known as Community Housing Canberra, and community housing providers. The commissioner keeps a register of these providers.

CHC provides rental accommodation at 75 per cent of market rates. In the context of an overheated rental housing market with no vacancies, that particular notion of affordability is a very limited one. There is nothing in this legislation which suggests how that level is set or on what basis it would, or could, be changed.

I understand that tax legislation and funding agreements tend to set the affordability figure on a program-by-program basis. I would have preferred this legislation to include some fallback mechanism for determining affordability for affordable housing providers. A GST concession which comes in when the rent is set at less than 75 per cent of market rent is not a rigorous enough way to assess affordability, in my mind.

Similarly, I am concerned that this regulatory framework for community housing providers does not consider how or at what level rents are set either. Community housing providers generally charge rent as a proportion of income but that may not be the case.

I sought the advice of the minister's office on this matter. I would like to take the opportunity to thank the minister's staff and officers of the department who are always helpful, although we do not always see eye to eye. In this case, the advice was to refer to the dictionary in the Housing Assistance Act which defines community housing as to mean rental housing for:

> (a) people on low and moderate incomes or with special needs; or
>
> (b) non-profit community organisations.

In the context of a register of community housing for which the commissioner for housing will need to accept significant responsibility, then the overarching regulatory framework might have been expected to have included some way of assessing the proportion of income that is reasonable for people on low to middle incomes to pay in rent.

More alarmingly—and this was a real concern—I note that neither ACTCOSS nor ACT Shelter, which is the peak body for social housing in the ACT, were brought into any consultation over the details of this bill; nor, it would seem, were they even sent a copy of the bill; nor, it would seem, were they even sent an email note to advise them that the bill has been tabled. Remember that the 2006 budget started the slow death of the community housing organisations of the ACT, the peak body for community housing providers, while ACT Shelter was only half garrotted.

My office has conducted a brief consultation with affordable and community housing providers in Canberra. The one affordable provider, CHC Affordable Housing, had worked closely with the department and was right across the details of this bill. They were very helpful to my office, explaining the way the bill would apply to them in particular.

Discussions with four separate community housing providers, however, revealed that they had no knowledge of the provisions of the bill, no awareness that the bill was even up for debate and some considerable concern with key provisions. I find that astonishing and disturbing.

When it was suggested to us that it is the responsibility of community organisations themselves to keep their eye on the legislation register, I was quite concerned. For one

thing, it indicates that their opinion is not really of importance. Whatever the agreed need for oversights such as this, we should not dodge the issue that community housing providers have been rather shaken up by this government in the past few years. There may be some greater efficiencies as a result of the upheaval but, in the process, some services have been compromised or lost. Trust has been lost.

Consequently, I am concerned about the introduction of an overarching regulatory regime which gives the commissioner draconian powers over any organisation registered as a provider of community housing, allowing the commissioner to step in and make appointments to the board, appoint an administrator or wind up the organisation where the commissioner finds the provider fails to adequately manage risk or fails to comply with an instruction. I wonder what would happen if a community housing provider which ran a number of other projects or a large charity that also provides community housing ended up offside with the housing commissioner or staff.

Enough concerns have been raised with me over the past few years about how government has worked with community housing providers and associated organisations, which the minister would undoubtedly describe as resulting in improved efficiency but which I believe has resulted in some loss of quality and outcome and a breakdown in relationships.

When my adviser raised a specific concern with the department that there were no appeal rights to decisions made by the commissioner to remove providers from the register, the ultimate sanction, I was advised that intervention guidelines are going to be developed in consultation with the community sector; these guidelines will adhere to administrative decision-making requirements, as you would expect; and in giving notice to agencies of decisions that affect them, the agencies would have scope for a response.

While all that is well and good, I am still concerned that the intervention guidelines will only be notifiable and that developing the guidelines in consultation with the community sector is clearly no guarantee that the sector will be satisfied with the outcomes. Furthermore, there is too much power in the hand of the commissioner and there is no guarantee that it will not be used arbitrarily.

I would like to talk briefly about respectful consultation. The same department, that is, community services and housing, has been heavily engaged in a major project, just completed, to develop the new Children and Young People legislation. Obviously that was driven by a number of profound concerns and inquiries, and the total remaking of such a major body of legislation would undoubtedly require a mammoth consultation and management process.

At the draft legislation stage, for example, over 200 organisations were invited to consider it and to make comments. Feedback forums were conducted after being advertised in the media.

In the case of this bill, the one we are talking about today, there was considerable consultation at the pre-legislation stage—and I am not critical of that; of course I am

very pleased about that—but what I do not understand is why the minister or the department did not, as a matter of course, simply email the five or 10 community housing providers in the ACT with a media release announcing that the bill was tabled. To many, that would be a reasonable courtesy.

This is not the first time we have run up against this issue. When government is changing the governance arrangements of service providers it works with, it really should show the courtesy of keeping those organisations in the loop. Maybe government could provide a service for the public to subscribe to that sends out email alerts when legislation is tabled.

This is not just about courtesy. In this case, these organisations are partners as providers of social housing—community organisations as partners with government—and they deserve respect because they are right there where the issues are. You might say that they are at ground zero of housing provision in the ACT.

It seems natural to me that the government would work with the community housing providers as it appears to have done with Community Housing Canberra, Canberra's one affordable housing provider, in developing the detailed provisions of relevant legislation.

At the very least, however, I would love to have an explanation why it was neither possible nor desirable for the minister or the department or the commissioner, indeed, who is about to get enormous power over these organisations, to show the simple courtesy of letting their community partners know that the bill, which gave a legal form to previous consultation, had been tabled in the Assembly. Why is that too hard? And is it only too hard for the government to show that courtesy to some organisations and for some sectors in the community?

While I am happy to support this bill in principle, I believe the community housing providers, who have now been alerted to it by my office, should have the time to consider its provisions and to negotiate with government or to progress amendments through my office. I want to thank the minister, who came down to see me this morning, for agreeing to adjourn this debate after the in-principle stage. I am really hoping that during this delay the department or the minister's office will go out and talk about the legislation to the community groups that are affected by this legislation. I know that my office will.

As a result, it is quite possible that amendments will be tabled, hopefully by the minister but, if not, probably by my own office. After the brief and very shallow consultation that we have done at the moment, given the time constraints, there are indications of concerns that will need addressing in the detail stage.

MR SESELJA (Molonglo—Leader of the Opposition) (11.29): The opposition will be supporting this legislation in principle. I have also had discussions with the minister and I understand we will be adjourning the debate after the in-principle stage, at which time we will have further briefings, and we may well bring back some amendments. I put that on the record. Certainly, it is worth going through our approach to the legislation as a whole and putting some of our concerns on the record

now, so that they can be further looked at in those detailed briefings and when we come back in August.

It is quite appropriate that, where public moneys are used to fund community housing and affordable housing services through non-government sector providers, there should be some accountability of how that public money is used. It is fair that entities which rely in part on public funding are subject to some scrutiny and that taxpayers have assurance that money has been used effectively to deliver on the promised purpose for which the money was given.

It is also very important that there are protections in place for housing clients who are vulnerable. It is helpful if there are some standards or guidance for providers on service quality. It is also useful if organisations that operate in part with volunteer resources have some guidance on governance matters, although, as I will outline later, governance is an issue that these days can be over-regulated and overcooked.

The new regulatory framework is consistent with the agreement by the housing ministers conference held on 14 March this year to establish a registration system for not-for-profit housing providers. However, we are very conscious that the new arrangements do have potential flaws. For instance, they leave open a vast amount of detail to be developed by the Commissioner for Social Housing. I will discuss shortly the breadth of powers given to the commissioner.

We will be paying close attention to the regime during its implementation and in the early stages of its evolution and, indeed, when we come to the detail stage we will be paying close attention there as well. In particular, we will expect a review of the operation of this regime early in its operation. We will be interested to obtain the feedback of providers, after they have been registered under the scheme, to gauge their views on flaws in the regulatory framework.

We do appreciate that, where parliament regulates in a field where it has not previously applied close scrutiny, parliaments do not have perfect foresight. There will need to be some adjustments down the track as the framework rubs up against reality. That said, I think some potential shortcomings in this legislation are evident from day one.

I wish to outline three areas of concern that I would ask the minister and the commissioner to have regard to as they put flesh on the bones of this new regulatory framework. First, there are contradictions between some of the objectives and the approaches set out in the legislation. Second, there are parts of the legislation that miss the point in relation to the risks that are inherent in the operation of affordable housing and community organisations. And third, there are elements in the legislation that are overly bureaucratic and do not have regard to the practicalities of running a non-government organisation.

The opposition does support the objectives of this legislation, but there is some tension between the ends sought by the government and the means proposed in the legislation to get us there. To be specific, the explanatory memorandum states:

> Affordable housing providers will undertake innovative and entrepreneurial property development for low to moderate income earners—at arm's length from government.

This does not appear to be an "arm's length" regime—certainly potentially, depending on what is put in place in the regulations and other instruments. There are few limits on what aspects of a provider's operation can be dictated by the commissioner under this regime. The commissioner has very broad powers with few controls on decisions made under these powers.

For example, the commissioner is empowered to make a notifiable instrument that sets standards for community housing providers. The bill sets out four possible subject matters for the standards but does not otherwise limit or guide the commissioner on how to devise the standards. The commissioner can make a disallowable instrument to set out guidelines for monitoring the operation of both affordable housing providers and community housing providers. Under clause 25L, housing providers must comply with these guidelines.

The commissioner can demand that providers report on any matter under a contract to which the provider is a party under clause 25N. The commissioner has power to veto changes to the constitutional rules of a provider under clause 25O. There are some limits on this power of veto, but what will be seen as "unreasonable refusal" under these provisions remains to be tested and seen.

The commissioner has a very significant power to appoint people to the board of a housing provider under clause 25S. This power could be based on an assessment by the commissioner that the provider is not, in their view, adequately managing risk. These are very broad powers. The commissioner of the day will have considerable discretion as to how extensive and intrusive the system of regulatory control will prove to be. This is not exactly an "arm's length" arrangement as purported in the EM.

As I said, the explanatory memorandum also says the bill aims to encourage "innovative and entrepreneurial property development". It remains to be seen how much headway there will be for innovation when the commissioner can set extensive standards, demand extensive reporting, appoint board members and micro-manage rule changes for providers. These powers may well be used very sensitively and responsibly, depending on what kind of person is appointed as commissioner. But if the commissioner's powers are used too aggressively, I do see risk that the regulatory system will stifle innovation and spook more imaginative NGOs out of entering the ACT market.

The opposition recently heard from one community service provider in Canberra who saw the intervention powers as a sledgehammer approach. The government will doubtless say that these are last resort provisions, but the potential for draconian and intrusive discretion is very plain to see.

I now turn to my second area of concern—insufficient focus on the real risks. If we are to protect taxpayers' interests and leverage value for money from public

investment in affordable housing and community housing then the regulatory regime should place most focus on the areas of greatest potential risk. I remain to be persuaded that this legislation hits all of those marks.

I note there have been concerns—particularly in other states—regarding very poor management by some providers of state-subsidised houses. There are notorious problems like damage to properties and underinvestment on maintenance of properties. The former commonwealth community housing and infrastructure program was subject to a very critical review, and that is why that program was rebadged as the ARIA program.

Housing policy is an area where a lot of mistakes can be made and have been made. The ACT does not need to learn its lessons the tough way; it should do more to look to the experience and mistakes of other jurisdictions.

What are the age-old problems that we ought to try and avoid in the future? Affordable housing is often built around a one-size-fits-all model which means that housing is often unsuitable or there are limits on how the housing may be modified to meet the changing needs of the tenants. There need to be safeguards against nepotism and favouritism. Inadequate rent collection can mean that there is insufficient funding for maintenance. Likewise, weak enforcement of tenant obligations can contribute to damage to and deterioration of subsidised housing.

Money can be wasted through administrative costs and top-heavy governance—something that I see as a specific risk under this legislation. Public-funded housing programs do sometimes fail to leverage the available investment to encourage the transition to private ownership.

These are not issues that are dealt with in this legislation, the EM or the minister's tabling speech. Moreover, the legislation fails to distinguish between the risks that can apply to funds that are provided as capital injection versus those that are given as recurrent grants or project-specific grants. I think that this distinction is important in the context of the government's more recent decisions to give Community Housing Canberra a $3 million capital injection, title over $40 million of dwellings, access to a $50 million revolving finance facility, direct grants of land and transitional payments. Community Housing Canberra is a classic example of an organisation that has been given a capital endowment and, as such, is now expected to achieve some degree of return on that investment.

It is instructive to look at the experience of other governments when they have established capital legacies for housing organisations. The clearest example is the commonwealth government's arrangement for the Indigenous land account. The budget funding for the land account was due to cease 10 years after its inception because it was expected that future activities of the ILC should be funded from the realised return of the land account. It was not envisaged that ongoing funding would be required after 10 years; nor was it consistent with the mandate for the land account that there be successive losses over a number of years, least of all at a time of strong performance in the financial markets. Real questions did arise at the commonwealth level as to whether the land acquisition program was well adjusted to the pattern of returns from the land account.

We should be learning from the mistakes that have been made in other jurisdictions. I would expect that, where ACT public finances support any capital injection, there will be scrutiny of the sustainability of investment decisions made by those who are managing the relevant capital fund. For instance, prudent management would ensure that revenue flows from capital injections are not prone to significant fluctuations. If the managers of a housing provider were to approve a stream of poor returns, this will weaken their balance sheet and lay the ground for future calls for renewed budget funding. This is a risk that is not demonstratively tackled under this legislation. These are not issues that are anticipated in this legislation or guarded against under the regulatory regime.

The issues outlined in clause 25K as matters that may be covered by the commissioner's monitoring guidelines are extremely vague. This legislation gives us no confidence that this government has got its head around what the areas of risk are and how they can best be controlled.

As I outlined, my third area of concern is that the regulatory regime could be very bureaucratic and may not have regard to the practicalities of running a non-government organisation. There are several tiers of rules that will apply to affordable housing providers, including risk tests and monitoring guidelines. The community housing providers will also be subject to the monitoring guidelines, but in addition they will be subject to a layer of standards and may also, under clause 25M, be subject to other standards prescribed by regulation.

I would have thought the government would be interested in encouraging non-government organisations to become registered under the act. Many NGO providers, such as benevolent organisations that are supported by churches, have multiple charitable functions besides the provision of housing. These organisations may also be engaged in the delivery of in-house meals, meals on wheels, clothing, emergency loans, counselling and a host of other charitable activities. In the case of an affordable housing provider, they may also have other functions such as that of an infrastructure provider.

The regulatory regime in this legislation empowers the commissioner to monitor and intrude in all activities of a funded organisation, regardless of the extent to which those activities are relevant to the housing function. The explanatory statement says:

> Regulatory processes will monitor the activities of housing providers on a whole of organisation basis.

For instance, let us consider the reach of the commissioner's power to veto changes to the constitution or rules of a provider. There is an exception which says the commissioner's approval is not needed for minor rule changes, and I welcome that, even though this exception is not clearly defined. But there is no constraint on the commissioner's veto where the constitutional changes relate to aspects of an organisation's operations which are unrelated to the function of housing operations.

For example, we may have the commissioner vetoing rule changes within a charitable organisation which put greater emphasis on counselling as a core activity, because the

commissioner would rather that the organisation focus more exclusively on housing. I do not think it is wise policy for the commissioner to act as both regulator and de facto manager of governance decisions in the NGO entities which are being regulated.

I understand that the government envisages, under clause 25H, that NGOs will create subsidiaries for the purposes of their engagement in housing investment. But the government needs to understand that it can be expensive and time consuming for an entity to have separate constitutional arms registered under different regulatory regimes. That is a significant question of practicality. I suspect that some NGOs may think twice about bidding for Housing ACT funding on the basis of the intrusive powers given to the commissioner. They may find that, when they explore the costs of establishing subsidiary entities to handle housing projects, the costs cannot be easily absorbed.

Of course, the provisions to allow the commissioner to wind up organisations are very draconian. These provisions purport to displace sections of the Corporations Act under section 5G. I do not think it would be core business or within the competency of a commissioner to be making decisions on stacking boards, appointing administrators and managing the wind-up of housing providers. This might be practical for a housing commissioner in a very large state like New South Wales or Victoria, where there may be more cases of insolvency or mismanagement, so specialist staff can be appointed. I do not think it is a practical arrangement in the ACT.

I am concerned that there are no obligations or constrictions on the commission as to how the assets of a wound-up provider may be disposed of or split among different uses. It is not clear whether proceeds from asset sales may be directed to new housing expenditure or returned to parent organisations, or whether the proceeds would be returned to general government revenue. I would hope that there are no mischievous intentions here. I would suspect that this oversight is a matter of poorly thought out policy by the government rather than something sinister.

Clearly, parts of this bill have been poorly thought through. Just to give one example, I notice that in clause 25C (2) (c) there is no provision for communications via email and the internet. It is not clear why not. Instead, the bill requires that providers have fax machines. The fax is, of course, a piece of technology which is dying and is being superseded by scanners and emails.

Finally, there are some general issues of housing policy framework which I would like to touch on briefly. The parliament has not yet had any sense of vision from the government on what kind of market structure it envisages for the community housing sector and affordable housing providers. For instance, how many providers does it expect to register in the first year and how many providers is it aiming for once the scheme is fully operational? How will it aim to deliver some contestability for government grants and contracts? How will it avoid market dominance by a small number of providers and how will it attract new, innovative providers to service niche markets or to bring new types of housing product into the sector?

There is no indication of how the regulatory system will be used to ensure that investment in affordable housing and community housing is used in a way that puts

low-income families in close proximity to jobs or links them to educational opportunity. There is nothing in this regime that would encourage people in community housing to transition into private home ownership. Indeed, there is no clear vision as to who the target groups are for community housing, and how the regulatory regime will avoid a creep, or conversely a contraction, in the ambit of client groups.

The explanatory information provided in the bill is silent on these pertinent policy questions. The government may well refer us to their so-called affordable housing action plan. The document itself, it must be said, is vague in certain parts. *(Extension of time granted.)* Under that document, the obligation for delivering results is shunted in large part onto the private sector. Many of the so-called 63 action items are so vague as to be meaningless, many simply call for a continuation of existing policy, and other items are repeated in order to come up with the seemingly large total of action items.

As I have said, the opposition does support regulatory oversight of state-sponsored housing providers. We are not convinced that the government have got it completely right at the first cut. We will give them some benefit of the doubt and we will be negotiating now with the government, once we have had further briefings, and we look forward to having some constructive dialogue with the government on this matter between now and August. We certainly reserve the right to bring back some amendments which will hopefully strengthen the scheme, of which we are broadly supportive.

I look forward to those discussions with the minister and his office in the coming weeks, and to the opportunity to improve this legislation before it is eventually passed by the Assembly.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (11:45): On 8 May 2008, my colleague Mr Simon Corbell, the Attorney-General and Minister for Police and Emergency Services, presented the Housing Assistance Amendment Bill 2008. This bill introduces a regulatory framework for not-for-profit housing providers in the ACT through amendment of the Housing Assistance Act 2007. Members would be aware that the revised Housing Assistance Act commenced on 10 November 2007.

In recognising the broader response of government to housing needs, the new act amended the commissioner for housing's title to Commissioner for Social Housing—the short title is the housing commissioner—reflecting responsibilities across public and community housing.

This bill amends the act to give the housing commissioner powers to regulate not-for-profit housing providers. The amendments in this bill support the affordable housing action plan 2007 which was released in April last year. That plan supports the expansion of social housing through CHC Affordable Housing, and this legislation ensures the protection of the community's interest in the housing transferred by government to CHC.

CHC is required to increase the supply of affordable housing for purchase by 470 dwellings within five years, and 1,000 dwellings within 10 years. It is also required to increase the supply of affordable rental housing by 250 dwellings within five years, and 500 dwellings within 10 years.

To support this, CHC has received generous public assistance, including the transfer of title for 135 public housing dwellings valued at $40 million, a $3 million capital injection, access to a $50 million revolving finance facility at government interest rates and direct grants of land, and transitional payments of up to $250,000 per annum for three years in land tax and duty concessions. This regulatory framework is important in supporting CHC to achieve its goals while remaining at arm's length.

The government's work to expand the supply of social housing through CHC is complemented by the commonwealth government's support for a range of providers, including not-for-profit affordable housing providers, in national efforts to increase the supply of social housing. The Housing Ministers Conference, of which I was chairperson, approved a national regulatory framework for not-for-profit housing growth providers on 14 March 2008. The national regulatory framework anticipates that each state and territory will establish a multi-tiered registration system, appoint a registrar and maintain a registration list of providers, provide mutual recognition of registration decisions in other jurisdictions and adopt a national regulatory code as the basis of registration.

The ACT has used the experience of a number of states and territories with established regulatory arrangements, most notably Victoria, and the considerable experience in the United Kingdom, to inform the development of the ACT regulatory framework. Those jurisdictions have complementary funding and regulatory arrangements to support the growth of social housing.

The Australian government has committed funding for a national rental affordability scheme. It has invited participation in the development and management of additional rental housing from a range of organisations, including not-for-profit affordable housing providers. The Australian government has made it clear that it expects proper regulation of the sector. Strategies to support the growth of the sector will also be incorporated in a future national affordable housing agreement to be negotiated during 2008 by the commonwealth and state and territory governments.

As described in Mr Corbell's presentation speech, the changes to the Housing Assistance Act 2007, as amended by this bill, will empower the housing commissioner to register and monitor the activities of, and deregister, housing providers. The consequence of deregistration would be the loss of any tied government assistance and publicly funded access.

The office for the regulation of not-for-profit housing providers will be established under the aegis of the Commissioner for Social Housing in the Department of Disability, Housing and Community Services. The office will function alongside other responsibilities of the commissioner and will benefit from the economies of scale resulting from being part of a larger social housing organisation, both financially, in

terms of staffing, and in terms of knowledge base relating to housing matters. The office will, of course, seek advice and support from other government agencies that hold particular expertise when it is relevant to assessment of housing providers' performance.

Two tiers of registration will be established. Affordable housing providers will undertake innovative and entrepreneurial property development for low and moderate income earners, at arm's length from government. Community housing providers will manage properties as the head lessee, utilising government-owned or other organisations' assets, which they rent to low and moderate income tenants. They are generally small in scale and typically charge rents amounting to 25 per cent of income. In the first instance, CHC will be the only local provider able to secure registration as an affordable housing growth provider.

Currently there are five community housing agencies in a position to secure registration as community housing providers. While their activities are less risky, it is still important to protect the interests of vulnerable tenants. Registration will be governed by a set of appropriate registration and monitoring processes and this will include the registration of existing providers as well as allowing entry by new providers, including organisations from other jurisdictions.

The regulatory framework will monitor risks to service quality and tenancy and asset management practices, areas where poor performance would not necessarily trigger action under other legislation. The framework will ensure that the territory's substantial investment in the sector, including transferred stock and new stock developed through subsidies and concessions provided by the ACT government, is preserved for future generations. This will ensure that the residual interest of the territory continues to be used for affordable housing purposes even in the absence of any contractual relationship.

The framework provides for proportionate regulation based on risk, with a focus on service quality, governance and protection of vulnerable clients. Higher risk activities will be subject to greater oversight, for example, property development as opposed to tenancy management. The risk assessment will consider the type, scale and experience with activities to be undertaken and the history of the organisation, including recent growth. Regulatory processes will monitor the activities of not-for-profit housing providers on a whole-of-organisation basis and will be complementary with other regulatory and reporting requirements, for example, the Corporations Act 2001.

This bill will empower the housing commissioner to exercise step-in powers as a last resort. These powers will be exercised in accordance with an intervention guideline, only after the failure of attempts to resolve issues with providers. These will enable the housing commissioner to appoint people to the governing body of a registered agency; appoint an administrator to control and direct the registered agency, wind up and distribute the assets of a registered agency and deregister housing providers that have breached a condition of registration.

The scrutiny of bills committee has asked some questions on aspects of the bill and I will address those now. The first question is: do the provisions that permit or require

the housing commissioner to make several kinds of subordinate law amount to an appropriate delegation of legislative power? This committee noted that the process for registration and the monitoring guidelines are disallowable. The Assembly will have some control over these. I point that out to Dr Foskey. I will say it again because I do not want folks to miss it. The process for registration and the monitoring guidelines are disallowable.

It further notes that the Assembly will not have control over the content of the standards for community housing providers which will be notifiable rather than disallowable. It is common to have provisions in an act for some instruments under the act to be disallowable and others to be notifiable. In deciding whether an instrument should be notifiable or disallowable, consideration needs to be given to whether the subject mater is something that needs to be accessible or whether it both needs to be accessible and is something that the Assembly would have an interest in being able to amend or disallow.

In relation to the standards, it is critical that an entity be able to access the standards that it must satisfy and it is desirable that these be available to the public; so they need to be notifiable. As the standards are essentially technical rather than legal in character, it is considered appropriate for them to be notifiable rather than disallowable.

The second question—is there adequate provision concerning an obligation to provide reasons for decisions that will affect the interests of persons?—relates to whether a person has a right to reasons for a decision. The intent of the regulatory framework is to support the development of not-for-profit housing providers. Refusal of registration would come after a process of negotiation about how the organisation could satisfy the criteria. Refusal to register must be on the basis that the organisation does not satisfy the criteria.

The registration and monitoring guidelines will contain more detailed information on these processes. As noted above, the Assembly will have an opportunity to comment on these, as they will be disallowable instruments. If, following that process, an appeal to the AAT was pursued, the expense incurred would be currently $237 to lodge an appeal.

The third question is: is there adequate definition of the scope of the discretion of the housing commissioner or another territory entity in subsection 25Q? The purpose of this section is not to provide examples to set the scope of the discretion in terms of considerations to be taken into account when exercising the discretion but merely to illustrate the types of assistance that could be linked to registration under the regulatory framework.

Provision of assistance by any territory entity is bound by a range of provisions in this and other acts. For example, the Housing Assistance Act 2007, part 2, section 6 (1), includes objectives that direct resources to the provision of affordable, secure and appropriate housing that maximises value for money, promotes choice of forms of housing assistance and promotes the growth of the community housing sector. Other constraints on the provision of assistance are the Financial Management Act 1996, the

Government Procurement (Principles) Guideline 2002 (No 2), various acts under which departments operate as well as the requirements of various funding programs.

The committee has also suggested a note be included in relation to the privilege against self-incrimination. However, Parliamentary Counsel's Office has suggested including this in a future statute law amendment bill, which I will request that they do.

The final question put by the committee is: should there be provision for review by the Administrative Appeals Tribunal of a decision under proposed subsection 25T (1) to "remove a registered housing provider from the register if the provider breaches a condition of registration"? I refer to my earlier comments about the registration and monitoring guidelines, which will contain more detailed information on these processes. As noted above, the Assembly will have an opportunity to amend or disallow these.

Since there will be negotiation with an agency in the course of monitoring their continuing satisfaction of the conditions of registration, followed by written reasons as to why removal from the register is occurring, there should be ample opportunity for the organisation to put its case to remain on the register. Therefore, there is no need for the decision to be reviewed further.

The bill will establish a regulatory framework which underpins some of this government's work to provide more affordable housing. The regulatory framework will help assure potential investors in the sector of the robustness of oversight of not-for-profit housing providers.

To reiterate the words of my colleague Mr Corbell in his presentation speech, regulation of the sector is necessary for the benefit of the Canberra community to protect the interests of tenants, many of whom are vulnerable and experiencing disadvantage; ensure that public funds provided for affordable housing activities are appropriately managed and utilised; and preserve transferred government assets for future generations.

I want to make sure it is on the record that, in response to a request put to me by Dr Foskey's office, the guidelines which underpin the operation of this act, the guidelines which will be the sharp end, I suppose, will be developed in consultation with the stakeholders who are going to be affected by those guidelines. Not only will they be notifiable and disallowable, depending on which ones we are talking about, they will be developed in consultation with the people that they will affect.

In fact, we have a good record within the Department of Disability, Housing and Community Services for doing just that. This is not the first time where we have done some very major reforms and then the guidelines which attach themselves to those reforms have been developed in partnership with stakeholders. That is why the Department of Disability, Housing and Community Services are world's best in consultation processes.

I would also like to make the point that this is a double-edged protection. This legislation is about protecting public assets and having a process which can stand up

to scrutiny in the public arena. It is also for the protection of those providers out there because it gives them the boundary fence within which they can operate. At the moment, there is nothing and they can be held up for scrutiny and criticism—unjustifiably, we believe—and we need to have a boundary fence within which they work.

Finally, I would like to express my appreciation to the department for this process. This is yet another piece of the reform of the public and community housing process that we have undertaken in the last three or four years. It is, in fact, one of the final pieces of reform and I am greatly in the debt of the department for progressing this. I would particularly like to single out David Matthews and Sally Gibson for the work that they have put into this particular piece of legislation. I commend this bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

Debate (on motion by **Ms Porter**) adjourned to the next sitting.

Justice and Community Safety Legislation Amendment Bill 2008

Debate resumed from 6 March 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (12:01): The Liberal Party will be supporting this bill. It makes a number of minor and technical amendments to a range of acts and some more substantive amendments to some others. Those amendments clarify and update terminology, repeal redundant provisions, and effect the name change of a government agency. The Essential Services Consumer Council becomes the Energy and Water Consumer Council, in order to more clearly articulate the role of the council. Those are reasonable amendments.

I want to dwell briefly on the more substantive elements, which the Liberal Party will also not oppose. An amendment to the Crimes (Restorative Justice) Act will allow police to refer matters of restorative justice. Currently, the Chief Police Officer is required to refer all matters personally. This will create efficiencies within the police department and, importantly, will enable actioning police to keep in touch with the progress of each case.

A further amendment will enable the Chief Executive of JACS to appoint a non-lawyer as a convenor of a restorative justice conference if the appointee has either completed sufficient legal training—as is currently the case—or has the capacity to

undertake sufficient legal training, which is the new provision. The appointee must have completed the required legal training before being assigned to convene a restorative justice conference. This will broaden the opportunities for people in our community who are not lawyers but who might have experience in other relevant areas such as mental health or people skills to be appointed as restorative justice conference convenors. It will enable such appointees to undertake further training to equip them with the particular skills required to be assigned to individual cases.

The bill also makes a number of minor amendments to the Human Rights Commission Act to update the legislation to reflect the operational requirements of the commission and also to clarify some areas of uncertainty. Importantly, the amendments will enable commissioners to delegate their functions not only to commission staff members but also to other commissioners. This recognises the collegiate style of the commission's structure and creates further efficiencies in dealing with these matters.

The amendments also provide that the commission need not consider a complaint, or notify people complained about, if inappropriate; for example, where a complaint is frivolous, vexatious or not made honestly, or cannot be made by the complainant under the act. In addition, the commission will be required to close a complaint made to it if the complaint has been resolved and if the complaint has been dealt with to the commission's satisfaction. It may also refer matters that fall within the jurisdiction of another person or body.

The bill creates new business opportunities, too, by picking up on the venture capital reform initiative of the former Howard government to recognise early-stage venture capital limited partnerships in the Partnership Act 1963.

The Residential Tenancies Act is also amended by this bill, primarily to address a narrow interpretation given in a recent Supreme Court case to the effect that the Residential Tenancies Tribunal can only evict tenants when their rents are in arrears. This has left landlords, including Housing ACT, with eviction and possession as their only apparent remedy when faced with breach of a lease. These amendments are reasonable and would relieve the need for landlords to take all other eviction matters to court rather than to the Residential Tenancies Tribunal.

Finally, the bill amends the Victims of Crime (Financial Assistance) Act to include culpable driving and sexual servitude offences in the table of violent crimes for the purposes of the act. That is a positive step forward, not only by recognising the violent nature of these offences but also by providing a better vehicle for dealing with offenders who commit these crimes.

In summary, the bill creates, in addition to minor amendments, efficiencies in the handling of restorative justice, efficiencies in the handling of human rights matters, opportunities for investors in start-up Australian innovation enterprises, more certainty for tenants and landlords in matters before the RTT, and more certainty for victims of crime. I will talk about the government amendment when we get to it; we do see some problems there. So the Liberal Party supports the bill.

DR FOSKEY (Molonglo) (12:05): These bills—this is the 18th Justice and Community Safety Legislation Amendment Bill—are described as omnibus bills which consist of minor and technical changes. And, more or less, they are; but never entirely so.

Among the provisions that were described as being merely technical last time we debated an amendment to this legislation it was one which would have removed a provision enabling people who were appealing to the Administrative Appeals Tribunal to apply to the Attorney-General for legal assistance. It was the view of the Assembly in the end that this was not a technical and minor matter, and the Attorney-General—it was greatly appreciated—agreed to leave that particular provision in the AAT Act.

In the bill that is before us today, one area of complexity and contention was identified by the scrutiny of bills committee. It is an amendment to the Human Rights Commission Act which is presently required to tell any person if a complaint has been made about them. The amendment makes it clear that the commission need not consider complaints that it considers lack substance, are vexatious or cannot be made under the act or are being investigated by another body. In these circumstances, under this amendment, the commission would not be required to contact the person about whom a complaint has been made.

Of course, even where a complaint is frivolous or vexatious, it might be important for the person being complained about to know. Similarly, if a complaint is being referred by the commission to another body, it would seem fair to advise the subject of the complaint of that action as a matter of course. This should not be a discretionary decision. It should be mandatory. Receiving notice of such potentially serious matters is hardly likely to be considered nuisance or junk mail by the person involved.

The government has made it clear that the commission will not continue to notify someone about complaints made about them when it is clearly repetitive, aggravating and vexatious. It has also made it clear that when the commission refers a complaint to another agency that other agency will advise the person subject to the complaint. But I consider that a better approach would be to let the person who the complaints are being made about request that they are no longer to be informed when such frivolous and repetitive complaints are received.

Repetitious, aggravating and/or vexatious complaints can provide warning that a personal conflict may be in danger of escalating into physical danger for the subject of the complaints. Under the proposed amendments, the government will become the only entity with the full knowledge of the nature and extent of the complaints it receives about a person. I hope that departmental officials are sufficiently qualified and alert to the possibility that the content and changes to the content of such complaints may amount to evidence of possible danger to the recipient, and that they take action accordingly. This could be by informing the police or giving the recipient the possibility of obtaining copies of all the complaints about them.

I am a little uncomfortable that those procedures that would safeguard the relevant person are more asserted than demonstrated in the government response. But if we

accept that they will be followed as they are described then they address most of my concerns.

I also have a few comments regarding the amendment to the Residential Tenancies Act. I am pleased to see this amendment, and the government's amendment to this amendment, as they address an unfortunate problem which has, in effect, prevented the Residential Tenancies Tribunal from exploring more thorough ways to keep vulnerable people in secure housing, while at the same time mediating their impacts on their neighbours and others. A problem arose when the Supreme Court found that conditional orders under section 42 may only be used in cases of rental arrears. That stopped the tribunal making conditional orders that in effect promised an eviction if tenants could not control their behaviour or the behaviour of friends or family.

We have seen a number of cases where people have been evicted because they continually breach the right of quiet enjoyment of nearby residents. That can be an issue of great significance when little children, for example, are involved, or when the loss of secure accommodation for a parent is likely to result in their children being taken into care. Certainly, such orders are no guarantee of success but it makes sense to give the Residential Tenancies Tribunal the scope to use them.

Indeed, I think that more can be done to integrate the tribunals into a whole-of-government framework. Often, situations arise that are not merely residential in nature but may relate to mental health and substance health issues, children and child support, family violence and so on. It seems foolish to limit a tribunal to dealing with a mere subset of the symptoms of a problem without giving it the power to deal with other symptoms and the causes of the problem.

The ACT government has not, as yet, grasped the nettle on this one. Housing ACT, for example, tends to act in its own interests without being required to consider the wider impacts of its decisions on its residents in the ACT community. It also appears to be the case that Housing ACT is not fully informed about child protection issues relating to the families which are adversely impacted by its decisions. Whether this is the fault of Housing ACT or some section of JACS which has oversight of child protection matters, or children and young people protection areas, I am not sure. But regardless of where the fault lies, it has been the case that the best interests of children have not been at the forefront as a primary consideration when Housing ACT has made decisions in the past which have adversely impacted on the wellbeing of children.

I hope and expect, and will be doing all I can to ensure, that the government is reviewing its procedures and guidelines to ensure that this kind of blinkered decision making will not happen again. It should not escape the government's notice that this kind of decision making, which ignores the best interests of children, probably renders the government in breach of its responsibility under the Human Rights Act. Breaches of the Human Rights Act will soon be actionable as a basis for overturning government decisions, so the consequences of making decisions without a broader consideration of their human rights implications will soon be that much more serious.

To return to my comments about the inadequacy of the powers of tribunals, tribunals and courts should be empowered to consider the holistic implications of their

decisions and should be specifically empowered to direct government employees and agencies to take various actions in order to deal with more of the foreseeable problems and aspects of the matters before them, including considerations such as mental health, child protection or credit issues when seeking resolutions to residential tenancies issues.

I understand that there are projects in gestation to strengthen the ACT's tribunal system. I hope that the next time the process is put out for consultation, consideration is given to the issue of ensuring that tribunals are empowered to implement a more seamless, whole-of-government approach. In any event, I support this amendment, and I support the amendment to this amendment which would ensure that the extra flexibility is not used perversely to justify even more evictions.

MR MULCAHY (Molonglo) (12.14): Mr Speaker, I will be supporting this bill. The changes that it makes are largely technical in nature and I am satisfied that they will serve to improve the various acts that are addressed in the bill. I say also, at the outset of my remarks, that I am grateful to the minister and his staff for organising a briefing for my office on the changes. I will take a little time to consider the various clauses of the bill but it is, as I have said, largely technical in nature. The acts that are amended by the bill number 11 in all. I do not propose to go into every change that the bill introduces but I will touch on a couple of the more meaningful changes.

I particularly welcome the changes to the Crimes (Restorative Justice) Act. This bill amends section 22 of the act to allow all ACT police officers to refer matters to restorative justice. Previously, the Chief Police Officer had to personally refer every matter from the AFP. This is a more commonsense change that will make the process more efficient. I understand from my briefing that police officers will still follow the same guidelines and procedures dictating when it is appropriate for matters to be referred. The bill will also allow people to be appointed to act as restorative justice convenors if they are suitable and willing to undertake the appropriate legal training as required. Previously, people without legal qualifications or training were automatically ruled out. I understand that convenors will still have to obtain the necessary training ahead of participating in the restorative justice process, but that the act will no longer automatically exclude people without legal qualifications from consideration. Again, this seems to be an appropriate measure to make the existing process more efficient.

Another procedural change contained in the bill is to rename the Essential Services Consumer Council as the Energy and Water Consumer Council. This changed name better reflects what the council actually does and is in line with the names used in other jurisdictions. Again, this seems to be a sensible change that is being made and it is one that I am pleased to support.

I will take some little time to consider the changes in the bill in relation to the Residential Tenancies Act. I understand that these changes are necessary because of the Supreme Court's decision in the matter of Devonport and Commissioner for Housing. The Supreme Court's decision in that case interpreted section 42 of the act to mean that the Residential Tenancies Tribunal could only issue conditional orders in rental arrears cases. This means that, at present, the only apparent remedies available to many lessors, like Housing ACT, are eviction and possession.

I understand that the bill will amend the act to allow the Residential Tenancies Tribunal to exercise an explicit power to make a termination and possession order should there be a breach of a specific performance order made under the relevant section. This amendment will give parties to the Residential Tenancies Tribunal additional options to an application for eviction.

With this amendment, where a tenant breaches an order for specific performance, the lessor would be obliged to return to court but would only need to prove the breach in order to get relief. A lower standard of proof than for a standard eviction order was sought. This will give the Residential Tenancies Tribunal greater flexibility in dealing with problem tenants and will, I am informed, restore the recourses that were available prior to the Supreme Court's decision.

I have no problem in supporting this measure. I would, however, take the opportunity to stress that I do not believe that we yet have a system that adequately ensures that bad behaviour from public housing tenants, for example, is not tolerated. I accept that eviction should not be the first recourse available to the Residential Tenancies Tribunal but I also believe it is an option that has to be considered. Problem tenants in public housing complexes disturb the amenity of not just their immediate neighbours but also the wider community. I have spoken before about issues related particularly to public housing in Griffith, Red Hill and Garran; I have had a range of complaints that I have raised publicly. The system needs to be able to deal with these people and ensure that, if orders are not complied with, the tenants do face disciplinary action.

I note the government's additional amendment that relates to the Residential Tenancies Act that was circulated in the last sittings. I will support the further amendment and do not agree with Mr Stefaniak's opposition to it. Mr Stefaniak says in his media release of 8 April that he is concerned about the Residential Tenancies Tribunal exercising a subjective interpretation. I would contend that a tribunal, an independent judicial body, is more qualified than Mr Stefaniak to exercise subjective interpretation. As stated, I believe that eviction should be a genuine option in tenancy matters. However, I do not believe that the government's amendment will make it any less likely that problem tenants will face eviction.

The other major area of this bill relates to the Human Rights Commission Act. I welcome the amendment to the act that will allow the commission to not consider complaints in circumstances where it would be inappropriate because the complaint is frivolous, vexatious or not made honestly. One of my major concerns with the exercise of the Human Rights Act in the ACT is the possibility that it can be exploited on these grounds and be used to disrupt the local community rather than assist it. I welcome these provisions, which will make it harder for people to use the act for vexatious reasons.

Other changes to the Human Rights Commission Act are largely technical and will, I believe, simplify the reporting processes of that organisation. Again, I will support measures that are designed to improve efficiency in government and believe it is the duty and responsibility of those in power to constantly search for these efficiencies. I thank the minister, his staff and advisers for providing me with a briefing. I am

confident that the bill will achieve its objectives and I have no problem in offering it my support.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.20), in reply: I thank members for their support of this bill. As members have noted, this is the 18th bill in a series dealing with legislation within the Justice and Community Safety portfolio.

Of particular interest, as members have noted, is the amendment to the Residential Tenancies Act 1997 to provide parties in the RTT with an additional option to seeking an application for eviction. Instead of immediately ordering an eviction, in the appropriate case the tribunal will be encouraged to give the tenant an opportunity to correct their errant behaviour which led to the breach and prevent the issuing of an eviction order. The amendments give the tribunal an explicit power to make a termination and possession order in the event of a tenant breaching a specific performance order made previously by the court—that is, an order which obliges a party to fulfil their contractual obligations under the lease.

As members may be aware, I am also currently seeking broader feedback on the operation of the Residential Tenancies Act and have been inviting submissions from interested parties and the public. That is a matter which I will be pursuing further during this term.

I would also like briefly to thank the Standing Committee on Legal Affairs for its comments in relation to the proposed amendments to section 45 of the Human Rights Commission Act. These amendments deal with circumstances in which the commission need not consider a complaint or notify the person complained about in a complaint. These amendments will address the problem where the commission receives repeated vexatious or frivolous complaints or complaints which are not made honestly or where they may lack substance, and other complaints which cannot be made under the act.

In response to the committee's comments relating to the explanatory statement for these amendments, the explanatory statement has been revised to elaborate on the full set of circumstances in which it is proposed that the Human Rights Commission need not notify the person complained about, and I thank the committee for raising this matter.

Further, in response to the committee's suggestion that a person should be given an opportunity to deal with an allegation made, I fully support the principle. However, I am advised by the commission that the proposed discretion not to do so would only be exercised in situations where there are repeated complaints made against a person or a matter is so trivial or fanciful that it is a waste of public resources for the commission to inquire into them.

The commission is currently required to inform people who are the subject of a complaint about all complaints made about them, whether or not they are repeat complaints of a frivolous or vexatious nature or complaints which are not made honestly or lack substance. I am advised that it is a source of great annoyance and

frustration for these people who are the subject of such a complaint when they are repeatedly contacted by the commission and advised of this type of baseless complaint. On this basis, the committee's observation about a right of amendment in the ACT Freedom of Information Act is somewhat misplaced in that vexatious or baseless complaints may not meet the threshold test for amending a personal record in any event.

The practical experience of the commission is that people who are the subject of these types of complaints have asked it to stop wasting their time by contacting them repeatedly about baseless complaints. Common sense should prevail in these circumstances. Complaints which are vexatious, frivolous or lack substance are not genuine complaints and the commission would not have formed any view about them which would affect the reputation of the person complained about in them. Further, the commission keeps a record of such complaints. These records are maintained in the commission and are archived in accordance with government record-keeping procedures.

I agree with the committee that privacy and reputation are important considerations, but this needs to be balanced against a respondent's desire not to have their time wasted by the commission's duplicative bureaucratic processes. I also note the committee's comment that there are good grounds to argue that the person complained about should be made aware that the complaint is to be referred to another statutory office-holder. In the circumstances where the commission refers a complaint to another statutory office-holder for consideration, the person complained about would be notified of the complaint by the other statutory office-holder.

The amendment is seeking to address the situation where people simply send a complaint to the wrong place and the commission basically acts as a post-box to refer the complaint on to the appropriate agency. The commission, in accordance with the proposed legislative amendments, would have already consulted with the receiving statutory office-holder and would have formed the view that the receiving office-holder is the appropriate authority to investigate the matter. The person complained about would then be notified by the receiving office-holder regarding the nature of the complaint to facilitate proper investigation and resolution of the matter.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.26): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 1 and 2 circulated in my name together and table a supplementary explanatory statement to these government amendments *[see schedule 1 at page 2784]*.

Speaking to both these amendments, amendment No 1 amends section 45 (2) (c) of the Human Rights Commission Act 2005 as a consequence of the inclusion of new subsections 45 (3) and (4), which deal with circumstances in which the commission need not consider a complaint and subsequently need not notify the person complained about. Government amendment No 1 is a minor technical amendment which replaces an inaccurate cross-reference to section 45 (3) with a correct cross-reference to section 45 (4).

Amendment No 2 amends section 48 of the Residential Tenancies Act 1997 so that the Residential Tenancies Tribunal has an explicit power to make a termination and possession order in the event of a tenant breach of a specific performance order made previously by the court. A specific performance order obliges a party to fulfil their contractual obligations under the lease. The amendment to section 48 effectively creates a second chance for tenants in breach of their tenancy agreement to rectify the behaviour which led to the breach and prevent an eviction order and provides parties in the tribunal with additional options to an application for eviction.

This amendment restores the second chance for tenants which was previously created by the use of conditional termination and possession orders under section 42 of the act. The Supreme Court recently ruled that conditional termination and possession orders may only be used in rental abuse cases, leaving landlords in the tribunal with few options other than an application for eviction in the event of other breaches of the agreement.

This government amendment inserts new section 48 (1) (b)—another matter to be considered by the tribunal where a termination and possession order is sought in response to a breach of a specific performance order. New paragraph (iii) of section 48 (1) (b) requires the tribunal to be satisfied that the breach of the specific performance order justifies the termination of the tenancy. This requirement is consistent with other sections in the act which deal with the same matters. I commend the amendments to the Assembly.

MR STEFANIAK (Ginninderra) (12.28): We have no problem at all with the first amendment. We have a few concerns in relation to the second one. We are a bit concerned that this may counter, to the point of negativing, the amendments that the government introduced in March. We are concerned that it has the potential to make it very difficult for landlords to evict bad tenants. The amendments introduced in March were reasonable and would have relieved the need for landlords to take all other eviction matters to court rather than to the RTT. This amendment introduces subjectivity to the RTT's decision making.

We are concerned that there is the potential for the RTT and the Supreme Court, on appeal, to make rulings that will make it virtually impossible for a landlord to evict a bad tenant. Indeed, that would effectively put the whole thing right back into court and negate the very purpose of the initial amendments.

Decisions made on a subjective interpretation rarely work. They cause confusion and unintended consequences, and inevitably will limit the intended purpose of the law. The result is that unsatisfied parties then march off on the road to appeal, multiplying the financial cost of resolving these kinds of matters. Importantly, that causes a lot of emotion, mental stress and frustration on both sides, and there is certainly a lot of that in any eviction matter. Such a burdensome but necessary outcome is brought on only because a tribunal president or perhaps a Supreme Court judge has had to make a subjective assessment of the case.

Subjective assessments will introduce elements that are irrelevant to the facts of the case and add a layer of legal argument that serves little or no purpose. A landlord, when faced with the effects of this amendment, could find an eviction order very difficult to obtain when the RTT gets involved in the subjective interpretation of a case rather than limiting itself to an assessment on the merits of the facts. That is our basic concern in that regard.

When its first effort did the job—and I think it has—why would the government go to the trouble of fixing a flaw in the system and then barely draw another breath before watering it down to the point where the purpose of the initial amendment was vaporised?

We were concerned, in the note which accompanied the amendment back in April, and I thank the attorney for the note, that the author of the note stated that "the amendment ensures that evictions following on from a breach of a specific performance order will only happen if justified in all the circumstances". "All the circumstances" is of great concern. If the attorney assures me that the word "all" is not in there, that might alleviate a bit of the concern. It does concern me that this may make it very hard for landlords, including Housing ACT, to evict bad tenants. Surely, that is something that is not in the public interest, and it is something that we need to ensure that the law is able to do, when necessary.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.31 to 2.30 pm.

Questions without notice

Children—protection

MR SESELJA: My question is to the Minister for Children and Young People, Ms Gallagher and relates to the removal of four children from their home by ACT Policing on Sunday, 22 June. Minister, when did you first become aware of the Ainslie issue and, upon becoming aware, what were the actions that you took?

MS GALLAGHER: I became aware on the Wednesday; I think it was 25 June. I contacted the chief executive of the Department of Disability, Housing and Community Services.

MR SESELJA: Minister, by what means did you become aware on the Wednesday?

MS GALLAGHER: An adviser told me.

Children—protection

MRS BURKE: My question, through you, Mr Speaker, is to the Minister for Health and Minister for Children and Young People, Ms Gallagher, and relates to memorandums of understanding with ACT Policing. Minister, yesterday in question time, you said that the memorandum of understanding between SACAT, which is the sexual assault crisis assessment team, and child protection was working well but admitted that in the Ainslie case there had been a breakdown. Also, minister, in answer to a question on notice of 6 May 2008 you told me:

> The MOU between the Child at Risk Health Unit (CARHU) and ACT Policing has been finalised and is in the process of being signed by both parties.

It has taken you more than three years to get to this stage. Minister, why has it taken so long to finalise an MOU which is vital for the protection of children in the ACT?

MS GALLAGHER: Mrs Burke is talking about two different MOUs—the MOU that exists between care and protection and the police, and the child at risk assessment unit, which is in the department of health, and the police. The advice to you in that question is correct. There have been some delays in finalising the MOU, but it does not mean at all that those agencies have not been working together in the interests of protecting children and young people in the ACT. An MOU, of course, on paper, formalises that relationship.

But I know from experience—in fact, I was speaking with the head of CARHU last night—that the interaction between CARHU and the police is first rate and always works in the interests of children and young people in protecting them and ensuring that they are safe.

MR SPEAKER: Mrs Burke, do you have a supplementary question?

MRS BURKE: Thank you, Mr Speaker. Minister, given that MOUs between your agencies and ACT Policing are either unsigned or unworkable, does this not clearly indicate that you are not aware of what is going on in your department and you are not up to the job?

MS GALLAGHER: The relationship between my agencies and the police, as I have just said, works extremely well. The issue around the MOU in the case that the Leader of the Opposition referred to earlier in question time is that it was not SACAT that responded in that situation. They were responding to another alleged offence that was not relating to children. That has led to the issues that we have all become aware of and concerned about and that have needed to be followed up. I followed those up at the first opportunity. I followed them up with the Attorney-General; I followed them up with the Chief Executive of the Department of Disability, Housing and Community Services. So I do not think that the allegations raised by Mrs Burke are true. In fact, I know they are not true. The police and my agencies work extremely well.

As I said, they always, every single day, 24 hours a day, seven days a week, work in the interests of children and young people and protecting children and young people from any unsafe situations. That will occur whether there is an MOU or not. MOUs, of course, are preferred, because that establishes in writing very clearly exactly what procedures need to be followed. But where there is an issue identified, and there has been in this case, and I have been up-front about that from the first opportunity, we need to have a look at what that means, how that came to light and how we address that. But it had nothing to do with the MOU in this instance. It had to do with another arm of the police responding to a different alleged offence.

Children—protection

MR SMYTH: Mr Speaker, my question is to the Attorney-General. Minister, ACT laws prevent the publication of any material that may identify child victims of crime. Last week the Canberra and national media broadcast pictures of the house lived in by a family whose mother is facing charges of neglect. Minister, did any person in ACT Policing notify members of the media of the location of the house in connection with the media release issued by the AFP on 25 June 2008?

MR CORBELL: I did not hear the last part of the question.

MR SMYTH: Did any member of ACT Policing notify members of the media of the location of the house in connection with the media release issued by the AFP on 25 June 2008

MR CORBELL: No.

MR SPEAKER: A supplementary question from Mr Smyth.

MR SMYTH: Thank you, Mr Speaker. Minister, what investigations have been undertaken or will be undertaken into the circumstances of the media coverage of this issue subsequent to the media release of 25 June?

MR CORBELL: Mr Speaker, the disclosure of the address of the home in question where the children were found in the incident last week is very regrettable. It is a matter that was not prompted in any way by the actions of the police or by officers from children, youth and family services. I am advised that another member of that extended family in question contacted media outlets directly to advise them.

Members—travel

MR MULCAHY: My question is to you, Mr Speaker, and relates to planned travel. Can you advise the Assembly of the duration of the trip and how much it will cost to send you and Mr Pratt and any other officials to Kiribati, and can you advise if any of these amounts are being met by members' study allowances?

MR SPEAKER: I can advise that they are being treated as Assembly business, but I will get the details and report back to you. It will be much less than your trip to America, Mr Mulcahy.

A supplementary question, Mr Mulcahy.

MR MULCAHY: What other international or domestic travel for members between now and October have you approved, and what is the funding source?

MR SPEAKER: I will have to take that on notice.

Children—protection

MR STEFANIAK: My question is to the Minister for Children and Young People. It relates to the removal of four children from their home by ACT police on 22 June. Minister, with regard to the media coverage of the Ainslie issue, you will be aware of comments made by the magistrate regarding her concerns with how the issue was leaked to the media. Indeed, yesterday I understand Magistrate Karen Fryar commented on these comments, as did the prosecutor Katrina Mackenzie, who told the court:

> The children have suffered negatively in relation to the media interest in this matter.

Minister, why have your systems allowed these children to be exposed to the media in this way?

MS GALLAGHER: As I think we have heard from the Attorney-General's answer to the last question, the system has not allowed the children to be exposed, but it is very regrettable in terms of the outcomes that this has had on the individual children involved. I would say that the continual raising of this in question time is perpetuating this, though. I am happy to speak to members individually about this case but I am not sure that there is anything more that I can add.

We are going back and having a look in terms of the response and how the initial contact was made. We have identified a gap there in terms of a different arm of the police responding on another matter and then coming across the issues on which later charges were laid. But, in relation to exposing those children, I am confident that the system did not expose the children. The system has sought to protect the children at every step of the way, as it should.

MR SPEAKER: Supplementary question, Mr Stefaniak?

MR STEFANIAK: Thank you, Mr Speaker. Minister, does the exposure of these children to the media in this way comply with or breach the MOU between child protection and SACAT? You might be able to answer this, too: were the media alerted to their responsibilities under the Crimes Act in relation to the children?

MS GALLAGHER: Certainly in terms of the media coverage, I am aware that the Department of Disability, Housing and Community Services contacted media outlets to draw their attention to protections under the Children and Young Peoples Act. That was done, and I understand some media outlets decided to change the way they were

reporting the story in light of that advice, and from following potential media that was to occur people made decisions about whether or not they pursued it in light of the advice from disability, housing and community services.

Transport—taxis and hire cars

MR GENTLEMAN: My question is to the Minister for Territory and Municipal Services in his capacity as minister responsible for transport. Minister, can you advise the Assembly what actions the Stanhope Labor government has taken to address the ailments of the taxi and hire car industries?

MR HARGREAVES: I thank Mr Gentleman for the question and note, in particular, Mr Gentleman's ongoing interest in transport and related issues. In the 10 years up to 2001 nothing was done by the Liberal government around taxi issues and bus issues. In fact, I am struggling to remember anything that they did, other than paint grass green and come up with the horrendous cost of some infrastructure projects around town such as the infamous Bruce Stadium.

The government realised that taxis and hire cars were not delivering particularly well for the people of Canberra. In relation to the hire car industry, it bought back all the perpetual plates. I think it was about $220,000 per taxi plate. It then issued lease plates.

I can advise the Assembly that there are currently 39 standard taxi plates. Incidentally, there are 52 RHVs out there on the streets. These do special events such as weddings and the occasional funeral—just in case you wanted to know, Mr Pratt. There were 23 hire cars in the game when we changed it. That is a 70 per cent increase. My reports from participants in that industry are that it is a very lucrative business.

We also had complaints about the wheelchair accessible taxi system. This government convened a working group, which was co-chaired by the then chair of the Disability Advisory Council, Craig Wallace, and the CEOs of disability, housing and community services and TAMS, which it now is under Mike Zissler. They came up with I think 44 recommendations. The government accepted them all.

We are now seeing more wheelchair-accessible taxis on the road. It recently went through a hiccup when I think 12 plates were returned. They are now back on the streets. My information today is that that service has picked up incredibly and is now delivering for the people of Canberra.

People would be aware of the recent Nightlink exercise in which we engaged with Aerial taxis. That initiative started on 29 February, as I said, in partnership with Aerial. You might like to know that six vehicles are providing Nightlink service. These vehicles have carried out 609 hirings in the first four months, with numbers growing every week. Just this past weekend, Nightlink experienced a dramatic increase in job numbers and operator earnings—get this, Mr Speaker—with 29 jobs being done on Friday night and 32 on Saturday. That is an average of 30 trips on those two nights—30 groups going home safely from a night out on the town.

We have also talked to the industry—believe this or not. The Canberra Taxi Industry Association—whose sole membership is Aerial taxis by the way—have been having talks with us. We have been trying to work with the industry. It is a private sector industry. It is not something that the government owns; it is not an arm of ACTION buses. It really should have been for the industry to fix itself, but the existence of perpetual licence plates both in the hire car industry and in the taxi industry was a barrier to the provision of good service to the people of the ACT.

We have done more indeed in the last four years than the Liberals did in 10 years of their stewardship over the public transport system in the ACT. It is a bit of an indictment that occasionally, when we have dialogue with the taxi industry, those opposite sit on the sidelines and carp, and say that it is our fault because they cannot get a cab in town—it is our fault that there are queues at the airport—when clearly it is not. This government has moved quite substantially. It has provided many opportunities for development in industry.

MR SPEAKER: A supplementary question, Mr Gentleman.

MR GENTLEMAN: Minister, will the issuing of further taxi licences fix the problem of this industry, and is it the government's problem to find solutions?

MR HARGREAVES: No, it is not the government's problem to find the solutions, but we must do what we can in a regulated environment, otherwise the only option open to the government is to totally deregulate. That would be open slather, and that would be a mistake. It was tried in Darwin, and it was an absolute mistake. Those vehicles had to be purchased back and leased out again.

Some history is warranted. In 2004 there were 217 perpetual licences, and we have been approached only very occasionally by the Canberra Taxi Industry Association for an increase. Most of the time people have told us we do not need any more taxis because there is not enough work for everybody, and yet the community keeps screaming that we need more taxis.

No additional licences were issued prior to 2005—nothing in those 10 years. In 2005-06, 10 restricted lease licences were issued, and 30 standard lease licences were issued by this government. In 2008, 25 standard lease licences have been issued, and another 25 are to be released in August. This means that between 2005 and 2008, there has been an increase of 42 per cent—that is, 90 additional licences in four years.

There is an interesting thing. People are saying that they cannot get drivers and they cannot get interest. Mr Speaker, in every one of the ballots that we have had for those 90 licences, more than 100 people have applied for the licences. There is no slackening off of interest at all.

What else have we done? The recent taxi industry forum indicated to us that we needed to go with the extra 50 licences to bring us into line with cities of similar geography and demography to the ACT. Contrast that with 10 years of inactivity from those opposite. When the 25 licences are issued in August, we will have roughly the

correct amount of taxis per 100,000 people in the ACT. We have increased standards and introduced and applied penalties for poor performance. We have facilitated the introduction of a new network with competition into the marketplace. The second network has been in place for 12 months, and we are now going to apply those standards and penalties to the second network. I understand that the introduction of the second network has actually increased the standard of service delivery across town. Indeed, I had experience of it very recently when I came home from a somewhat enforced hospital visit.

I mentioned the taxi forum that we had. That was an attempt to get the industry to understand that it has a responsibility to its clients. There are two types of clients: business and recreational travellers and the domestic travel market around the ACT. The business and tourist industry groups came together at this forum with elements of the hire car and taxi industry, and they told the industry what they thought of them. They did not like it, but that is bad luck.

People in the ACT and members in this place need to understand that this is a private sector business arrangement; it is not something that we have a responsibility for, but we have done enormous things to encourage the taxi industry to flourish. We have increased by 40 per cent the number of taxis out there. We have facilitated meetings between the industry and the airport and the networks and the airport to try to get sense to prevail out there. We have introduced demand-responsive transport, new standards and new penalties for non-performance. They are slowly coming to compliance.

There have been significant and giant changes in this industry in the last four years, and that is because this government has accepted its part of the responsibility to attempt to find a solution. Now I am calling on the industry to do its bit. I am also calling on the opposition in this place to put the people of Canberra before their own opportunistic carping and come with us and encourage the taxi industry to take responsibility for itself. Those blokes opposite would say, "Well, we'll introduce all these other bits of legislation."

Opposition members interjecting—

MR HARGREAVES: Here we go! Some table tennis balls, please—pop, pop, pop, pop, pop.

Children—protection

MR PRATT: My question is to the Minister for Children and Young People. Minister, I refer you to a ministerial briefing from the Chief Executive of ACT Health to the then health minister in September 2004 about his serious concerns regarding child protection. I quote:

> We are concerned that service improvements are not progressing and in fact the situation is possibly worse at the moment.

That brief goes on to highlight three examples of instances where senior health staff were unable to get the centralised intake service to address their concerns with serious

child abuse and neglect. Minister, can you guarantee to the Assembly and the community that the issues raised by the Chief Executive of ACT Health in September 2004 have been fully addressed and are not being repeated?

MS GALLAGHER: I do not have the benefit of that briefing note from 2004 in front of me. I presume it was from Dr Sherbon to the then minister for health, Mr Corbell. I will have a look and see what that brief said. I do know that since that time—and that would have been just post the Vardon report—ACT Health executives and executives from Disability, Housing and Community Services have met frequently to talk about matters of cross-portfolio interest, of which this would be one. As the Minister for Health and the Minister for Children and Young People, I expect I would be the first to know from ACT Health if they had concerns around reporting—

Mr Smyth: Well, you were the last to know about the house last Wednesday.

MS GALLAGHER: Mr Smyth, if I could just answer the question which has been asked, because for once the person who has asked the question is listening to the answer, I would expect, as the Minister for Health, that I would be briefed by the Chief Executive of ACT Health if they had concerns similar to the ones that have been outlined. I have not, as I recall to date, had any concerns raised with me around problems they were having with the centralised intake service. I am very confident that my two agencies work very closely together. In fact, you will see that from some of the budget initiatives that we have introduced. I refer to the IMPACT program, which is now up and running, the response to vulnerable families, which is part of that program, and the integrated Aboriginal and Torres Strait Islander program, which again is across portfolios—ACT Health and Disability, Housing and Community Services—and which is absolutely designed to make sure that, for those vulnerable families in our community that we are aware of, ACT Health and Disability, Housing and Community Services and, through them, care and protection, are working closely together in the interests of those children.

My answer to your question would be that, yes, I am confident that the problems that you outlined in the preamble to your question are no longer issues, because, if they were, I would be the one who would be aware of them.

MR SPEAKER: A supplementary question, Mr Pratt.

MR PRATT: Thanks, Mr Speaker. Minister, is it not true that, even after the Vardon report, you presided over a worsening child protection service?

MS GALLAGHER: No, that is not true at all. Again, the opposition fails to substantiate those allegations with any evidence at all.

I will tell you what is happening in child protection. We have gone from a situation where we had between 30 and 40 care and protection workers working in about 10 different venues across the city, some of them in the most inadequate government accommodation that I have ever seen, to where we have located them in one place. We have 88 staff working in care and protection. We have increased the budget by 87 per cent. We have built two child and family centres. We have cross-agency portfolios working on vulnerable families.

We have a range of family support programs targeted through non-government agencies to address issues that have come to light through the Vardon report. We have increased funding to organisations such as UnitingCare, Kippax, who are doing a fantastic job out in the community with vulnerable families. That is what we have done to care and protection. It is uncomfortable for you to hear the fact that it has been completely reformed.

In light of that, they are dealing with thousands more reports than they have ever dealt with before—in excess of 10,000 reports of concern about children and young people in the territory. That is what this department is delivering and they are delivering it in the most difficult circumstances that any of us could imagine. None of you—in fact, I could not—could work in that area. None of us in this place could, because of how hard that job is. Those people turn up to work every day and do the most incredible job.

Your question not only attacks me; it attacks the professionalism, the dignity and the hard work of every single member of staff in that agency. And you know it, because you cannot ask a question like that without attacking the public servants that deliver these services on the ground. Shame on the lot of you!

Rhodium Asset Solutions Ltd

DR FOSKEY: Thank you, Mr Speaker. This question would have been directed to the Chief Minister, but in his absence it is to the other shareholder of Rhodium—the Deputy Chief Minister.

The ACT government has been trying to sell Rhodium for some time. I know that in December we passed a bill to extend the default commencement date of the Territory Owned Corporations (Amendment) Act by six months to 20 June. At the time the Chief Minister said there was a preferred buyer. Given that we are past 20 June and, indeed, 30 June, could the minister please inform the Assembly of progress towards the sale, when the government anticipates the sale will complete and if there are any governance issues as a result of the delayed sale.

MS GALLAGHER: Thank you, Mr Speaker. The Chief Minister and I have been written to in the last couple of weeks by the board of Rhodium updating us on the progress of the potential sale of Rhodium Asset Solutions. We have sought additional advice from Treasury on that. In fact, the Chief Minister and I are due to meet in the next few days to talk about the advice that is coming.

Suffice it to say the sale has not proceeded. The board has raised a number of issues with us which we need to consider prior to making any further announcements. That is about as helpful as I can be at the moment just because I have not received the formal advice I need in order to respond. But the sale has not gone ahead.

There was a preferred buyer and the board, in their letters to us, have raised some concerns. They certainly raised some concerns around the sale, board appointments—because we have extended those—and some of the issues around retaining staff due to

the ongoing uncertainty. They are the things that the Chief Minister and I need to meet over in the next few days.

MR SPEAKER: A supplementary question from Dr Foskey.

DR FOSKEY: I am tempted to ask Mr Mulcahy's supplementary question. Instead I ask: has there been a regulation put in place, given that nothing has come to the Assembly, to extend the act? Otherwise, could you explain what governance issues do arise?

MS GALLAGHER: Thank you, Mr Speaker. I will have to take that question on notice, Dr Foskey, and get back to you.

Children—protection

MRS DUNNE: My question is to the Minister for Children and Young People, Ms Gallagher. Minister, you were quoted in the C*anberra Times* on 21 June this year, with regard to the 2004 concerns surrounding allegations of abuse of children in government care that had been ignored for a number of years:

> … if I had failed to do my job … I would go …

Minister, despite four years of analysis since the Vardon report and an associated litany of reports and amendments to legislation, despite complaints from Health about the failure of the central intake area, we have seen in the past fortnight a vulnerable family exposed to unacceptable media scrutiny, adverse comments from magistrates and prosecutors, a failure of communication in your department, a failure of practices between your department and ACT Policing, an apparent inability of your department to deal with police, and your own admission that you knew nothing of this case before it broke in the public. Do you take responsibility for this and, if so, will you stand by your own commitments and now resign?

MS GALLAGHER: I certainly stand by the comments I have made. I hold that very close to my heart—that if I did not do my job properly, if I fail directly in the execution of my duties as a minister, I would stand aside. However, I do not believe—and Mrs Dunne can make it sound as outrageous as she did in her preamble to the question—that there has been a failure in care and protection here and I do not think the opposition have been able to establish that there has been a failure in care and protection.

My job, of course, where there are issues that are raised and when they first come to my attention, is that I respond to those, and that is exactly what I have done in this case, and you will not be able to prove otherwise.

If you are suggesting to me that I am responsible for the issues that led to those matters becoming national media, then prove it, Mrs Dunne. Prove it, because I find that the most offensive and outrageous suggestion that anyone has ever accused me of in this place. So you prove it, Mrs Dunne; you prove it—and you cannot

MR SPEAKER: Supplementary question, Mrs Dunne?

MRS DUNNE: Minister, with systematic failure in your agency—

MR SPEAKER: Come to the question, please, Mrs Dunne.

MRS DUNNE: What other shattering failures will there have to be in your agency before you resign?

MS GALLAGHER: Mr Speaker, there has been no failure.

Health—system

MS MacDONALD: My question, through you, Mr Speaker, is to Ms Gallagher in her capacity as Minister for Health. Minister, could you update the Assembly on how the ACT compares to other jurisdictions in transparent reporting of the performance of our health system?

Mrs Burke: It depends which figures you are looking at.

MS GALLAGHER: One area we do not go to is Mrs Burke's figures. The commonwealth Department of Health and Ageing last week released the *State of our public hospitals* report 2008. This report showed that the Canberra Hospital is the 15th busiest hospital in the country—15 out of 738. It compared the reporting and transparency of each state and territory in relation to the performance of their public health systems.

The report showed that the ACT government reports across 23 different measures on how our system is reporting, more than any other jurisdiction. The next closest was Queensland, and bringing up the rear was the Northern Territory. The 23 areas cover a spectrum of admissions; elective surgery, including waiting times; emergency department, including numbers of presentations and patients seen; total bed days; numbers of unplanned readmissions; numbers of mental health readmissions; numbers of unplanned returns to operating theatres; numbers waiting for dental services; numbers of allied health services; numbers of women screened for breast cancer.

This independent report makes clear that, through our quarterly performance reports to the ACT community, we are the most open and the most transparent jurisdiction in the country when it comes to being upfront with the community on the performance of our health system. The report included other positives for the ACT: our public acute hospital beds per thousand increased from 2.3 to 2.5. The national average was 2.6. The number of beds in our public hospitals jumped 10 per cent and we continue to fund additional bed capacity for our public hospital system. By the end of 2007-08, we will have 830 beds in our hospital system, with another 25 to be added as part of the 2008-09 budget commitments.

The ACT provided 216 public patient admissions per thousand in 2006-07, which was much higher than the national average of 188. This indicates that the ACT public hospital system is experiencing more pressures than what is occurring nationally. In 2006-07, 89 per cent of the admissions at our hospital were public patients, which is

above the national average of 86 per cent. This information is further supported by the fact that in 2006-07 only six per cent of those admitted to ACT hospitals elected to use their private health insurance, against the national total of 10 per cent.

During 2006-07, our public hospitals delivered 9,306 elective surgery procedures, up from the 9,076 reported in the previous year. It is the fourth year in a row that we have achieved record levels of access to elective surgery. This record is continuing in 2007-08, with the current full year estimate of 9,600 elective surgery operations completed by 30 June 2008. The number of people admitted for surgery in the ACT who waited longer than one year was 9.9 per cent, compared to the national figure of 3.1 per cent, again further showing that our strategy of removing long waits from the list continues to deliver for those people who are on the list and waiting too long.

Over the first 10 months of this financial year, 2,648 people out of 7,847 people who received elective surgery had been waiting longer than the standard time frame. This continued commitment to eliminate waiting lists longer than one year over the next few years will mean that our reported median time for elective surgery will remain high for some years to come.

Despite these continued efforts by the government, demand for elective surgery continues to grow significantly. In 2006-07, there were 11,186 people added to the ACT public hospital elective surgery waiting list—a 5.2 per cent growth over the 10,630 added to the list in 2005-06.

The report notes that the median waiting times for service delivery in emergency departments are higher in the ACT than elsewhere. However, the median time for actual treatment in the emergency department was either the best or amongst the best for each category. The additional bed capacity funded by this government will improve patient flows around the hospital. Over recent years, we have increased staffing in our emergency departments as well as establishing new services. In the 2008-09 budget, we announced the development of a new surgical assessment and planning unit which will provide our emergency department with a new service that will provide for quick transfer of patients awaiting surgery, further decreasing the pressures on the emergency department.

In short, coupled with our quarterly performance report, this national report demonstrates our continued investment in the health system is delivering results.

MR SPEAKER: Is there a supplementary question?

MS MacDONALD: Thank you, Mr Speaker. Why has the government taken the decision to be so transparent in reporting health data?

MS GALLAGHER: The primary reason is to ensure that our community has an accurate picture of our health system. In that way, progress can be measured and our community can have an accurate picture of where our system is improving. But we must always strive for new levels of transparency because, even with the best reporting in the country, mistakes can still be made. People can still, either accidentally or on purpose, make public statements which misinterpret key health statistics and call into question the quality of our public health system.

I refer, for example, to Mrs Burke's latest media release, quoted on WIN News last night, suggesting that 47 per cent of people removed from our elective surgery waiting list were because of death or not being contactable. This is absolutely ridiculous, and I table the following paper referred to by Mrs Burke:

> Hospital waiting lists—2006-2007—Table 6.3.

The 47 per cent figure relates to 47 per cent of 204 people—that is, 100 people. If we were to believe Mrs Burke, 5,211 people would have been removed from the list because they had died or were uncontactable. One needs only to look at the data around the deaths in Australia and in the ACT in, say, 2006. The total number of deaths in the ACT was 1,484. Mrs Burke is saying that 5,211 people were removed from the list because they died or they could not be contacted. Where did she say that, Mr Speaker? Here we have Mrs Burke's media release:

> Mrs Burke said elective surgery waiting times are particularly concerning as … figures show 47.1 per cent of … patients removed from elective surgery lists due to death or uncontactability compared with 8 per cent in nearby NSW.

I repeat: 47 per cent of 200, not 47 per cent of 11,186. Forty-seven per cent—almost four times the number of people who actually died in the ACT are apparently removed from the elective surgery waiting lists, according to Mrs Burke. Of course, Mrs Burke suggested two or three years ago that we should actually close the elective surgery waiting list because we were not getting to everybody; therefore we should just cut it off. That was said in 2003. On 20 October 2003, she said:

> … there was no point admitting more people for surgery, when those already on the list couldn't be catered for.

You see, we have this funny thing in health care where the sickest get the treatment first and then you triage down. So to close the list would mean that those who are sickest and not on a list could not get on a list for their surgery. That, of course, would have a disastrous impact for the ACT community.

So there we have it—yet another in the long list of mistakes from the shadow minister for health. They actually want us to believe that this woman, if elected to government in October or in years to come, could run the health system when she is making mistakes like that after being in the job for so long.

ACT Policing—numbers

MS PORTER: My question is to the Minister for Police and Emergency Services. Minister, can you please inform the Assembly of the progress of additional recruits to ACT Policing and the benefits of the government's extra investment in policing numbers?

MR CORBELL: I thank Ms Porter for the question. I will be very pleased tomorrow to be welcoming 21 new ACT Policing constables to the ranks at the graduation ceremony at the AFP college in Barton. Eighteen men and three women from all over

Australia are graduating, including eight from the ACT. For them, it marks the beginning of a new career and a new life as AFP officers. More importantly, Mr Speaker, it brings to 175 the number of new ACT police officers to graduate from the college this financial year and further demonstrates the ACT government's commitment to providing the community with a strong police service.

It is particularly encouraging, Mr Speaker, to see such a diverse range of backgrounds in the people who are choosing to become police officers in the ACT. Some of them have qualifications in criminology and psychology, while others have qualifications in business management, international relations, the law, robotics engineering and various other areas of vocational education. We are also seeing a very pleasing range of age groups ranging from 20 to 40 years. That means the recruits bring a valuable mix of life skills and experience as well as enthusiasm to the role of policing here in the ACT. Their first weeks will, of course, be spent with ACT Policing's traffic operations, after which they will be assigned to a variety of duties and stations across the ACT.

These 18 new constables graduating tomorrow are on top of the other 18 who graduated two weeks ago on 20 June. What this means and what this shows is that these additional recruits could not have come about without this government's commitment to provide an additional 107 extra officers to ACT Policing over four years. These additional officers are making a real difference on the ground. They have made it possible, for example, for ACT Policing to introduce its new roster providing more flexible start and finish times, and it means that an extra 44 officers and an extra 16 patrol cars will now be on the street at critical times to help policing here in our community.

This extra capacity allows the use of overlapping shifts in times of peak demand and the capacity to put four extra patrol cars on the road at each of the four major police stations of Belconnen, Tuggeranong, City and Woden during recognised periods of need. This government is proud of its record when it comes to increasing police numbers and the improvement in response times for the Canberra community that we have seen as a consequence. I will be looking forward to seeing these new additional officers join the ranks of ACT Policing tomorrow, and I wish them well in their careers.

Ms Gallagher: I ask that all further questions be put on the notice paper.

Supplementary answers to questions without notice

Policing—protection orders

MR CORBELL: Mr Speaker, on 1 July Mr Seselja asked me a question about how many protection orders in the ACT are breached on a yearly basis, and also a supplementary question asking why it was deemed necessary by ACT Policing to issue a media release on Wednesday, 25 June regarding a 35-year-old woman in Ainslie breaching a protection order and whether this was common practice.

The answers to Mr Seselja's questions are as follows. In relation to the number of protection orders that are breached on a yearly basis, I can provide these figures. For

the year 2004-05, it was 245, for the year 2005-06, 247, for the year 2006-07, 231, and for the year 2007-08, 197. In response to the member's supplementary question, police issued a media release on 25 June relating to the arrest of a woman on child neglect charges, which was a matter of considerable public interest at this time.

The release noted that the reason police had attended the woman's residence was in relation to a breach of an order, which was intentionally threatening to kill a person and using a carriage service to threaten to kill. However, the general public interest in the child neglect issues, not the breach of the order alone, was the reason for issuing the release.

Answers to questions on notice

Question No 2003

DR FOSKEY: Mr Speaker, I have already asked once this week about question on notice No 2003, which we submitted in April and which still has not been answered, about no-doc and low-doc loans. A couple of days have passed since the Attorney-General gave his answer. I seek an explanation; perhaps it will be different.

MR CORBELL: I do not recall Dr Foskey raising that question with me earlier—

Mrs Dunne: I do.

DR FOSKEY: I did.

MR CORBELL: but I apologise, obviously—

Mr Seselja: You said it was very complex.

MR CORBELL: for my recollection. I think my answer was that it is a complex question requiring coordination from a range of agencies. That remains the case, and it will be completed as soon as possible.

Questions Nos 2058 and 2059

MRS BURKE: Under standing order 118A, I have two unanswered questions: No 2058 to the Attorney-General, Mr Corbell, for which 30 days expired on 5 June and No 2059 to Mr Hargreaves, for which 30 days expired on 5 June.

MR CORBELL: Mr Speaker, I must apologise. I was not aware that question was outstanding. I will seek an answer on that as soon as possible.

MR HARGREAVES: Mr Speaker, I was not aware that there was a question on notice outstanding. I thought that they had all been attended to. I have signed a couple in the last couple of days. I did not look at the numbers. So, without knowing the context of this, I cannot respond to Mrs Burke other than to say that I will go upstairs within seconds and ask that that be attended to. I will get that done as soon as I return from Sydney.

Presentation of papers

Ms Gallagher, on behalf of **Mr Stanhope**, presented the following papers:

Intergovernmental agreements—

An Agreement on Surface Transport Security, dated 3 June 2005.

An Agreement to a National Identity Security Strategy.

Competition and Infrastructure Reform Agreement, dated 10 February 2006.

Harmonisation of Workers Compensation and Occupational Health and Safety Arrangements, dated 13 October 2006.

Murray-Darling Basin Agreement Amending Agreement 2006, dated 14 July 2006.

National Health Call Centre Network—Heads of Agreement.

National Registration and Accreditation Scheme for the Health Professions, dated 26 March 2008.

Supplementary Intergovernmental Agreement on addressing water overallocation and achieving environmental objectives in the Murray-Darling Basin, dated 14 July 2006.

Caring for carers
Papers and statement by minister

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women): For the information of members, I present the following papers:

Caring for carers in the ACT—

A plan for action 2004-2007—2006-2007 Third and final progress report.
Caring for Carers review and future model—

Final Report to ACT Department of Disability, Housing and Community Services by The Allen Consulting Group, dated April 2008.

Government response.

I seek leave to make a statement in relation to the papers.

Leave granted.

MS GALLAGHER: I table today the 2006-07 progress report on "Caring for carers in the ACT—a plan for action 2004-2007", which covers the period 1 July 2006 to

31 December 2007, the review of the action plan, caring for carers review and future model, and the ACT government's response to the review.

It gives me great pleasure to present this third and final progress report, completing the reporting requirements under the life of this action plan. I believe, and this belief is confirmed by the support carers in our community have given to our caring for carers policy, that we have honoured the commitment we made in 2001 to better address the range of needs of carers and people who receive care. We have done this both in terms of initiatives delivered and in terms of raising the profile of carers so that their contribution to the community is better understood, acknowledged and valued.

However, the needs of carers remain, and our challenge is to be proactive in meeting those needs. In November 2005 my colleague Minister Hargreaves tabled the first progress report on the action plan, outlining a wide variety of initiatives including a new website to enhance communication and networking, a training kit for professionals and other service providers, research on the needs of young carers and culturally appropriate support services for Aboriginal and Torres Strait Islander carers.

In November 2006, I tabled the second progress report on this action plan. This report built on and extended the work undertaken since the first progress report and took stock of the activities that had been undertaken between 1 July 2005 and 30 June 2006. These included work in the areas of support, practical skill development, education, housing, information and resources, family-friendly workplaces targeting carers, care recipients, professionals and service providers.

The extensive work carried out by the government in partnership with service providers, carers and care recipients in developing and implementing the range of programs and mechanisms to improve the life of carers continued over the 2006-07 period. The majority of actions have been completed in the 2006-07 third and final progress report. Those actions that remain ongoing have been identified as sustainable or have long-term funding attached to them.

I will highlight some of the key achievements. The 2006-07 carer recognition grants enabled community organisations to respond to unmet needs identified by carers in the community. Five projects were funded, totalling $232,702, focusing on improving the skills and knowledge of carers and service providers and in supporting carers in their role. Specifically, the Burrunju Aboriginal Corporation was provided $60,000 to provide culturally appropriate programs, including support systems, respite and counselling for Indigenous carers. The funding also provided opportunities for carers to participate in activities to reduce isolation often experienced by carers.

FaBRiC was funded $10,000 to provide opportunities for children and young people with a disability and their siblings to access inclusive recreational activities that otherwise would not have been possible. This project has been extremely successful. One of the positive outcomes ensuring its sustainability has been the partnering with the Lions Club in sponsoring this program long term.

UnitingCare Kippax received $43,500 for a program that provided crisis intervention, practical assistance and opportunities for socialising, relaxing, counselling and

networking opportunities for carers. The Mental Health Foundation established carer support groups with their grant of $60,000. The Australian Catholic University received a grant for just over $59,000 for a research project that explored the nature of care responsibilities, support needs and services for children, young people and their families affected by alcohol and drug use. The outcomes from this research will inform policy and the way service providers respond to young carers in addressing their needs. In fact, the carer recognition grants over the past three years have delivered support, information on services, counselling, practical assistance and opportunities for carers to develop skills, articulate their needs, problem solve and plan for the future. Assistance has been provided to specific groups of carers, such as young carers and carers from culturally and linguistically diverse backgrounds, to negotiate barriers and support them to navigate service systems.

Community organisations that have received grants for projects have reported to us that they have provided opportunities to pilot new initiatives and test responses; for carers to meet other carers, exchange ideas and become better informed about other support services and information; for carers to participate in activities that reduce social isolation that many experience in their lives; for Aboriginal and Torres Strait Islander social activities to encourage contact with the elders and social and cultural interaction; and for carers to feel a sense of control over their lives and express an ability to stay in their caring role in part of a support group and involved in social activities.

Other key actions from the progress report include support for young carers through Disability, Housing and Community Services funding of Anglicare's ACT program, connecting young carers to life opportunities and personalised support—also known as CYCLOPS. The program supports young carers through case management and provides education and development for the community sector concerning issues for young carers.

The lives of carers can be changed and enhanced through educational opportunities and a number of educational opportunities are available for carers. The CIT and ACT Health's joint service agreement provides opportunities for training under the technology skills for carers program that develops and delivers carer education, responding to carer training needs. The Department of Education and Training has an ongoing commitment to provide funding through the strategic priorities program and through community education grants to support a training program for carers.

The ACT government supports a number of community organisations and programs to support carers in the community. Key initiatives include: Disability ACT's funding to Carers ACT to provide 27 families of older parents caring for their children with disabilities respite; ACT Health, through the HACC program, funds Carers ACT to provide 14 culturally and linguistically diverse carer support groups. The ACT government is leading the way in supporting carers in the workplace under the 2007-10 collective agreement involving a number of measures negotiated with the objective of supporting carers. The measures recognise the demands of the caring role and provide a flexibility in the workplace so that carers can contribute in the workplace and meet their caring responsibilities.

I am pleased to advise that the government has also undertaken a review of the action plan to determine the effectiveness of the actions in supporting carers and provide a future direction to progress the principles underpinning the carers policy. In this regard, included in the 2006-07 progress report is the review that was undertaken by the Allen Consulting Group "Caring for carers review and future model" and the government response to that review.

In summary, the review confirmed that the caring for carers policy and principles remain relevant and there is clear support from the community for the direction the ACT government has taken in supporting carers. The action plan was found to have delivered positive outcomes for carers in the area of information, support and awareness raising. The ACT government supports the six recommendations made in the review and is in the process of considering the recommendations and the development of a new model to progress the principles and support carers in the ACT. We will develop this new model by the end of 2008.

We have come a long way since we introduced the policy and action plan to better support carers in our community. Carers will continue to be a high priority for us and we will maintain our commitment to acknowledge and support carers in the ACT and value the significant contribution they make to our community. Importantly, we will continue to work with carers to address, as best we can, the need that is still unmet. I commend to the Assembly the 2006-07 third and final progress report—"Caring for carers review and future model"—and the government response to the review.

Stanhope government—infrastructure projects
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Mrs Dunne, Dr Foskey, Ms MacDonald, Mr Seselja, Mr Smyth and Mr Stefaniak, proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Mrs Dunne be submitted to the Assembly, namely:

> Performance of the Stanhope Government in delivering infrastructure projects.

MRS DUNNE (Ginninderra) (3.30): The provision of infrastructure is essentially what governments are supposed to be doing for the most part, and what we have seen with the Stanhope government is a consolidated failure to deliver infrastructure for the people of the ACT. Despite the expansion of our city, especially out in Gungahlin and over the past seven years, and the thousands of jobs created in Canberra, the local government has failed to keep pace by building infrastructure to cope with this growth.

The population growth that we have seen did not arrive without warning. The thousands of new jobs were announced each year in commonwealth budgets, but the local government failed to plan for the extra demand on local infrastructure. Labor has let numerous infrastructure bottlenecks develop under their watch.

Since Labor came to office, the ACT government has received a cumulative windfall of revenue of at least $1,673 million more than they expected at budget time—

$1.6 billion more than they expected. The average windfall is a massive $279 million a year, or close to 10 per cent of the total expected government income.

Canberrans are entitled to ask what they have to show for all this revenue. Not many years ago, journeys of over 40 minutes to work were unthinkable in Canberra. The NRMA says that, in 2001, when Labor came to office, it inherited a good road network but under the seven years reign of the Stanhope government traffic congestion has unmistakably deteriorated, while government investment has failed to keep pace. Remarkably, Labor says that traffic delays like those on the Gungahlin Drive extension will be challenges for five years or more down the track. Traffic delays are projected to worsen under Labor's tardy timetable for road development.

Other infrastructure time bombs are also ticking, with experts pointing to huge backlogs of maintenance work on infrastructure like water pipes and the stormwater system. Labor's solution always involves short-term fixes, like the single Gungahlin Drive extension.

The previous Liberal government had budgeted to build the GDE as a four-lane road by 2004, at the cost of $53 million. Labor did not sign a contract for the first stage of GDE work until late 2005, a full year after the Liberals had promised to finish the job. The final contract to finish the GDE was not signed until well into 2006 and Labor took until 2008 to finish the job, in which time they had spent $120 million for a road that is only half the size that was originally budgeted. They broke their 2001 election promise to build the road on time and on budget. The public has put up with traffic delays during several long years of construction and, after this expensive project was supposedly finished, commuters on the GDE are finding that they are still driving at a crawl during peak times.

Across all areas of Canberra, all areas of ACT government, there are obvious shortcomings in infrastructure. Some of this is due to the lack of planning and some of this stems from a misallocation of resources away from where funding is needed.

Since Labor came to office seven years ago, ACT budget revenues have increased from $2.1 billion to $3.2 billion per annum. This is an increase of almost 50 per cent in revenue or around $1 billion for the most recent financial year. Labor has spent much of this money on short-term activity and failed to invest the windfall in long-term infrastructure.

In Labor's first two budgets, it significantly cut the amount of new money committed to capital works. In 2001, the previous Liberal government committed $89 million towards new capital works for the coming financial year; whereas the next two budgets under Labor only committed $56 million and $58 million, respectively, to new works to be undertaken in 2002-03 and 2003-04, respectively. In recent years, Labor has improved its performance. Funding for new works lifted to $138 million in 2007-08 but, while the promised funding for new works had risen 56 per cent in nominal terms, there are some misperceptions behind these figures.

The real scandal is that Labor has dramatically increased the deferral of works and the rollover of funding from one capital works budget to the next. The last Liberal

government budget only rolled over $12 million of its funding; whereas Labor rolled over $107 million of unspent money in its 2007-08 budget. This is an increase of almost 900 per cent. Labor has rolled over as much as $124 million, as it did in 2006-07, amounting to over 1,000 per cent above the rollovers experienced by the previous government. This rollover of funding reflects several pea and thimble tricks.

Labor has allowed large projects to drag on longer than they should. For instance, the long delay of the Gungahlin Drive extension project has falsely propped up budget numbers in budget after budget, making the capital works budget appear bigger than it ever really was. Some funding has been withdrawn and some projects cancelled all together after being announced in previous budgets. For instance, the 2005-06 budget papers confessed that $29 million worth of capital works funding from the previous budget had been withdrawn, while the 2006-07 budget referred to $8.2 million of funding having been scrapped.

The underspend by Labor is sometimes greater than suggested by the rollover of funds because underspend on some projects is often eaten up by blow-outs on others. For example, in 2005-06, the Labor government reported $9.7 million in underspend appropriations from the previous year; yet only $30 million of rolled over financing was available to offset capital works in 2005-06.

The budget numbers are plainly a ruse, as exposed by the capital works reports. These reports provide detail after the event on how much has been spent and, as we have shown on a number of occasions, Labor has failed to spend between a third and a half of what they pledged to spend at budget time. Yet Labor plainly knew the budget numbers were false, because each year they have provided significantly less funding than was required to fulfil their budget pledges. This has resulted in an acquittal of 78 to 91 per cent of funds provided.

Any Labor pledge on capital works spending is not worth the paper it is written on, and the people of Gungahlin and the people of Belconnen who drive on the GDE or who drive on William Hovell Drive every day know that that is the case. Based on Labor's past performance, any budget number of capital works could be reduced by somewhere between a third and a half and arrive somewhere closer to the truth of what has been proposed.

We have seen, year after year, underspends in excess of 35 per cent on the capital works budget. In 2002-03, it was 37 per cent; in 2003-04, it was 36 per cent; in 2004-05, it was 48 per cent; again, 48 per cent in 2005-06; and in 2006-07, another 38 per cent. This goes to show that the Stanhope government does not have the capacity to deliver infrastructure for the people of the ACT.

Let us look at some of the examples that we have, and I will turn to areas in my particular portfolio area. For the past seven years, the Stanhope government has neglected our water security. Labor's one-trick response to the drought was to impose water restrictions, rather than to enhance Canberra's water storage. Over four years ago, in February 2004, the Canberra Liberals announced their intention to commence work on the Tennant dam, with storage of 138 gigalitres. For many years, Labor had ignored the need for more water storage, despite evidence that water restrictions by

themselves were not enough to secure our water future and that initiatives such as domestic water tanks were not cost effective.

The 2003 bushfires put our water supply in jeopardy. The ACT government figures suggested that catchment degeneration and climate change would lead to the reduction in runoff of between 25 and 50 per cent over the next 25 to 50 years in the Cotter catchment. The mismanagement of environmental flows meant that our water supplies were being run down faster than was necessary.

The Labor government consistently opposed the building of any new dams, all the way from February 2004 until October 2007. Labor wasted four years commissioning study after study. The solutions that Labor takes most seriously are always the bandaid solutions, like piping water from distant dams or recycling our sewage water. Each study had been used as the excuse for more inaction. When Jon Stanhope announced the start of water piping from the Cotter catchment to the Googong reservoir, he claimed that this was a good excuse for putting off the dam. A press release from the Chief Minister said:

> … it made sense to see precisely what impact the Cotter-Googong transfer would have on the Territory's capacity before committing the taxpayer to major infrastructure work.

This is what he said in February 2006. And he went even further in March 2006 when he told this Assembly:

> It may be that we do not need to think again about whether or not we will ever need a dam. Perhaps we will in 30 years time, perhaps longer and perhaps never.

Mr Seselja: Such vision!

MRS DUNNE: As the Leader of the Opposition says, such a vision from Jon Stanhope on water security. It was not until late 2007 that Labor finally conceded that Canberra needs more water storage. But their boldest plan now is a proposal to enlarge the existing Cotter dam and, even under that plan, the commencement of filling the dam will not be any time sooner than April 2011.

Then we move to energy and infrastructure. While the ACT contributes only 1.2 per cent of Australia's greenhouse gas emissions, there is a general recognition that, as a capital of a first-world economy, we should be leading by example. The ACT's production of CO_2 has risen from 3½ million tonnes in 1990 to 4.45 million tonnes in 2007. And, on a per capita basis, our production of CO_2 in 2007 reached 13.7 tonnes per person.

The ACT is different from other states in that most of our emissions come disproportionately from two sources: the generation of electricity and transport. Despite the clear opportunities to address greenhouse gas emissions through renewable and alternative systems, the Stanhope government has dropped the ball on this issue.

Its only real initiative in the 2007-2011 climate change action plan under its climate change program is to legislate for renewable energy targets and mandate that green

power is offered to all consumers. It was interesting that yesterday the government had an opportunity to mandate renewable energy targets and it passed up that opportunity.

Until this last budget, there have been no initiatives in relation to research and development of alternative energy systems. We wait with some hope on the feasibility study in relation to the solar power plant. But we are also concerned, given this government's incapacity to get site selection for power utilities right, that they will mess this one up as well.

In addition to the high-level issues, we need to look at the way in which the government handles infrastructure in the suburbs. I point out the issue that my colleague Mr Stefaniak raised the other day in relation to constituents in his suburb of Macgregor. The Chief Minister said in response to that:

> A number of issues were raised, including how much of the area would be developed, the impact of development on traffic, the implications for all roads and resultant traffic impacts.

He stated that a document was released at a consultation meeting that showed exactly what was in store for the people of Macgregor in relation to new road infrastructure. The opposition has a copy of the map in relation to the West Belconnen development. We received it from a Macgregor resident. That does contemplate two access roads from Osburn Drive into the new Macgregor area. One of them is clearly marked and has been on the cards for some time because it ends in a dead end and has done since Macgregor was developed. The other is a new, unnamed road which does not, according to the map, have a roundabout on it and the constituents that I have dealt with and Mr Stefaniak has dealt with—

Mr Seselja: They have made it up.

MRS DUNNE: They have made it up. *(Time expired.)*

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (3.45): Infrastructure is not just bricks and mortar, steel and concrete. It is about service delivery to the community; it is about economic activity; and it is about meeting the community's needs. I would like to thank Mrs Dunne for bringing forward this matter—I must say she did not deliver it with much panache or energy—which is of significant importance to the community and this government.

Given the relevance of infrastructure to service provision, I should take a few moments to mention briefly what this government's record is. And it is a record which is unparalleled. It is a record of doubling the health expenditure. It is a record of lifting the mental health expenditure from the lowest per capita in the country to one of the highest. It is a record of funding disability services and child protection services properly. It is also a record of strong economic growth, of the lowest level of unemployment, of high interstate migration—high levels of economic activity, in summary.

Infrastructure investment has played a significant part in this. The Chief Minister has highlighted the government's record on infrastructure planning and delivery. One particular statistic is worth mentioning here. Data from the Australian Bureau of Statistics indicates that the ACT government's gross fixed capital formation, as a share of the economy, reached the lowest ever point in the territory's history since self-government in 2001. That is right, in the period immediately following the last Liberal government, our level of gross fixed capital formation reached its lowest ever recorded level in the history of self-government. That was a signal of a Liberal Party that, when in government, failed to invest in infrastructure.

Ever since that time, it has been trending up. Let us just reflect on that again. Under the Liberal Party, the level of investment in infrastructure reached an all-time low, as measured by the Australian Bureau of Statistics. But since 2001, it has been moving upwards because, unlike those opposite, this government is committed to investing in infrastructure and has done so in a very significant way.

Canberrans are used to and expect high-quality infrastructure. In response to this expectation, the government places a heavy emphasis on the importance of delivering new, quality infrastructure in a timely way. We are also conscious to carefully plan for and support the growth of the city by investing heavily in our physical asset base. The examples of this commitment by the government are numerous, but I would be pleased to mention a few here.

Of course, the Gungahlin Drive extension is, itself, a very important piece of new infrastructure that provides improved access from Gungahlin and the new northern developments to other suburbs of Canberra. The Canberra Glassworks in Kingston is now up and running, providing a premier arts and tourist facility. The schools renewal and upgrade program is delivering new preschool to year 10 schools in Gungahlin, Tuggeranong and Belconnen and has upgraded already 72 schools across the territory. A new correctional facility has been constructed that will operate according to human rights principles. Measures are also underway to secure the territory's water supply, including enlarging the Cotter dam. These are significant improvements and significant levels of investment.

I would like to speak briefly about the Alexander Maconochie Centre in particular, because it is one directly relevant to my portfolio. Contracts that have been let to date in relation to this project include the engagement of the program manager, the engagement of design consultants, early earthworks construction, bulk earthworks construction and main construction contracts. At 30 June, we are 95 per cent complete on this project and the build and the project are on time and on budget.

Mr Seselja: On budget?

MR CORBELL: Unlike the Leader of the Opposition and the myth he likes to propagate, this project is on time and on budget. The buildings generally have good orientation to minimise heat gain in summer and promote free heating, good shading to reduce summer heat, high levels of roof, wall and floor insulation and a range of other measures to improve their energy and water efficiency. Building materials have

been selected to be easily recycled. A comprehensive waste minimisation and recycling system is provided and the site is controlled through a building management system which provides control and monitoring of major plant and energy consumption. Our investment in this piece of infrastructure is a great example of efficient and effective capital works delivery and one that the territory will see much benefit from in the years ahead.

The National Convention Centre refurbishment project is another example of the government delivering on its infrastructure commitments, with the government achieving savings in the vicinity of $4.3 million in the delivery of this project—savings which were able to be reallocated to assist with the enhanced delivery of the 2007-08 capital works program.

In addition, there are a number of other infrastructure and community assets that have been delivered, such as the new Harrison Primary School and associated access road and playing fields, the Tidbinbilla Nature Reserve Discovery Centre and the medical records and data centre at the Canberra Hospital.

The government's record on the delivery of capital works is a strong one. There is no greater proof of this, of course, than the recognition that the projects have received from external and third parties. Perhaps the best example of this is the decision by the Master Builders Association to grant the major civil project award, and indeed the major construction project award over the last year, to an ACT government project—the Gungahlin Drive extension. And that was a very significant project that delivered seven kilometres of road, 10 bridges and underpass structures.

It was an extremely complex project, involving traffic management and major intersections and construction of various bridge types, including the 74-tonne super T-spans and four bridges within 50 metres at three different levels. Considerable consultation was undertaken and it is a great acknowledgement of this government's capacity to deliver major projects that it has been awarded this most significant level of recognition—not by a government agency or even another government body but by a non-government advocacy body whose main interest is in civil commercial construction.

Of course the government is not content to rest on its laurels when it comes to infrastructure programs. We are committed to an ongoing program to continually improve outcomes for the people of Canberra. We have already initiated a review of internal procurement processes. This review, which is now nearing completion, is aimed at achieving the most efficient and effective framework possible for the delivery of capital works to the territory. This review will help to streamline existing procurement processes while simultaneously locking in a framework designed to manage the risks to the territory associated with the delivery of a capital works program of the size now regularly being delivered by this government.

Moreover, planning for the delivery of the 2008-09 capital works program is already well underway. The government, through Procurement Solutions, will be actively engaging industry, aggressively seeking to form partnership and synergies with the private sector to coordinate the engagement of capital works providers to deliver this

year's massive program. Working closely with industry providers will help to minimise peaks in demand, ensuring the most efficient use of available resources as the government delivers on its promises to the community.

The government has approached its capital works program in a planned and strategic manner. We have a proven track record in delivery, with record expenditure and record commitments. And, of course, as the Chief Minister highlights frequently in this place, the size of our capital works project, just for this year, of over $360 million-odd is equal to about four times larger than the infrastructure projects put in place by the previous government in their largest manifestation.

The scale and the size of infrastructure projects now being delivered by this government leave the Liberal Party and its time on the government benches in the shade, completely in the shade. But more important than that, their record is also one that must be questioned again and again. Not only was their infrastructure program so much smaller, it was poorly delivered.

Let me highlight a few of the examples. Let us not forget Bruce Stadium, which was a shambles from the start. Let us not forget Bruce Stadium—not properly scoped or funded. The list of faults is long—a dubious procurement process, budget blow-outs and of course the infamous illegal overnight loan. That is the history that the Liberal Party left us with as their largest single capital works project. That is the largest legacy that you, Mr Seselja, and your colleagues must live down—a dubious procurement process, budget blow-outs and an illegal overnight loan. That was their history on their so-called icon capital works project.

There are, of course, many other examples of the previous government's incompetence with capital works delivery. The Impulse hangar for an airline that went out of business—let us not forget that one—the great hangar out at the Canberra Airport which sat empty for years is another great example of the previous government's record when it came to capital works delivery.

I mentioned the ABS statistic a moment ago.

Opposition members interjecting—

MR CORBELL: Of course they do not like it. They do not like it, because they do not like it when their own faults are pointed out to them. They do not like it when they have to face up to the record of their colleagues, particularly the record of the Deputy Leader of the Opposition, Mr Smyth, and the shadow Attorney-General, Mr Stefaniak, when they were in government.

Mr Seselja: Tell us again how you saved so much money on the prison.

MADAM ASSISTANT SPEAKER (Mrs Dunne): Mr Seselja, you are encouraging the minister to be disorderly.

MR CORBELL: And we will remind them again and again of their failings when it comes to infrastructure. People in glass houses should not throw stones.

I mentioned the ABS statistic a moment ago—the lowest level of capital investment as a share of the economy in 2001. What an appalling record for those opposite to leave this city—the lowest level of capital investment as a share of the economy in the history of self-government. Clearly it was a government incapable at the time, as they were, to deliver on improving infrastructure and investment and it has been left to the Australian Labor Party to pick up the appalling legacy that they left and to start making investment in infrastructure that the community expects, whether it is infrastructure in schools, infrastructure in roads, infrastructure in health, infrastructure in the range of government services that this community expects.

It is clear that the previous government's approach to infrastructure was nothing but ad hoc. They demonstrated no vision, no commitment to the city, no idea about how to support the growth of the city and no commitment to make the hard decisions that were needed to fund desperately needed infrastructure. In contrast, this government's proven track record in infrastructure delivery and preparedness to invest is second to none and it stands in marked contrast to the appalling track record of the previous government.

Going forward, this government has announced its $1 billion building the future plan for our city. We are committed to ensuring that it is invested to rebuild our hospital system, to further invest in education, to invest further in essential road and transport infrastructure and to create a city that all Canberrans can be proud of. The investments made in this budget complement the services and investment in services the government has made over the past seven years and it is a measure that we will continue to judge ourselves by going forward.

The bottom line is: the comparison is a stark one—illegal overnight loans, poor procurement processes, damning Auditor-General's reports into the management of infrastructure delivery as against the delivery of a capital works program that is the largest in the territory's history, being delivered in a way that meets the services and needs of the Canberra community. *(Time expired.)*

MR SESELJA (Molonglo—Leader of the Opposition) (4.00): It is always difficult to speak after Mr Corbell in a debate because you have got your prepared speech.

MADAM ASSISTANT SPEAKER (Mrs Dunne): This is not a debate, Mr Seselja; it is a matter of public importance.

MR SESELJA: Unfortunately, you have got to respond to all the silly things that Mr Corbell has to say. I will briefly do that before I get to my remarks.

Mr Corbell had the hide to talk to us about empty buildings at the airport. He has overseen a situation where, with the ESA headquarters, we are paying $170,000 a month in rent for 20 staff—and he has the hide to tell us about empty buildings. That is his record. The other amazing thing was when Mr Corbell, with a straight face, said, "The prison has been delivered on time and on budget." On time and on budget! We started with a $110 million project for a 374-bed facility. We are now going to spend $131 million on a 300-bed facility. On that logic, I suppose that if you made it a

one-bed facility, you could have really saved the taxpayer a lot of money. We could have come in well under budget! It is a ridiculous thing to say. It has come in over budget and under spec. That is what you have got with the prison, so that is Mr Corbell's infrastructure record—empty buildings at the airport costing $170,000 a month and a prison that is over budget and below the spec that was given initially.

Since Labor came to office, the ACT government has received a cumulative windfall of revenue at least $1.673 billion greater than it was expecting at budget time. Windfall revenue has averaged a massive $279 million a year or close to 10 per cent of total expected government income. Total ACT government revenue has rocketed from around $2 billion when Mr Stanhope came in to over $3 billion today. So the ACT government has seen over $1 billion more in revenue every year.

The Stanhope government has failed in infrastructure spending in three significant ways. First, it had considerable capacity to increase its spending on capital works but it has been spending less than is needed. Second, it is not meeting its own budget promises for infrastructure spending. It is underspending by a half to a third of promised work. Third, it has still failed to develop an effective capital works strategy to ensure that bottlenecks are anticipated and prevented ahead of time.

There has been a very dramatic need for increased infrastructure spending in Canberra since 2001. Over the past seven years, the commonwealth government has created thousands of new jobs in Canberra but the local Labor government has failed to keep pace by building infrastructure to cope with growth. Some commonwealth agencies have grown significantly in size. For example, the Australian Federal Police budget has grown threefold since 2001 and the intelligence agencies have also been expanded massively.

The growth in commonwealth activity did not arrive without warning. Thousands of new jobs were announced each year in the commonwealth budget, but Jon Stanhope has failed to plan for the extra demand on local infrastructure. He has let numerous infrastructure bottlenecks develop under his watch. As you mentioned, Madam Assistant Speaker, not very long ago journeys to work of over 40 minutes were unthinkable in Canberra. The NRMA said that in 2001, when Labor came to office, it inherited a good road network. But under the reign of the Stanhope government we have seen traffic congestion become a reality. We have seen the bottlenecks, particularly around the airport and in other areas, and we have seen the apparent fix, which is a one-lane GDE which has not solved the problem and has left Gungahlin and Belconnen residents sitting in traffic for much longer than should be the case, because this government simply could not get it done.

Canberra has the economic capacity at this time in our history to invest in our major infrastructure. The ACT government has three significant generators of above-average revenue. First, soaring property prices have brought windfall stamp duty receipts and hundreds of millions from land sales. Of course, when you sell assets such as land, you should be investing it in infrastructure, and we have seen massive windfall gains from commercial and residential property during the life of this government. Second, GST receipts have been above what was expected when this consumption tax was given over to the states and territories. Third, decisions by the ACT Labor government

to increase taxes and charges have added to the bumper harvest of revenue. But we do not have enough to show for all of this unexpected revenue.

Labor promise big in their annual infrastructure budgets, but they have never once, in all their years in office, come close to delivering on their promises. Labor's capital works underspend was as much as 48 per cent of the promised funding in 2004-05. They promised $247 million, but only delivered $118 million. They also underspent 48 per cent in 2005-06, and we know this from the government's own secret capital works reports—reports which we are now only able to obtain through FOI requests because the government now refuse to table these reports in the Legislative Assembly. I wonder why.

Of course, we know what the examples are. We know that the Gungahlin Drive extension should have been a two-lane road each way, and it was not. Ms Gallagher sighs because she does not want to hear it, but the reality is that everyone knew, when they decided they would build only one lane each way, that they were neglecting the people of Gungahlin and Belconnen who use that road, because it was never going to be sufficient. It was never going to get it done.

We saw the saga with the Tharwa bridge. In July 2005, Minister John Hargreaves claimed that a new bridge would be needed. On 19 September 2006, Labor closed the bridge because they had failed to take action to make it safe. They waited until 17 January 2007 before they lodged a development application for a new bridge. My colleague Mr Pratt has done a fantastic job in highlighting that this has been another monumental stuff-up.

The other one that we often refer to—and I have already mentioned the apparently on-time and on-budget prison—is the airport roads. This has been a bottleneck that everyone saw coming. We have seen the growth in commonwealth agencies; we have seen the growth in the workforce out at the airport; we have seen the growth in Gungahlin. We have seen all of those things combined, as well as the growth in the eastern corridor with Queanbeyan, yet this government could not see it coming and in fact deferred much of the spending.

The last Liberal government provided money eight years ago in the 2000 budget for duplication of Pialligo Avenue from the airport all the way to the city. Labor inherited the project, but every year it would defer the project. It deferred the project in four successive budgets. Then, in 2006, Labor made the decision to cancel the duplication of Pialligo Avenue between the airport and the city in order to subsidise cost blow-outs on Gungahlin Drive. This is its record, Madam Assistant Speaker.

We have announced, in "infrastructure Canberra", a plan which will go some way towards improving the situation. You cannot make a government make good decisions. Let us be clear: "infrastructure Canberra" would not have stopped a bone-headed government from making the decision to build only a one-lane GDE, but we certainly can put in place some structural improvements, which this government has refused to do, which would improve the situation significantly.

We have announced a Canberra infrastructure plan. We have announced that, under this plan, we will design and fund infrastructure works to meet the demands of future

population growth ahead of time, and not provide bandaid solutions. We will aim to prevent bottlenecks and shortages before they arise. We will rectify the backlog in infrastructure works that has built up under Labor. We will appoint an independent infrastructure commissioner to regularly audit the state of our infrastructure, to consult the community on their priorities and to report annually to the parliament on what has been achieved.

The infrastructure commissioner will be backed by an independent board which will include a balance of industry and community reps. This board will enhance community input, ensure that private sector expertise is heard in the debate and will strengthen the independent scrutiny of government investment. The Canberra Liberals will create a stand-alone public works committee in the Legislative Assembly, because this has never been properly scrutinised in the Assembly. So we will get the advice up-front and we will have an infrastructure plan that deals with all of the areas, so that we can deal with infrastructure in a holistic way, rather than having the "patch-up and catch-up" method of doing things that we have seen under this government. Then, when the major works are being done, they will be scrutinised by the public works committee. So we will get it coming in and we will scrutinise it coming out. This will help to improve the situation. It will make a real and significant difference to the way infrastructure is delivered.

But, as I said, whatever you put in place, you can't prevent politicians from making stupid decisions, and that is what we have had under this government. It was a stupid decision to build a one-lane GDE. It does not matter whether you have an infrastructure commissioner advising you; this government chose to make those decisions. It was a stupid decision to defer building a dam. We have seen delay, delay and delay—getting reports and doing studies, when blind Freddy could see that we were running out of water, that we could not afford to wait and that we needed to increase our capacity. It has taken them most of this term in government, and most of two terms in government, to realise that we need to act on our water situation.

This government's legacy is one of catch-up and patch-up. We have a clear plan to enhance infrastructure. At a time of these billion-dollar windfall revenues, the people of the ACT deserve better than what they have been getting from this mob, and we have got a plan to do it.

MR MULCAHY (Molonglo) (4.11): You can't do anything about politicians who make stupid decisions—how true those words were.

I will speak briefly about today's MPI. The prompt and efficient delivery of infrastructure projects is an important issue for the Canberra community and is worthy of discussion. There have been some noteworthy failures over the term of government of those on both sides of this place. Similarly, the maintenance infrastructure is important and is an issue that is raised with me time and time again by constituents. In my remarks today I will touch on both major infrastructure projects like the Gungahlin Drive extension, which has already been talked about to some extent, and, just as importantly, the maintenance of municipal infrastructure. The appearance of Canberra and the maintenance of our public municipal infrastructure is, as I discussed last week during the budget debate, a most important subject. Indeed, it is possibly one of the most important responsibilities of this Assembly.

In relation to major infrastructure projects, I believe that both major parties have made some valid points in this discussion today. Certainly, the public need to have confidence that the government of the day will be able to deliver infrastructure projects on time and at a reasonable cost; that is crucial. The reasons behind unreasonable delays or cost blow-outs need to be examined and explained.

I accept the government's argument, however, that there are valid reasons why there will be delays and that it is a legitimate approach to roll over funding for major infrastructure projects from one year to the next. So I am not sure that the full breadth of the opposition's criticism of capital projects announced in the 2008-09 budget is entirely justified; it could be a case of opposition for the sake of opposition.

I am critical, however, of the Gungahlin Drive extension. It is clear that the road is not going to serve the Gungahlin community's needs into the future. Clearly, it should have been built with two lanes in each direction, and that is evident during peak travel periods. What is even more disappointing is the fact that the government have indicated during estimates hearings that they will not be commencing work to expand the road for at least 12 months. The reality is that it could well be years before the necessary work is done to expand the road. Preliminary work, even if it is just monitoring road usage, should begin as soon as possible.

The need for this sort of forward planning relates to the next point that I want to make. The appearance of Canberra has always been a source of great pride to many residents. This is particularly true of older residents who remember the days before self-government well—the days when it almost seemed that footpaths were paved with gold. I recall very well that in the 1970s the attitude of people here was one of pride in the city and the way it was maintained. Although people spoke somewhat irreverently about the three faceless men who ran the NCDC, the fact is that this was a beautifully maintained capital.

I accept that the days of federally fully funded municipal services are over, although one has to recognise there is municipal funding provided under the grants system, to take into account a number of issues related to Canberra being the capital, but I believe that we need a system that will ensure that we maintain a high standard of infrastructure maintenance in the territory. We should have a city that is both easy to live in, with a high standard of municipal infrastructure, and a city that reflects Canberra's status as the nation's capital.

I pay credit, as I did in my budget speech last week, to the minister, for both his efficient handling of the many representations that I send his way and the timely manner in which his departmental officers tend to address specific concerns that I raise. They are efficient, and this should be acknowledged, at logging concerns and taking action to address issues like cracked footpaths and roads and poorly maintained parks. This efficiency is needed. Of all the thousands and thousands of issues that have been raised with me since my election to the Assembly, the most common are those that relate to the Territory and Municipal Services portfolio.

I am sure that the minister's office and the department are thoroughly sick and tired of receiving letters detailing particular constituent concerns about what might seem

relatively small municipal matters. However, I say today that, as long as I am in this place, I will continue to send many more of them.

I do believe—and this goes back to the point of today's MPI—that improvements are needed in proactively identifying and planning for deficiencies in the municipal infrastructure of Canberra. I would like to get to the stage where I receive far fewer complaints from people about isolated incidents that require attention. I have noticed some reduction in the number of complaints about the health system. That obviously indicates there are improvements occurring in that area, but I think we have got a long way to go. But with respect to municipal issues and concerns that are raised by residents, I think that more potential problems would have to be identified before they reach the stage where major repairs or replacements are required.

Canberra is, in world terms, a young city, but it is reaching an age when large areas of infrastructure are ageing and are in danger of falling into disrepair. Whilst an ad hoc, fix-it-as-it-is-reported approach will work to an extent, it will eventually result in the territory looking tired and run down. I believe this is what has happened now, and it probably has been happening for a decade or more. This is particularly true for older suburbs in more established parts of Canberra like the inner south and the inner north. The problem in these areas is twofold. On the one hand, suburbs like Campbell lack much of the infrastructure that is par for the course in newer suburbs. On the other hand, the infrastructure that is there is older and more likely to be in need of regular maintenance. We need more attention paid to these suburbs—not just responding to concerns, but identifying them before people complain about them. I am advocating a more proactive approach.

Beyond these older suburbs, to an extent I think the problems that we are experiencing now are a reflection on both the current and previous governments. In newer parts of Canberra, issues like cracked footpaths are less likely to be an immediate concern. However, it will be no time before areas like Tuggeranong and Gungahlin are no longer pristine, new areas with brand new infrastructure. Even the newer parts of Tuggeranong will soon reach the 10 to 15-year-old mark and will require significantly more attention to maintain the standard of municipal services.

It continues to stagger me that Mr Pratt has repeatedly in this place cited photos of either current or former government facilities that have been covered with graffiti and, for reasons that are beyond my comprehension, those problems do not seem to go away. I have also had complaints from people who are less than thrilled with the current policy whereby, if there is graffiti on property adjoining a public area, such as down on Hindmarsh Drive, where homes back onto Hindmarsh Drive, the policy now seems to be a matter of saying, "Well, the residents have got the problem."

I believe that, to avoid the appearance of Gungahlin, say, becoming a major issue in five years time, we must adopt a more proactive approach now to ensuring that things like footpaths, roads, parks and the look of our city are regularly addressed, and so that we maintain standards. It is no different from a business locality: if you do not invest in maintenance, if you do not ensure that painting is regularly undertaken, if you do not ensure that broken things are addressed and if you wait until there is a complaint, it very quickly becomes an eyesore.

This city is becoming a patchwork quilt in terms of the state of roads. In fact, last week I crossed London Circuit at the traffic lights opposite the Hermitage restaurant and I nearly broke my leg when I stepped onto the road and saw a major dip on London Circuit. It was not visible or evident when I crossed. It was on one side of the median. This poor state of repair is in one of the major parts of our city. I was going to mention it to the minister but he has been away as he has been unwell. That sort of situation should not be there and waiting until somebody is injured or raises a complaint.

Two weeks ago, a constituent broke her ankle when she stumbled in the inner part of the city over an area of footpath that was in disrepair. I know that the minister and his staff cannot have their eye on every piece of pavement and roadwork in the whole territory for every minute of the day. But I would like to think that more money can be assigned to trying to address these issues before they result in more damage and sometimes injury to individuals.

I will conclude my remarks at that point. I believe this is an important topic and I am glad that Mrs Dunne had this listed as an MPI.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (4.20): I thank the member for raising this matter of significant importance to the Canberra community. I also thank Mrs Dunne for providing the government with an opportunity to highlight its achievements so far, its plans and commitments for the future and to contrast those with the opposition's record.

This government understands the importance of infrastructure to any jurisdiction, particularly state and local governments. The government's commitment to the delivery of high-quality services and to improve the social and economic wellbeing of the community is unparalleled. Infrastructure is an important vehicle for delivering services to the community and is an essential input to almost all economic activities. It is for this reason that the government have placed high emphasis on the maintenance and provision of high-quality infrastructure to support the economy and services to the community since we came to office.

Our record on delivering infrastructure speaks for itself and far eclipses that of the previous government. The comparison could not be starker. When we came to office in 2001, the annual capital works expenditure was around $100 million. This year, the 2008-09 budget papers forecast a record level of expenditure at around $315 million. This is three times higher than when this government came to office. The previous government, in comparison, delivered very little. The numbers speak for themselves. In 1998-99, $64 million was delivered and, in 1999-2000, $76 million was delivered. This is, in comparison on delivery, less than a hundred million on average per annum by the previous government and almost three times that by this government in just one year. Just one year's expenditure by this government would eclipse the expenditure in the whole term by those opposite.

It is also useful to compare budgets. The average budgeted program between 1998-99 and 2000-01 was a mere $86 million. The average budgeted capital works program

over the last three years, 2005-06 to 2007-08, was $350 million. This is the comparison. We have budgeted three times higher and we delivered against that.

Expenditure on capital works programs is often delayed due to factors which are largely outside the government's control. Factors such as workforce availability due to the high level of construction activity which has been experienced in the ACT over recent years, weather conditions, legal proceedings and the need to carefully schedule works to minimise disruptions and maintain continuity of services all impact on the government's ability to deliver programs on time. Given all the factors which can influence the delivery of the program and the size of the capital works program, the government's delivery record is a significant achievement.

If I can just look at examples in my own portfolio of projects invested in by this government, which were delivered promptly and are today providing benefits to the community: in 2001-02, the Tuggeranong Health Centre and Belconnen Health Centre had health centre refurbishments; in Rivett, the Burrangiri Respite Care Centre had refurbishments; and in the Calvary Hospital (Public), we had refurbishment of the operating theatres. In 2002-03, we had paediatric refurbishment of levels 4 and 5; and, in community health, we had child health clinic upgrades.

In 2003-04, we had Canberra Hospital security system replacement; emergency department refurbishment; replacing signs and access improvements; and refurbishment of the pain management clinic. In Calvary Hospital (Public), we had the refurbishment of non-inpatient and administrative areas and the emergency department diagnostic and observation unit. In 2004-05, in Moore Street, we had the drug and alcohol unit refurbishment.

In 2005-06, we had the corporate office fit-out of 11 Moore Street; the rebuild of the Howard Florey health protection unit; the extension of the psychiatric secure unit in Canberra Hospital; the relocation of the helipad and the multistorey car park; building 10 lifts and dumbwaiter upgrades; orthopaedic theatre refurbishment; anatomical pathology laboratory refurbishment; refurbishment of the paediatrics unit. In Calvary Hospital (Public), we had the electrical and lift upgrade; at the Canberra Medical School, the restoration of the roof decking; improvements to security and access control.

In 2006-07, we had the refurbishment of the roof of the old analytical laboratory; at Canberra Hospital, the medical records relocation; at the Canberra medical school, there was a massive project; the refurbishment of medical imaging reception area; at Calvary Hospital, the sterilising facility; the sub and non-acute inpatient service; the plant and building upgrades and fire safety upgrades.

In relation to disability, housing and community services, we have got in the next couple of months the opening of the $42 million Bimberi Youth Justice Centre. We have built two child and family centres in Gungahlin and Tuggeranong. We have fitted out the Holder therapy service, the single service therapy accommodation; upgrades to the Quamby Youth Detention Centre; the Griffin Centre; the Palmerston Community Hall; the Multicultural Centre; Swanson Plaza single-service therapy accommodation; intensive care and treatment facility; the Weston Creek child care

facility; and the Civic Youth Centre. We have established regional community facilities in neighbourhood halls, through this budget; the Forde Community Centre, the Belconnen Community Centre upgrade; and the ATSIC Cultural Centre upgrade.

In health, this is only the beginning. We have already announced our program of $300 million for building the future and supporting the growth of our hospital system. Specific projects funded in this year's budget include the women and children's hospital; a suite of mental health facilities, including a young persons unit, an adult inpatient unit, a secure adult unit, a mental health assessment unit; a surgical assessment and planning unit; a new neurosurgery operating theatre; an intensive care high-dependency unit at Calvary Hospital; and a new community health centre in Gungahlin. Provisions are also being made for planning, feasibility and forward design studies for the complete reconfiguration and redevelopment of health facilities in both hospitals and the community.

These are the significant investments that will benefit many of us at some stage in our lives. These are the investments to meet the health needs of our community over the next decade and beyond.

The building the future program allocates $250 million for integrated transport system initiatives, spanning roads, car parks, efficient disability standard compliant buses, public transport services and cycle paths. The government continues to invest in infrastructure and programs to support alternative transport modes and introduce measures to encourage better performing vehicles. It was also investing in the road network as part of an integrated transport system. The infrastructure investment in this budget will improve the efficiency of the whole transport system, address traffic congestion, reduce the levels of transport emissions and provide the community with better transport options. That is what is being committed in this budget. Contrast that with the poorly costed and unfunded Gungahlin Drive extension project that we inherited.

One hundred million dollars is allocated to the look and feel of the city. A significant expansion of the capital upgrades program is being undertaken, with investment targeted at community amenities such as public toilets, barbeque places and general recreation areas.

The building the future program provides an additional $100 million for climate change initiatives to reduce our carbon footprint or for adaptation to climate change. Along with the investments already made, the government would have committed $242 million to climate change initiatives—$242 million just for climate change. That is larger than the whole capital works expenditure over the whole term by the previous government.

I am pleased to advise the Assembly that the government has a proven track record in delivering infrastructure projects. The government is delivering record capital works programs, with the forecast expenditure in 2007-08 being $314 million. Not only is the size of the program significant but the quality of the program is being appreciated and recognised by organisations such as the Master Builders Association. Also of importance, infrastructure is being delivered in a planned and financially sustainable

manner, ensuring that our infrastructure meets the needs of the community both now and into the future. That capacity comes from the government's prudent financial management.

The government is proud of its record. It has the vision, the strength and the capacity to build on that record. The government continues to focus on the infrastructure provision, with its building the future program. It is an integrated program. It has economic, social and environmental benefits. But more importantly, it prepares Canberra and the Canberra community for the future that we know is coming, particularly in health. We have done the work; we know what the data is saying; we know what the community is saying. We know what we have to build in terms of providing a healthcare system for when the health tsunami hits in 2016. It is a system that virtually doubles its current capacity. It is about new beds; it is about new buildings; but it is also, importantly, about staff and IT systems to support that infrastructure.

But the first decision that needs to be taken is that infrastructure needs to be built. There has been enormous local and national interest in getting involved in the health reforms and the health infrastructure. We have held expressions of interest meetings and we have had many of the big players from across the country come and find out what the government is intending to do. Now, with the passage of the budget, we will make sure that that process moves very swiftly so that we can have in place the projects that we need to run this year to get this program ready to deliver for the Canberra community in 2016.

MR PRATT (Brindabella) (4.30): The Deputy Chief Minister is blowing an absolute pipe dream. The government have demonstrated no vision. They have pooh-poohed any analysis of light rail or future transport plans and transport systems. We know, by their failure on the power station and the way that they have led ActewAGL up the garden path that they have demonstrated no sensibility or judgement in large project planning.

We have had five years of neglect on roads. All the money that is in the budget now for roads, while it is welcome, is there to catch up on five years of neglect. The Pialligo Avenue and airport precinct, et cetera, Tharwa Drive projects were bled dry by the government's poorly managed Gungahlin Drive extension monster. Mr Mulcahy talked about the basic infrastructure. He is absolutely correct. Footpaths, shopping centres, drains are time bombs. These issues will have to be addressed.

MR SPEAKER: The time for this discussion has concluded.

Acting Speaker—appointment

Motion (by **Ms Gallagher**) agreed to:

> That:
>
> (1) this Assembly authorises Mr Stefaniak to perform the duties of Speaker for the period 20 to 25 July 2008 inclusive, during the absence of both the Speaker and the Deputy Speaker from the Assembly; and

(2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Leave of absence

Motion (by **Ms Gallagher**) agreed to:

That leave of absence be granted to Mr Stanhope for this sitting on the grounds of Executive business interstate.

Justice and Community Safety Legislation Amendment Bill 2008

Detail stage

Bill as a whole.

Debate resumed.

MRS BURKE (Molonglo) (4.32): I rise to add a little to what Mr Stefaniak said earlier today. I was reading through the *Hansard* of March in terms of what Mr Corbell had done then and was quite pleased to read what I did then. I do foreshadow my concerns about the amendment that moved by Mr Corbell. I hope that it does not in any way negate that earlier amendment in March.

So it is with some caution that we would accept what is being put forward here. But I would like to see it working in practice, because it does change the position, in that it says that the tribunal may make a termination and possession order—and this is the amendment:

… if it satisfied that the breach justifies the termination of the tenancy.

As we know—and many members have raised it in this place—there is the issue of antisocial behaviour, the very vexing issue of when, how, why and if we evict somebody. It is worth noting that at this stage that I and other members of the opposition are in receipt of many complaints. And we were talking now in the order of 20 to 24 suburbs in Canberra being affected. So we do need to make sure that we are looking at not tossing people onto the streets. I think Mr Hargreaves said at some stage that I apparently often say, "Kick them out." I would like Mr Hargreaves to say wherever I have said, "Let's kick them out," apart from now when I was quoting him. I do not work that way. If people know me, they know I do not work that way.

In fact, many of the complaints that we are having at the moment are coming from public housing tenants about other public housing tenants. And Mr Hargreaves is quite right. What he says is that they have been hamstrung until now. And what he is saying is really no more than just shifting the chairs on the *Titanic*, because we tend to move the problem to somewhere else in the community. Whilst giving them every support and opportunity to really rectify and make good their tenancy agreement, we

are just moving the problem somewhere else. The worst thing of all of that, too, is that the good people who are waiting on the waiting list cannot understand why people who are badly behaved get to be moved out and often to better accommodation.

In terms of time today, I just wanted to put on the record that it is a concern. Antisocial behaviour continues to be a concern. It continues to be a concern because those people that persist in this type of behaviour simply play the government; they play the authorities. Simply saying that we will have to be satisfied that the breach justifies the termination of the tenancy, I really hope, will not water it down. I hope that those people who are currently the victims of these people and who are at the hands of people carrying out antisocial behaviour see some result here.

When people have been given chance after chance after chance, when is it time that we draw the line? When is it that we say, "We will not keep letting you flout the law"? I am hoping that this is going to be enforceable. I hope that people will make the choices to abide by their tenancy agreements. That is ultimately what we want.

I think what Mr Corbell was saying in March was that we have to really give people the opportunity to be able to abide by that agreement and that we do not ever have to get to evict people. But we cannot let a situation continue that is continuing in Canberra right now, where there are no boundaries, it would seem. Complex problems are rife throughout the system and, often—it is unfortunate—people have to make that choice: either abide by your tenancy agreement or find alternative accommodation. Why should the majority of good people have to suffer? And Mr Hargreaves himself says it is a minority that we are having a problem with at the moment.

That is what I would say. I am pleased to see that the government is trying to do something. I have to say, though, it does seem to be too little too late. I will be watching carefully to see how this works out. I hope it sends the message to those people who continue to flout their agreements that they are on notice and that there is now going to be a bit of a tougher course for them to work through. I think that we want to see and need to see in our community a real decrease in the amount of antisocial behaviour, particularly in our public housing properties and particularly when it is perpetrated against other public housing tenants who are also vulnerable.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (4.37): I do not think it is reasonable to suggest that this amendment that deals with breaches of tenancy agreements is adding a new or additional threshold for decision making when it comes to whether or not someone should be evicted. I refer to the fact that this requirement that is proposed, whereby the tribunal must be satisfied that the breach of a specific performance order justifies the termination of the tenancy, is consistent with other sections which are already in the act and which deal with termination of a tenancy agreement. We are saying that we need to be consistent. There are other provisions in the act that say that, if the tribunal is to consider termination of a tenancy, it must be satisfied that the breach warrants termination of the tenancy. We are saying that in these circumstances as well it must be satisfied that the breach warrants termination of the tenancy. So it is a consistent approach. It is not a lessening but nor is it a raising of the threshold. It is maintaining the threshold consistently.

MR STEFANIAK (Ginninderra) (4.38): I have just talked to Mrs Burke about the matter. We are happy as far as that goes, minister, so we will not press our amendment. Mind you, it is probably handy to monitor it because, at the end of the day, we do not want the court going off on a tangent or on a very narrow interpretation of the law, as it seems it did, and which caused your original amendment. We want to make sure there is the necessary flexibility for appropriate orders, including, obviously, an order for eviction, if that is necessary in order to get rid of a horribly disruptive tenant—not only the tenant who does not pay rent but the tenant who refuses to live by normal, civilised standards and causes their neighbours all sorts of problems. Unfortunately, we see that, be they private tenants or public housing tenants, and even in big complexes, and they make their neighbours' lives a misery. This is something we will monitor, but I note what you say.

Amendments agreed to.

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

Bill, as amended, agreed to.

Crimes (Forensic Procedures) Amendment Bill 2008

Debate resumed from 10 April 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (4.40): The opposition will be supporting this bill. It contains a number of sensible provisions which will make the lot of police, with respect to the keeping of evidence, far better than is the case at present. It puts into effect the national agreement between all Australian jurisdictions for the sharing of DNA information. It improves efficiencies in the enforcement and implementation of the act and related legislation.

There are also some provisions in terms of compliance with the Human Rights Act. Sometimes that can go a little bit overboard; we have to balance rights. Unfortunately, the Human Rights Act does have a propensity for—in fact, more than half its sections seem to concentrate on—the rights of offenders rather than of victims and society. So we will have to monitor that to see that it does not go too far overboard. But the provisions, insofar as they go, seem to be relatively innocuous and seem to represent what would be standing operating procedure. Whether you need it in legislation, I suppose, is another matter.

Most importantly, the bill clarifies that the ACT continues to own the ACT DNA database that is uploaded to the national crime investigation database. To do this, the government has engaged CrimTrac—we think that is sensible—which also manages the national database and is the ACT's agent in handling our data. The bill creates consistency with other jurisdictions regarding the circumstances in which DNA can be matched across jurisdictions, with special rules applying when matching DNA that has been volunteered.

The bill also provides for oversight and accountability powers and requirements in relation to inspections and audits of the manner in which our data is used, obtained and destroyed. It distinguishes between identifying DNA data held in the database and actual samples. That is quite sensible; in doing so, it provides that identifying DNA data has to be removed from the database within 12 months, or indeed less if a person is acquitted of a charge. However, it retains the ability for police—and this is crucially important—to apply for database information to be retained if there is a proper forensic purpose, and indeed for the samples themselves to be retained, which is very important.

The bill also provides a range of comprehensive processes in relation to the collection of forensic samples from and the rights of suspects and volunteers such as victims of crime, including minors. Again, they are important and sensible provisions. The victim, of course, can have whoever they wish with them when a sample is being taken. I think that is sensible in terms of looking after the rights of victims, showing sensitivity to victims and helping them through what is a very difficult period. The victims invariably in these situations will have been highly traumatised by the crime and anything we can do to make their lot easier in terms of taking them through processes is to be applauded.

Earlier this morning, the attorney tabled a bill relating to victims of sexual assaults and other violent crimes. I think it is a very important bill. I would have liked to have seen it two years ago, but it is better late than never. Much of the thrust of that bill is to give due sensitivity to victims, and that is crucially important. So the provisions in this bill are important in that regard.

The bill is somewhat prescriptive in terms of the manner in which forensic procedures can be undertaken. I would have thought that, if you take hair strand samples, as a matter of course you would do so using the least painful technique, without having to stipulate that. But there you go; that is what you get if you have overly prescriptive legislation like the Human Rights Act, which does lay out the administrative processes involved for the respectful treatment of suspects, volunteers and serious offenders, and even the cultural and religious significance of certain items of clothing. The effectiveness of some of these precautions, particularly as they relate to suspects and serious and multiple offenders, remain to be seen, although I am advised that the bill does no more than formalise police procedures that are in operation. The police do have procedures like that, so we will see what occurs there. I doubt that there is any real problem there, but we can monitor it.

The procedures that are now to be enshrined in legislation relate to the obligations on police and others who collect forensic samples; court orders, with or without the presence in the court of suspects, including new arrangements allowing for appearances by audio and audiovisual links; the rights of those suspects, including special provisions in relation to serious offenders and volunteers, in relation to the collection, retention and destruction of personal forensic samples such as DNA, including the use of reasonable force; the recording by photograph and/or video of the collection of personal forensic samples; and the analysis of samples and the availability of those recordings and analysis to the person from whom the samples

were collected. There is also DNA profile matching, which carries special restrictions relating to volunteered DNA.

The bill confirms powers on the minister which can be delegated to the chief executive of the department or the Chief Police Officer, as well as the Auditor-General, the human rights commissioner, the Ombudsman, the Privacy Commissioner and any other prescribed person to audit and review information stored on the ACT database.

I thank the department for the briefing given to my office on this bill. The following comments came forward in that briefing. The bulk of the amendments pick up on recommendations from the police consultation phase. By having a definitional distinction between data and suppliers, it would be clearer for scientists as to exactly what information can be destroyed. The human rights provisions generally do not create any new burdens; largely, they just provide a legislative basis for existing practice. I highlight that I would be concerned if they impose additional burdens on the police. I think many people are critical of the pendulum swinging too far in favour of offenders and not far enough in favour of ordinary law-abiding citizens, victims and the community. The DNA database is an investigative tool, not a record of convictions.

We are very pleased to support this bill. It does provide more certainty for everyone involved. It lays out the procedural aspects of who has carriage of the matters and the rights of people involved, whoever they may be, and it does establish quite clearly the storage, destruction and purpose of forensic data. That is quite pleasing.

The Canberra Liberals will always support any sensible measure for justice in our society. We will support any sensible measure that gives police all the reasonable powers that they need to do their job properly, and anything that makes their job easier, and that makes it easier for victims, in any proper way. We think this legislation does that.

I noted a couple of points in the attorney's speech which I will turn to now, as I think they are worthy of note. In the past there was an unintended legislative gap that prevented ACT Policing from obtaining forensic samples from convicted serious offenders where they were suspects for another crime that did not warrant the taking of a forensic procedure. The bill ensures that forensic samples are taken from all convicted serious offenders so that they cannot evade detection for other offences that they may commit. That is a very sensible provision. Sadly, serious offenders and serial offenders do tend to commit a number of offences, some of which they may not have been apprehended for. This will greatly assist in terms of apprehending serious offenders for other offences that they may have committed or, indeed, may commit in the future. That is a very sensible provision.

DNA sampling is a great boon to law enforcement agencies in ensuring that people who otherwise might escape justice cannot do so. It is a great way of solving offences. In the ACT, more people complain about people getting off than being convicted, but you occasionally get people who have been convicted in the past and who maintain their innocence, and DNA sampling has been used to show that that person could not

have committed the offence. So it is a two-way street. It helps to ensure that the right people are apprehended and convicted of offences. I think it is a great boon to law enforcement agencies and also generally to the justice system.

The provisions in relation to the 12-month period make it easy for samples after 12 months to be kept. It enables the police to have a greater capacity to retain evidence in ongoing investigations and prosecutions without fear that this evidence will be destroyed partway through the process. That is to be applauded.

The bill will also introduce the ability of a magistrate to make an order for a forensic procedure in the absence of a suspect, where the suspect is in custody in another jurisdiction and cannot appear by audio link or visual link at the hearing. In the case of a person who has been served with a summons to appear before a magistrate and who does not appear, this will enable a magistrate to make an order for a forensic procedure. That is a sensible provision as well.

The attorney has indicated that it brings us very much into line with the national scheme. That is to be applauded. Crime knows no boundaries. The ACT is an island in New South Wales. Anything we can do to adopt sensible procedures should be welcomed. I think that what the attorney did this morning in relation to sexual assaults, serious crime and covert operations was something that was necessary. It helps to bring us into line with other jurisdictions; it helps to counter crime. It is very much for the public good. The improvements in this bill are for the public good and will certainly help police to do their job properly—something we have always fully supported, and always will.

MR MULCAHY (Molonglo) (4.50): I will be voting in support of this bill, and I will make some brief remarks in today's debate. The changes that this bill makes are sensible and will update the original Crimes (Forensic Procedures) Act 2000 which was introduced as part of a nationwide approach to the collection and storage of forensic materials as well as the exchange of DNA information between different parts.

I note the minister's comments in his speech in introducing the bill about the ACT being at the forefront of developments in the use and storage of DNA information and believe that this is something the territory, and especially the people who work in this area, can be proud of. An effective system for the exchange of DNA information between jurisdictions will be a critical development in the fight against crime. It is time for state and territory differences to be put aside to adopt a cooperative approach.

More broadly than just DNA data, I believe there is still resistance amongst some state jurisdictions, and the various law enforcement or security agencies with them, relating to the exchange of information. These turf wars do not benefit anyone. There should be a national database containing information to be shared easily amongst law enforcement and intelligence agencies in different jurisdictions.

This is one of the biggest single impediments to people obtaining security clearances. It defies comprehension why state police forces are so reluctant to share information across borders. One can only speculate about the rationale for that. So any step

towards having a uniform approach has got to be welcomed in a law-abiding community.

This bill makes welcome changes to the act. Some of these changes are technical and correct deficiencies in the legislation, such as ensuring that data stored on the NCID database can be admitted as evidence in ACT courts. I am not opposed to the Auditor-General, the Privacy Commissioner, the Human Rights Commission or the Ombudsman having the power to access, review and audit our DNA database. I am also comfortable with the changes around the destruction of forensic samples belonging to suspects, although I must say that I am not quite sure how a person's human rights are looked after any better by the destruction of the materials themselves when the DNA data is retained. I asked my staff, and I know they had some discussions with the attorney's office. I do not know whether he would care to respond to that, but it has left me a little bewildered as to why getting rid of the DNA samples is protecting human rights, but keeping them on the system is not violating human rights.

Personally, as has been pointed out, having been to the US, these days when you go there and you have to be photographed, thumb printed and have everything else known about you. I am not quite sure what human rights are at stake here if you are complying with the law, but I would be curious to understand the rationale for that issue. One would hope that, if DNA samples are there, and if someone appears later to have been involved in unlawful activity, they can be identified through the retained data. It does seem to be an odd interpretation, but as long as police still have access to the data, I am comfortable enough to support the provisions that this amendment bill introduces.

As I have already said, I believe we should have a national database and promote greater cooperation between all jurisdictions for not just the sharing of DNA data but for the sharing of all information that could be of use to investigators. Obviously, we have to have safeguards put in place to prevent misuse and abuse of the system, but I think the overriding consideration of fighting crime, terrorism and the like does warrant a better exchange of information within the commonwealth.

I also support the change that will allow magistrates to make an order for a forensic procedure in the absence of the suspect where the suspect is in the custody of another jurisdiction and cannot appear by audio link, video link or hearing or where a person who has been served with a summons to appear before a magistrate chooses not to appear.

I also welcome the final issue that this bill addresses, which relates to making things easier for the victims of crime. Obviously, and as these changes recognise, victims of crime, particularly when it is a violent crime or of an intrusive nature, need to be treated with compassion and sensitivity. The changes that this bill will introduce in this area are welcome. I recognise the fine line that this bill is attempting to tread between effective policing and human rights. I, for one—and I dare say I differ from the minister somewhat on this one—am less concerned about the human rights of criminals and would lend greater weight to the need to make it easier for law enforcement to do their job. That said, the changes made by the bill are welcome and I will be voting in favour of them.

DR FOSKEY (Molonglo) (4.55): This bill is another in a series of bills which, amongst other aims, brings the ACT into harmonisation with other jurisdictions nationally. The commonwealth Crimes Act 1914 provides for the exchange of information in the commonwealth DNA database system or a state-territory DNA database system and the protection of the information that is exchanged. The commonwealth act has been scrutinised by the Privacy Commissioner. I quote from a 2003 media release from the office with regard to one review of the legislation:

> The review makes clear the fundamental importance of establishing effective accountability mechanisms if public confidence in the use of DNA analysis for law enforcement purposes is to be established and maintained.

The use and storage of forensic material and DNA information is a contentious issue. While I take heart from the fact that there will be oversight from the commonwealth government, the Privacy Commissioner and ACT agencies, I remind the ACT government that it bears ultimate responsibility for ensuring that individual privacy and public safety will be carefully and sensitively managed.

As noted by the Attorney-General, the changes proposed in this bill will make it easier for information sharing between jurisdictions and will address the legal concern about using the ACT data kept on the national criminal investigation DNA database. As this is the system that is already utilised by the ACT for storage of DNA, I cannot see any reason to object to this change.

The bill also updates and improves the current act to bring it more into line with the Human Rights Act. I am pleased to see the changes which allow for agencies such as the Auditor-General, the Human Rights Commission, the Privacy Commissioner and the Ombudsman to audit and review the DNA database. This provides a level of oversight to protect the civil liberties and privacy of people with DNA information being held by the authorities. While these agencies try hard to ensure that our human rights are protected—I hope they do—I would still be interested to see the guidelines for their reviews and audits.

I am also pleased to see the changes to improve the treatment of victims of crime and volunteers, and in particular the changes in clause 41 regarding the requirement to have an independent person present when they are undergoing a forensic procedure and in clause 51 when being informed of their rights in regard to the use and storage of their DNA.

The changes for transgender and inter-sex people, such as those in section 6, are also welcome. To be consistent with human rights, these changes are necessary and I support these provisions.

I would like to mention a couple of concerns. I note that we still have not received the government's response to the scrutiny of bills committee report. While the issues mentioned in the scrutiny report raise no major human rights breaches, I still would have appreciated seeing how the concerns expressed there were addressed.

With regard to clause 16, is "reasonable force" reasonable? The explanatory statement's discussion of the definition of "reasonable force" was highlighted by the scrutiny of bills committee as it "cannot have any effect on what a court might say that the concept meant". I have been advised that while the court is not required to consider the explanatory statement it is unlikely that it would not be brought to the court's attention if the interpretation of the term "reasonable force" was raised in a hearing.

I also accept that reasonable force, as outlined in the explanatory statement, is appropriate to enable a non-intimate forensic procedure to be carried out if absolutely necessary and that a court order will be sought to allow reasonable force for intimate forensic procedures and suspects not in custody. The onus is now on the AFP to demonstrate that it respects what should be its obligations under the ACT Human Rights Act in its performance and application.

Clause 18 enables a magistrate to make an order without a suspect being present. The amended sections are generally left as is, with the change allowing for orders to be made for suspects currently in the custody of another state and where audio or audiovisual link is not practicable. I hope that this signifies greater collaboration between jurisdictions, which is certainly one of the aims of this bill, and that the other states will make every effort to ensure that the suspect can be present in some form for the hearing.

The first reading of clause 44, which amends section 68, caused some debate in my office. But after closer inspection, I am assured that there is no outstanding privacy or human rights issue with the amendment which clarifies "that a forensic procedure may be carried out on a serious offender even if the serious offender is also a volunteer or suspect".

This bill aims to improve the human rights compliance of the act. The scrutiny report did not raise this clause as a concern and, most reassuringly, if the offender feels that their rights have been breached in this instance there are avenues for appeal, either through this legislation or through relevant agencies such as the Human Rights Commission.

The scrutiny report did raise the point that there may be some discrepancies between the new section 92—clause 65—and another section of the bill. I am hoping that Mr Corbell will address this in his closing speech or in the response to the scrutiny of bills committee report, which I hope does not occur after the legislation is passed.

Also, in relation to this clause, I would like to discuss the changes regarding the destruction of forensic material and the removal of identifying information. I agree with the changes which retain the existing measure to ensure that DNA information is removed from the database after one year. I also accept the practicality of being able to retain forensic material for the life of the court proceedings. I am happy with the provisions for the removal of DNA information and the destruction of forensic material for volunteers.

I do, however, have some concerns about the new requirement which means that suspects will now need to apply to have their forensic material destroyed. Previously, it was automatically destroyed after one year. As I have just mentioned, I can see the benefit in the police being able to retain forensic material for the length of proceedings. I do worry, though, that the suspect will now need to apply for it to be destroyed, either after a year or after proceedings, rather than the police having to apply to retain it. I appreciate that the police will have to provide evidence for why the material should be retained, and I appreciate that this change will make things more convenient for the police in the current situation. I just hope, and seek the Attorney-General's assurance, that the process for someone applying to have their forensic material destroyed is well advertised and not onerous and difficult to negotiate.

Most situations which involve the information available from our DNA require a great deal of trust in our police and in our court systems. We have to trust that if a suspect does not request the destruction of the samples the material will not be misused. We have to trust that our court systems will balance individual privacy and public safety and catch any wrongdoing. Occasionally, as we know, there are breaches of that trust. I would say that the Haneef case is one example of a breach of trust. While I have no doubt about the integrity of the ACT government and ACT Policing, it does show that mistakes and political interference can occur, not least in the parent organisation, and that trust in the system is not always enough and public vigilance has to be maintained.

We also have to trust that the oversight agencies that audit and review the DNA database will ensure that the information stored in the system will only be used as outlined in this bill. The Privacy Commissioner raised the necessity of adequate third-party oversight in the concluding remarks of the office's submission to the inquiry into the Crimes Amendment (Forensic Procedures) Bill 2000. In the absence of any independent police integrity commission or oversight of the AFP, I can only hope that the agencies mentioned in clause 79 will protect the privacy of individuals and draw any breaches to the attention of the government of the day.

Generally, however, I support this bill. The three aims—improving processes for ACT Policing and the courts, and thereby improving public safety; harmonisation with regard to information sharing in the national database; and improving the human rights standards of the legislation—are all important. So while I have some slight reservations about the use and storage of DNA information, they are not large enough for me to oppose these proposed amendments.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.05): I thank members for their support of this important piece of legislation. The responses I have received regarding this bill have been positive and they have given me great confidence that the bill will place the ACT in an advantageous position to fight crime using available and advanced technologies in an effective and responsible manner. The bill reflects a serious consideration of human rights issues and ensures the community that forensic procedures are performed in the least restrictive and least invasive ways, especially when it comes to victims of crime, and that materials are kept stored and used in the most secure and appropriate ways.

Tonight, I would like to foreshadow that, in the detail stage of this debate, I will be introducing government amendments to cover some minor technical changes to the bill, and these have already been circulated. The first of these is an amendment to new section 49A to remove a superfluous reference to advising a person of their rights. This particular right is already covered by a number of other sections in the bill.

The second amendment removes references to places of detention in a number of sections and replaces it with a reference to serving a sentence in "or other place". This amendment is necessary to ensure a broader interpretation of places that people may be accommodated while detained, to ensure that all reasonable scenarios are included in the section. For example, changes which have been introduced in the Children and Young People Act 2008 will affect the name of the place where children are detained, and this amendment will ensure that those changes will not deprive children of the rights available under this bill.

The third amendment changes section 84B to allow for flexible arrangements in arranging for forensic material to be analysed. The Australian Federal Police have reminded me that there are occasions when there is a need to look to overseas laboratories to access emerging technology that is not yet available in Australia. An example of that is the analysis of mitochondrial DNA which cannot yet be performed in Australia. This amendment allows for arrangements to be entered into with these laboratories, where appropriate, in order to maximise the use of these emerging technologies.

The bill also allows the use of forensic technology to assist in the investigation of crime and in the identification of missing people. It is the sort of technology that popular television shows are based on for suspense and drama in the name of entertainment but, in the reality of a police investigation, it is scientific, logical and thorough technology that assists in identifying perpetrators of crime, to make our community safer.

The practical utility of the national DNA database has been shown a number of times already. There has been more than one case reported in the media where a sample taken from a crime scene in Victoria has been matched to a suspect picked up in Darwin or Perth. Other cases which are not recorded but which are equally important are those where a body, lying unidentified in a morgue, is identified by matching a sample taken from a worried family member on the other side of the country.

With emerging technology and the popularisation of it, through the television dramas that I have referred to, comes community concern that the information contained in forensic samples can be used to compromise the privacy of those who provide them. This bill recognises this concern and it enshrines protocols on the removal of DNA information from databases so that details are not circulating endlessly without purpose.

I turn now, in closing, to two of the issues that Dr Foskey raised in relation to the scrutiny of bills report. The first of these was the destruction of identifying DNA information. The question was asked why the difference in approach between the

destruction of certain forensic materials in general versus identifying DNA information. The difference in this approach is due to the real and strong concerns of the community over protecting personal genetic information.

Forensic materials in general can include photos, casts, fingerprints, videos et cetera, which do not pose the same problems or concerns as genetic information does. There should be justifiable reasons for retaining genetic information belonging to a person. In the criminal law context, the retention of identifying DNA information is justified on the basis that it aids the capture of criminals for the protection of the community and the maintenance of public safety.

Retention of identifying DNA information becomes less justified when a suspect has not been charged with an offence over a period of a year or the suspect has been acquitted. The new amendments appreciate the unique issues surrounding genetic information and have retained the previous position requiring destruction of such information after one year, unless it can be retained for good reason and by an order of the court.

Turning to the issue of reasonable use of force, the bill does not change the pre-existing law that reasonable use of force may be used to carry out forensic procedures. Reasonable use of force is currently present in corresponding legislation of other jurisdictions, such as New South Wales, Tasmania and South Australia. The bill only creates a requirement that a person must be informed that reasonable use of force may be used to carry out the forensic procedure so that the person is made fully aware of the issue. But I stress again: the bill does not change the pre-existing law that reasonable use of force may be used.

The explanatory note regarding the use of force was intended to, firstly, highlight the level of reasonable use of force that currently operates in the ACT; secondly, highlight that reasonable use of force may be limited by commissioner's order No 3 and orders of the Chief Medical Officer from an enforcement point of view; and, thirdly, note that the limitations to reasonable use of force created by the current commissioner's order No 3 and the current orders of the Chief Medical officer are relevant.

That, I hope, responds to those matters that Dr Foskey raised in the scrutiny report. I thank members for their support and commend the bill to the Assembly.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.12): I seek leave to move amendments Nos 1 to 9 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 1 to 9 circulated in my name together *[See schedule 2 at page 2784]*.

Amendments Nos 1 to 9 deal with a range of issues that I have highlighted in my closing speech. I just work through them briefly. Amendment No 1 deletes the reference to the police, ensuring that a person is advised of their right to have a doctor or dentist present when they are having a forensic sample taken. New sections 24, 72 and 80 require the police to advise a person of their right to have a relevant health professional present during the taking of a sample, and the removal of this requirement in new section 49A (1) (b) ensures clarity about who may be present and how many times the person needs to be advised of their rights in this regard.

Government amendment No 2 replaces the reference to a place of detention with the phrase "or other place", in order to ensure a broader interpretation of places that people may be accommodated while detained, to ensure that all reasonable scenarios are included in the section, including the anticipated changes to terminology that have been introduced in the Children and Young People Act 2008. It also broadens the definition of health professional so that it is not restricted to the definition attached to the place of detention and is wide enough to accommodate any changes in terminology in the legislation that governs different places of detention.

Government amendment No 3 replaces a reference to a place of detention as well, in the same manner as the previous amendment, as does government amendment No 4 and government amendment No 5. Government amendment No 6 allows the minister to enter into additional arrangements with other forensic laboratories in order to allow the police to access foreign laboratories that utilise emerging forensic technology. I referred to that matter in my closing speech in the in-principle stage.

Government amendment No 7 clarifies that any appeal period must have expired before any forensic material may be destroyed. Government amendment No 8 inserts a new definition of health professional that allows for flexibility in the choice of person that a person who is undergoing a forensic procedure may elect to have present during their procedure. It is drafted to incorporate allowing for people who are having samples taken interstate to have a health professional registered in their location present.

Finally, government amendment No 9 provides clarity on who may be present during the examination of intersex people, identifies females and that a police officer is an appropriately qualified person for the taking of a hair sample. I commend these amendments to the Assembly.

Amendments agreed to.

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

Bill, as amended, agreed to.

Order of the day—postponement

Ordered that order of the day No 4 executive business be postponed until a later hour.

Standard Time and Summer Time Amendment Bill 2008

Debate resumed from 14 February 2008, on motion by **Mr Barr**:

That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (5.16): I will be brief. The bill is in accordance with an agreement reached at a meeting of the Council of Australian Governments in April last year. Tasmania, Victoria and New South Wales agreed to this change. Our agreement was subject to New South Wales passing similar legislation. They did that in October 2007. I think everyone realises that daylight saving has great economic and environmental benefits. People like it. We support the bill.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.17), in reply: I thank the opposition for their support and the crossbench also who indicated their support for this legislation. It does provide a permanent extension of daylight saving and delivers on a long-held desire by this government to bring daylight saving in line with New South Wales, Victoria, South Australia and Tasmania.

Of course, given our existence as an island within New South Wales, the ACT government agreed on the proviso that New South Wales also change the daylight saving starting and finishing times. As this has been forthcoming, we would seek to maintain common time zones at the ACT-New South Wales border, thereby avoiding some of the disturbances that have become commonplace between New South Wales and Queensland.

It is important that we pass this legislation. The extended period will provide uniformity for business activities conducted across state borders and is consistent, as Mr Stefaniak indicated, with the Council of Australian Governments' focus on reducing regulatory burdens. So I am very pleased to commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Firearms Amendment Bill 2008

Debate resumed from 10 April 2008, on motion by **Mr Corbell**:

That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (5.19): As is the custom in this place, if there is any potential conflict of interest that members have, they should declare it. Let me start by saying that I actually shoot; I own firearms. I am a member of the Sporting Shooters Association of Australia, ACT branch, and I recently renewed my membership for five years because I get sick of annually renewing membership of the many organisations I am involved with. I attempt to go out to the range, so I do at least my four days of qualification during the year, although being in this place makes that rather hard. I occasionally go hunting, usually for pigs and rabbits, and occasionally in the past kangaroos as well. Also, if anyone wants to buy a 1941 Indian army .303, I would be happy to sell it to them.

MR SPEAKER: Thank you, Mr Stefaniak; we will be very careful. We have been warned.

MR STEFANIAK: I withdraw that. It is probably sensible not to mention that. I say that in jest, Mr Speaker. I am pleased to see the way in which this bill has turned out. Whilst we have several amendments, and whilst something this huge probably is by no means perfect, it was not all doom and gloom and problematic, which I was led to expect when a draft was put out last year.

I recall talking to one of the very few firearms dealers in Canberra, Mr Bruce Brown out at Mitchell, who had some huge concerns about how whatever was in the initial draft was going to affect legitimate owners of businesses and introduce some unworkable provisions. He and I sat down while he went through all of his concerns. I do not think I had the draft but he mentioned those to me, and I was concerned. I was very pleased to find that, several months ago, he had very few concerns in relation to this legislation.

Obviously, there has been reasonable consultation on this matter, and the views of legitimate owners and dealers in firearms have been listened to. There are a couple of areas where they probably have not, and I will come to those in relation to some amendments. But it is fairly clear that what could have been substantial problems last year have largely been ironed out. I thank the officials, the minister and everyone involved in doing that, as well as the Firearms Consultative Committee.

Since 1996, we have effectively had uniform legislation. From time to time, it does need to be revised. I think that has been very important for Australia generally, for victims, and for lowering crime. It is pleasing to see that the incidence of firearms used in serious crime, especially in things like murder, has dropped considerably. I have seen figures showing that, whereas at one stage it may have been 100 per cent, it is down to about 40 per cent. That has occurred simply by tightening up gun law. What often happened, sadly, about 20 years ago, in crimes of passion within families, was that firearms were used. That is much harder now because of sensible restrictions that have ensured that there are checks. There are real restrictions on how firearms are used and how they are stored. That really has taken firearms out of the equation in terms of a lot of domestic crime.

I saw some figures during the course of looking at this bill and consulting with people about it which showed that, in a one-year period recently, only five registered firearms

in Australia were actually used for crime. That is very pleasing. In terms of legitimate firearms being used for crime, there has been a huge drop because of sensible gun laws which restrict, appropriately, the misuse of firearms. Sadly, of course, criminals can still get firearms. We see instances of criminals holding up armoured vans which are transferring cash to banks and things like that, as much as anything else in order to steal the firearms. I do not know what the minister hears at police council meetings these days, but when I attended in 2000 or 2001, the importation of parts was a problem. Getting firearms out of the black market was a problem. The fact that there was a real black market and there were still loopholes, a lot of them involving customs law, was a real problem. I hope a lot of those things have been cleared up, because we do see firearms still used largely by criminals.

The scrutiny of bills committee made a number of comments. There is always the vexed question, when you are talking about human rights, of the right to self defence. The committee looked at that matter. In Australia, traditionally, and certainly probably even more so now, that is not utilised as a reason for people having firearms. Provided that our justice systems are strong enough and work well enough, that is probably a sensible way to go, because it does stop the mad proliferation of firearms. Obviously, that is still a concern. Having regard to the Human Rights Act, that needed to be commented on, and it was commented on appropriately by the scrutiny of bills committee.

Certainly, we as an opposition do not want to see law-abiding citizens unlawfully penalised for legitimate pursuits. They need to be able to pursue those legitimate pursuits, certainly in a controlled manner. No-one that I speak to amongst sporting shooters or the industry disputes that for a minute. There need to be adequate laws in force to counter the people who really do misuse firearms—the criminals who will flout any law. These laws mean nothing to criminals, and they will flout them and misuse firearms. Tragically, we still see this in our society.

To that extent, I welcome the increased penalties in terms of misuse of firearms, especially as they are directed to criminals. I would hope they would not be used for normal, law-abiding citizens who might have fallen foul on a technicality, perhaps only in one instance. I hope they are seen to be there for what they should be—that is, for criminals who clearly misuse firearms for nefarious purposes. At times you have to wonder, Mr Speaker, when you see instances of a criminal who points a shotgun at a 20-year-old girl's head getting off on a suspended sentence for doing an armed robbery. No matter what sort of penalties—

Mr Smyth: He has improved, apparently.

MR STEFANIAK: You would hope so. No matter what sort of maximum penalties are put in legislation, at the end of the day, if a court does not see fit to abide by what is the clear intent of a legislature and they go off on their own weird little tangents, simply putting a higher maximum penalty does not necessarily assist. Other means are probably necessary, and I have done that before in this place. I have a bill before this Assembly in relation to other matters in the criminal law. Maybe the attorney needs to look at that if there are these higher penalties for the misuse of firearms, and especially misuse for a real criminal purpose—not just by some stupid, law-abiding citizen who might have a momentary lapse.

We certainly support the bill. We will be supporting the bulk of the provisions, and we seek the Assembly's support for some amendments. I note the attorney has a couple of amendments which are very similar to ours, which is good. I will speak about those in the detail stage.

Primarily, this bill is to implement the national firearms trafficking policy agreement as it relates to the ACT and also to implement the recommendations of the review of the firearms law undertaken by the Firearms Consultative Committee and JACS. The definition of "firearm" has been redrafted and simplified, and it includes paintball markers. I am pleased to see that. I think that is logical, and it is something on which I have been lobbying, to an extent. There are various ways you could do it, but I think the way that it has been done is the tidiest way. They were previously classed as prohibited firearms. The definition of "prohibited firearm" has been redrafted and simplified, and it now includes prohibited pistols, which previously had their own definition. The prohibited firearms schedule now can be amended by regulation.

There is a new definition of "acquire" to enable the tracking of firearms between owners. There are a range of exemptions enabling temporary possession, including when an unlicensed person uses a paintball marker, which is a paintball gun, at an approved paintball range. Similarly, there is a new definition of "dispose". There is a new definition of "possession" which has to be read in conjunction with "proof of possession". Provisions are made for certain defence elements.

A new section has been drafted for the regulation of the paintball industry. That was previously covered in the Firearms Regulation 1997. It enables adults to possess and use paintball markers at an approved paintball range. Now, with the amendments of both the attorney and me, that will include people aged 16 and 17, which brings us into line with every other state. I think that is sensible. It would be overly restrictive if the ACT only allowed this for adults. It would put us at a competitive disadvantage with New South Wales, especially as there are some paintball ranges very close to the ACT.

There are new, considerably tighter licence suitability provisions which extend to "close associates". That is part of the NFTPA and, according to the explanatory statement, it is in response to the Australian Institute of Criminology's views that the ACT's provisions are inadequate. We will see how that pans out. It does not seem to have caused a huge problem in terms of legitimate owners, but we will see how that goes.

The bill omits partnerships which are not regarded as entities from holding licenses. There is only one partnership licence holder in the ACT, and there are transitional provisions to deal with that. The bill broadens the ability of the registrar to decide whether an item is a prohibited firearm by providing that an item that behaves like a firearm can be regulated or seized.

Licensing provisions have been streamlined to eliminate permits, except for permits to acquire, so that only licences will be issued. There are four categories: adults, minors, composite entities and temporary international. The new provisions impose tighter and more restricted conditions on minors licences. That will be the subject of another

amendment from us, and I also note there is part of an amendment from the attorney on that.

The rules for permits to acquire also will be the subject of an amendment as far as we are concerned. In relation to that, other states do not have a time period for a second and subsequent firearm. We are proposing to drop the 28 days to 14 days, which will still give police ample time to do a record check—which I understand from police takes about five days—yet it will not be overly restrictive in terms of legitimate users of firearms, especially people who engage in competitions.

There are some new provisions relating to the registration of firearms; most notably, that a sample-based audit of the register be undertaken every two years. The bill makes provisions relating to firearm dealers, adding the function of temporary storage and firming up the requirements of dealers in relation to close associates.

Enforcement provisions have been made more comprehensive and HR compliant and include new powers of entry and inspection. The bill inserts a range of trafficking offences. There are new provisions relating to the operation of shooting ranges, including paintball ranges. People who inherit firearms will have provisions that make it easier for them, allowing them to temporarily store them with a dealer while they apply for a licence, give them to a dealer for sale or surrender them to the police. The bill also amends the Prohibited Weapons Act, primarily rearranging and augmenting the classes and types of prohibited weapons and articles, making certain seizure provisions and empowering the registrar to make regulations.

The legislation adds a range of weapons to the prohibited list, primarily certain types of knives. That has given rise to certain concerns, certainly from antique dealers and people who collect these types of items, especially in relation to trench knives and one other form of knife in particular. How to deal with that caused us some concern. We were very keen that the legitimate rights of people to collect these types of items be upheld. I cannot think of any instances when they have been stolen from collectors and used in crimes.

The most common knife crimes here involve knives that you can buy over the counter. The most common knives in domestic violence situations are kitchen knives. I suppose no-one is suggesting that we ban cutlery. Clearly, these types of weapons are collectors items. They are not used in crime. As long as there is proper, sensible regulation I do not think we should be overly prescriptive. Accordingly, we are proposing an amendment which I understand was agreed upon by the consultative committee but for some reason it was never put in the legislation. So we will be seeking to address that by amendment.

There are some additional transitional arrangements for the two pieces of legislation, as well as consequential arrangements for the Court Procedures Act, the Crimes (Sentence Administration) Regulation, the Domestic Violence Protection Orders Act, the Fair Trading Act, and the Spent Convictions Act.

I turn now to one or two other matters which we will not oppose or seek to amend but which we wish to draw to the attention of the Assembly as being perhaps something

we need to look at and which are of concern to sporting shooters, people engaged in competitions and legitimate firearms holders. An area of concern that has been raised with me relates to the surrender of firearms by unlicensed persons. The bill contemplates that an unlicensed person can either dispose of a firearm to a dealer, have a dealer store it temporarily while the owner obtains a licence or surrender it to the police. There will not be a provision for a firearm to be surrendered to a dealer anymore.

People have expressed concern that some people might feel their position is jeopardised in some way if they surrender it to the police. They would rather surrender it to a dealer. I can understand their concern, although I must say people in ACT Policing have an excellent reputation for acting with the public in a very proactive and supportive matter. Again, maybe that is an unnecessary—

Mr Mulcahy: Have you ever walked into a police station with a rifle?

MR STEFANIAK: I actually walked in there once with a submachine gun, but I was in the army at the time. I must say that the police here have a really good reputation, and they are very helpful to firearm owners. That is perhaps a small issue, but it is something on which the bill might be a bit restrictive; perhaps it can be monitored and looked at.

Nonetheless, this situation potentially could force illegal firearms underground. In situations where a person does not have due cause to be concerned about having to surrender firearms to police but for some reason does not want to do so, it may well be better to have the firearms surrendered to a dealer, so that at least the firearm is off the streets, if not off the person. Perhaps that is something we can monitor. That provision seems to have been made purely and simply because it was made elsewhere, so we should monitor that.

The other area of concern that has been raised with me relates to the extension of the term "firearms dealer" to include "club armourers". Naturally, firearms dealers, commercial dealers, would be concerned about the competitive neutrality of this arrangement, since shooting clubs invariably do not have the overheads that commercial dealers have. I note that the regulations require that club armourers must not profit from dealing activities. Presumably, this refers to an individual but it is not clear whether the armourer can achieve profits for the club. The bill more or less tidies up the existing arrangements under which, by regulation, club armourers were considered dealers for the purpose of reporting and other requirements.

Further, the activity of club armourers is limited to dealing with club members or members of visiting clubs. That, to me, is quite sensible. It is normal for people to either buy ammunition from a firearms dealer or a club armourer. A club armourer's job often includes getting ammunition and selling it to club members. I think that is quite legitimate. So whilst concerns are raised there, as long as that can continue—club armourers selling ammunition to club members, and dealers being able to sell ammunition—there should not be too many problems. There were some issues raised in that regard; some people in the industry, including some sporting people, have a little bit of a concern about it. So we should monitor that as well.

The issue of acoustic devices for firearms, or silencers, was raised. The bill, through its amendments to the Prohibited Weapons Act, includes silencers on the prohibited list. I note that the registrar has discretion to authorise ownership, possession and use. However, there may be cases in which existing owners may not, for one reason or another, either wish to or be eligible to retain their ownership of silencers. It may be worth considering a scheme similar to the gun buyback scheme of several years ago to enable owners of silencers to clear those items from their holdings. That is another matter that has been raised with me by the Sporting Shooters Association and several other groups.

Our community needs the highest level of safety and security possible when it comes to ownership, possession and the use of firearms and weapons. This level of safety and security, however, must also consider and cater to the circumstances in which people have a legitimate interest in firearms and weapons, as enthusiasts, collectors, sports people or professionals. On the whole, the bill goes a long way towards achieving that level of safety and security that the people of Canberra quite rightly expect and demand.

However, there are those few areas, minor as they may seem to some, where the bill falls a little short. We are proposing amendments; we will monitor some of the other areas. I am always concerned to make sure in this area of the law that we strike a balance between the legitimate rights of law-abiding citizens and the rights involved in protecting society. Generally, that balance has been maintained over the 10-year period since Mr Howard's historic announcement after the Port Arthur massacre, but it is something we need to monitor. We should not penalise law-abiding citizens; we should make it as hard as possible for criminals. Whilst I am pleased to see the more serious nature of penalties proposed in this bill, I will wait to see what happens when it gets into the court system.

All in all, this bill contains some positive improvements. We will be proposing some amendments. I close by thanking the people in the gun registry, in the Australian Federal Police at the city police station. Since the tightening up from 1996 onwards, they have been exemplary in the way they have gone about ensuring that the law is abided by, in assisting legitimate owners of firearms to ensure that they abide by the law, giving advice, giving prompt service, invariably in a friendly manner. I get very few, if any, complaints about how the police have operated from sporting shooters and other legitimate owners of firearms in the territory. I want to place on record my appreciation for the work they do and the sensitivity they show to people who are legitimately engaged in this industry and in sports that involve the use of firearms.

MR MULCAHY (Molonglo) (5.39): Firearms are a very important and controversial subject and one which it is important to look at in detail. The Firearms Act seeks to regulate gun possession and restrict possession to licensed individuals who have some special reason for gun possession beyond self-protection.

The bill does not seek to change the basic stance and, therefore, there is no need at present to undertake a broad, philosophical inquiry into the pros and cons of gun control laws. Instead, the bill seeks to redraft many of the existing provisions in

a more simple and clear manner and seeks to fix up some loopholes in the previous legislation that led to administrative and regulatory problems.

The bill deals with possession regulations pertaining to a wide range of circumstances, including target shooting, recreational hunting, primary production and paintball activities. In the ACT we do not have to deal as much with matters of primary production as in other jurisdictions, though it is important for legislation on the topic be broad enough to deal with these contingencies.

The bill also makes a number of other changes to ACT firearms legislation, including reclassification of firearms, new licensing criteria and regulation criteria. The bill reclassifies firearms into "prohibited firearms" and simply "firearms". The bill removes the distinction between prohibited pistols and other prohibited firearms. The bill also seeks to simplify the definition provisions to make it easier to classify firearms into the relevant classification under the act.

Whether or not this reclassification leads to a simpler system is a matter of judgement for those applying the act, and I do not venture to guess whether the new classification will be simpler to apply. However, since the bill has been drafted in consultation with the Firearms Consultative Committee and the Department of Justice and Community Safety, I am satisfied that the simplified classifications are likely to be sensible.

The bill redrafts and amends the criteria for the "suitable person" test that is applied with respect to firearm regulation. The bill adds further discretionary criteria to this test, based on criminal intelligence or information held by law enforcement agencies. This criterion allows the registrar to take account of intelligence and criminal reports under the act.

The ACT is currently the only jurisdiction in Australia that does not provide criteria based on criminal intelligence. The explanatory statement notes the Australian Institute of Criminology's finding that the lack of provision for criminal intelligence information to be taken into account in the ACT hampers the ability of police to utilise intelligence information and reduces the capacity of the licensing authority to effectively regulate firearms.

The bill also makes amendments to the provisions pertaining to unregulated firearms. Rather than attempting to prescribe prohibited firearms as they appear, the bill imposes a general prohibition on unregulated firearms. The previous practices led to difficulties, I am advised, waste of time and expense in keeping abreast of new types of firearms as well as makeshift or backyard firearms. This will simplify the regulation of firearms and should ensure that firearms are dealt with in a consistent manner rather than on an ad hoc basis.

One of the more important aspects of this bill to the Canberra business and sporting community is the changes to the regulation of the paintball industry. The bill deals specifically and explicitly with the paintball industry to ensure that the firearms regulation does not unintentionally derogate from this activity. This is a worthwhile initiative. The paintball industry has been adversely affected by firearms regulation in the past as many of their paintball guns have been classified with prohibited firearms.

The explanatory statement to the bill notes that the increasing popularity of paintball has led to growing community pressure to decriminalise the private ownership of paintball markers and allowed people to obtain licences to own and store their paintball markers. The bill amends the Firearms Act to ensure that paintball guns are no longer classified a prohibited firearm. Section 4BE allows for the possession, use and storage of paintball markers at a paintball facility. These changes will be welcome changes for the paintball industry, which has had great difficulty with firearms legislation in the past.

I have not been lobbied by the Sporting Shooters Association, although I understand that they have obviously got a strong perspective on this. Dr Foskey tells me that they have even taken her out to dinner.

Dr Foskey: They didn't take me.

MR MULCAHY: Didn't they? She dined with them. I have always had a view, not unlike Mr Stefaniak, that you need balance. In an era when these things were not as heavily regulated, I learned to use a rifle as a very young person and used it responsibly under supervision. Then, when I did my period in the cadets, we were given.303s to use, which were somewhat ancient. I think firearms can provide enjoyment for people but it is imperative that the dangers of the use of firearms are instilled into people just as importantly as the pleasure it can give for those involved in legitimate sporting activities, target practice activity and the like.

I appreciate the briefing that Mr Stefaniak's office provided to my office in relation to his amendments. All of them seem sensible to me; so I will be voting in support of them and I will say a few more comments when we get to that stage.

DR FOSKEY (Molonglo) (5.45): Now I have my chance to talk about my relationship with the ACT shooters. I do welcome the provisions in this bill. They clarify some areas which were previously ambiguous, simplify or consolidate areas that were unnecessarily complex, increase penalty provisions for illegal possession and prohibited weapons offences, and enable paintball enthusiasts to pursue their sport legally. I welcome the provisions dealing with the transfer and disposal of firearms. While I understand that most aggravated offences involving firearms do not involve registered firearms, there are extremely important reasons why the state—in this case, the territory—should keep a close track on as many privately held firearms as possible.

In this regard, I urge the government to keep track of the development of GPS technology because I understand that it will soon be affordable and practicable for GPS tracker technology to be implanted into the stocks or other parts of all registered firearms. I am not suggesting this as a definite proposal but I do think it could have merit and should be carefully considered. Such a scheme would help ensure that registered firearms do not end up in the pool of stolen and unregistered firearms which, of course, are much more attractive for criminal purposes.

I also welcome the use of examples in the bill. These ones are particularly well drafted and are a useful explanatory device in an act like this where the onus on

firearms licence holders is quite strict and the penalties for noncompliance are quite severe. The use of examples is an important complement to plain English drafting practices and I encourage the responsible agency officers to consider using more examples in future drafting exercises.

I think the provisions dealing with paintball markers are a sensible solution to the problems generated by the current practice of defining them as prohibited firearms. It is appropriate that they be defined as firearms. As anyone who has seen the Eminem movie *8 Mile* will attest, paintball markers can be used for all types of mischief. And as anyone who has played paintball can attest, at point blank range they really hurt and, if fired into the face or loaded with noxious substances, they could cause serious or fatal injuries.

I am aware that there are firearms enthusiasts who feel that the provisions of proposed section 4BH are too stringent and could result in people having their weapons taken off them, for reasons that are not logically connected with their holding a firearms licence. I have some sympathy with these concerns. By way of hypothetical example, it seems unfair that someone who is a target pistol enthusiast and who perhaps stores their guns in an armoury at a firing range should automatically lose their licence if they had 10 years ago been subjected to an interim protection order and recently had their drivers licence suspended. But that is the automatic effect of section 4BG (2) (b) (ii).

Another provision that can have a very unfair effect in some situations is the fact that one of the discretionary criteria in section 4BH is whether the licensee has given an undertaking to keep the peace and be of good behaviour in the past 10 years. Of course I am well aware, and agree with most domestic violence workers, that these types of undertakings are usually given in the context of domestic violence disputes where a person—and that is usually a male—has evidenced violent or threatening behaviour which is highly relevant to their unsuitability to hold a firearms licence. In these circumstances, I think the precautionary approach in this bill is very sensible.

However, I am also aware that there are occasions when these undertakings are given because a person wishes to resolve a domestic dispute with minimum fuss and emotional pain and with minimum negative impact on any children involved. My office has heard anecdotally of people who could have successfully resisted giving such an undertaking but who did so willingly because they did not realise that it could count against them holding a firearms licence.

I am not saying that these discretionary factors should not be assessed by the licensing authority and, in these circumstances, the police could be consulted to ascertain the exact circumstances in which the undertaking was made and a contemporary assessment made of its relevance to the licensee holding a firearms licence. It seems excessive to totally remove all elements of procedural fairness by not allowing the licensee to provide evidence that the risk factors are not relevant in their particular circumstances.

Of course these are fraught areas of regulatory control and there are obviously extremely serious potential consequences for failing to recognise danger signals as to

when a person holding a firearms licence is likely to use their firearms in a threatening or lethal matter. But I do not see the not rebuttable connection between a firearms licence, on one hand, and the combination of a good behaviour undertaking made 10 years ago and a driving offence 10 years later, on the other hand. It does seem that retaining basic natural justice provisions and giving the registrar more discretionary powers and perhaps more statutory guidance would have been a fairer and more sensible approach. Otherwise, I am reassured by the fact that the criteria under section 4BH are called discretionary and presumably, if the registrar is considering cancelling a person's firearms licence on grounds other than the automatic repeal provisions, that person will have an opportunity to present reasons as to why their licence should not be cancelled.

People whose perceptions are solidly grounded in stereotype and ignorance might be surprised that a Greens MLA is not steadfastly opposed to private firearms ownership. While I am not in any way a firearms enthusiast, having lived on a farm for many years, I am well aware that the appropriate calibre firearm can be a useful tool at times.

I am also aware that target shooting is a very popular sport in Australia and that Australians, including some very talented Canberrans, have performed very strongly in international competitions. Here, I must declare that some members of the Greens are members of the Canberra Sporting Shooters Association and that I have been out to dinner and presented awards at their facility on Majura Road. I do not see any problems with that. I want to acknowledge their hospitality and the warmth with which the members of the association received me.

I agree with the government that the safe storage of firearms is critically important but I also am aware, anecdotally, that the exact conditions and requirements for safe storage are not well advertised. Given the seriousness associated with breaches of the safe storage requirements, I suggest that these conditions are put into a pamphlet that is handed out by the registrar when firearms licences are issued or amended. I note that the explanatory statement says that this information is provided when a licence is granted but I believe, from direct anecdotal evidence, that this is not true in all cases.

I am glad that ministerial approval has been retained for the issue of a class D licence and I am glad that ownership of this category of weapon is being restricted. I must say that it is very hard to see why any class D weapons would need to be issued to a private licensee in the ACT. These are, effectively, fully automatic weapons with large capacity magazines—in other words, machineguns.

Given that many self-loading rifles can be converted to fully automatic weapons with the inclusion of something as minor as a matchstick, even class C weapons are potentially machineguns but, unlike class D weapons, they are limited to magazines of 10 rounds or less. That is not much reassurance if someone was going berserk in a public place with one. Such incidents are so far unknown in the ACT and legislation like this is instrumental in keeping it that way.

I recognise that a suitable calibre firearm is needed for the relatively humane killing of large animals but, given that there are no mobs of wild camels or buffaloes in the ACT that might require culling, it is hard to imagine a circumstance where an ACT

property owner would need anything other that a high-powered, high-calibre semiautomatic rifle under a class C licence to cull vertebrate pests on their property. I presume we are talking about pigs, horses and deer under this category.

I do have a problem with the idea that a private individual can amass a veritable armoury of various firearms and I think there should be some limit placed upon the number of firearms a person can possess; particularly, there should be some restrictions on the number of high-powered, semiautomatic hunting rifles, shotguns and handguns.

A few months ago, as I said, I visited the Canberra Sporting Shooters Association's Majura Range and was impressed by the professionalism of the club, the obvious emphasis which they placed upon training and the safe handling of firearms and the community spirit which obviously exists among the club's various members and competition disciplines. The regulations applying to minors were explained to me and I am pleased that minors are still able to compete and participate in these activities under the strict guidance of a responsible adult.

I welcome the amendments to the Register of Firearms that enable the ACT's register to be linked to a national scheme for firearms registration. To be quite honest, I am surprised that such a register does not already exist. I will be supporting the government's amendments and I will be making some comments on Mr Stefaniak's amendments when we get to that point.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.56), in reply: I thank members for their contribution to the debate and their support for the bill in principle. The bill amends the Firearms Act 1996 and the Prohibitive Weapons Act 1996. These amendments adopt the resolutions contained in the national firearms trafficking policy agreement of the Australian Police Ministers Council. The bill has also been prepared in consultation with the ACT firearms registrar, the ACT Government Solicitor and the ACT Firearms Consultative Committee.

Maintaining a highly regulated system that recognises that it is a privilege rather than a right to own a firearm remains a national imperative for our community. The bill recognises the legitimate interests of licensed firearm owners whilst adopting a legal regime that targets the illicit trade in firearms. The bill does this in the following ways: first of all, it ensures the legislation includes substantial penalties for the illegal possession of a firearm; creates a new offence of trafficking in firearms; increases penalties for offences related to the defacing of serial numbers; introduces close-associate provisions to protect firearms dealers from organised crime; excludes unsuitable people from employment in firearm dealerships; and provides for better recording, reporting and inspection of firearm transactions.

The bill also provides new powers for police and the firearms registrar to ensure firearms licensees adhere to their licence conditions to prevent theft and loss of guns. The firearms registrar will also be given an important new power to declare an item a prohibited firearm or a prohibited weapon. The bill makes a series of significant changes to the act, to modernise and streamline licensing and improve the overall operation of the regulatory regime.

Notably, the bill establishes a scheme to allow for the private ownership of paintball markers and the temporary recognition of interstate paintball marker licences.

I have tabled a revised explanatory statement in response to the matters raised by the scrutiny of bills and subordinate legislation committee in its report No 54. The first of these amendments relates to the standard of proof for the defence associated with the contravention of section 66E. An offence is committed where a firearms dealer either employs a prohibited person or allows a prohibited person to act as their agent.

The provision provides a defence in instances where a dealer can prove that they did not know and could not reasonably be expected to have known that their employee or agent was a prohibited person. The revised statement makes it clear that a firearms dealer bears a legal burden of proof rather than an evidential burden, as previously stated; that is, they must produce evidence that convinces the trier of fact on the balance of probabilities of the existence of the defence.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MR CORBELL: The revised statement also provides additional material with respect to the contravention of licence conditions, in particular the application of the exception available in subsection 16AC (3). The exception will apply where a licensee refuses entry to police to inspect facilities and the refusal is reasonable in all the circumstances.

The scrutiny report raised the question about whether the term "reasonable in all the circumstances" was vague and led to incompatibility with the Human Rights Act, specifically the right to liberty and security of a person, subsection 18 (2), or the retrospectivity of criminal law, subsection 25 (1). Given the wide potential variety of situations that could apply to a particular licensee, subsection (3) is cast so that the court has sufficient flexibility to consider all circumstances raised by an accused person to establish the exception.

I foreshadow, for the benefit of members, that I will move government amendments. Members may be aware that I have recently announced the government's intention to include amendments to ban handheld laser pointers. The government has also decided to allow 16 to 18-year-olds to participate in the sport of paintball, with the written consent of their legal guardian.

The provisions dealing with licence applications have been amended, making them more coherent and easy to use. The changes create a division of mandatory and discretionary criteria for determining the suitability of applications for firearms licences. The firearms registrar will be able to consider information held by law enforcement agencies such as the Australian Customs Service and the Australian Crime Commission that indicates that it would not be in the public interest for the person to have access to a firearm.

I also note that the New South Wales parliament is considering a bill, sponsored by the Shooters Party, that will do away with the 28-day waiting period for licence renewals and permits to acquire a second or subsequent firearm where a person already owns a registered firearm in the same category. The ACT bill confirms that, in the ACT, each licence application is to be considered as a fresh application, thereby ensuring that all the appropriate checks are conducted. As a result, it is the government's position that the 28-day waiting period will apply for licence renewals.

Applications for permits to acquire a firearm will also be subject to a mandatory 28-day waiting period. This requirement was a feature of the 1996 police ministers resolution to allow police to conduct appropriate checks in order to ascertain whether circumstances have occurred since the issuing of the original licence which would render the licensee unsuitable to possess the firearm or which would render the licensee ineligible for that type of firearm.

I would like to advise members that the ACT Firearms Registry has found the existing cooling-off periods important for the cross-referencing of local and interstate records of criminal convictions. It is also a critical strategy to prevent the rapid stockpiling of weapons by people who may be preparing for an outpouring of violence. Although the inconvenience imposed on individuals purchasing second or subsequent firearms cannot be disputed, the regular screening of firearms licensees is a critical component of a robust and integrated scheme whose principal aims are to protect community safety and ensure that firearms do not fall into the hands of criminals.

It was agreed by all jurisdictions at the Australian Police Ministers Council meeting in July 2002 that the offence of illegal possession of prohibited firearms should attract a substantial penalty. Section 16 of the act currently provides for a maximum penalty of two years imprisonment for illegal possession of a prohibited firearm. The bill increases the penalty for the unauthorised possession or use of firearms to five years imprisonment in the case of possession of one to two firearms, and to 20 years imprisonment in the case of possession of 10 or more firearms. The new penalty will reflect both the seriousness of the offence and the national agreement of police ministers.

The increase in penalties for the unauthorised possession of firearms goes in hand with the changes to the concept of possession in the act. The bill enables possession to apply in circumstances where an illegal firearm is found on premises with a person or persons but there is no actual physical possession of the gun by any person. The act currently makes it an offence for defacing or altering an identifying mark on a firearm and possessing a firearm on which the mark has been altered or defaced. The bill increases the penalty for these offences from one year to five years imprisonment.

Firearms dealers oversee, record and notify the Firearms Registry of each and every exchange of firearms in the ACT. Dealers are, therefore, linchpins in the tracking and lawful registration of firearms in the ACT. Around Australia and in our own jurisdiction, firearms dealers are critical to tracking firearms. They are not part of government yet they oversee the overwhelming bulk of internal firearms transactions in Australia. Firearms dealers are the logical place for organised crime to engage in illegal diversion of firearms.

A recent study by the Australian Institute of Criminology found that theft of firearms is becoming a less viable method of supply for the illegitimate firearms market. As a result, it is logical that criminals are turning to other methods of supply, such as dealer diversion.

Recognising the important role played by firearms dealers, the bill introduces the concept of close associate. It is intended that a firearms dealer's licence application be refused where a close associate of the applicant is not a suitable person. A close associate is a person who holds or will hold a financial interest in the dealer's business and who is able to exercise significant influence over the conduct of the business.

Furthermore, the bill creates an offence for a firearms dealer to employ a prohibited person. Amendments in the bill will make it an offence for a firearms dealer to employ persons who are not suitable; that is, they do not satisfy the mandatory and discretionary criteria for firearms licences. Firearms dealers will be able to ask the firearms registrar for a statement about whether an existing or prospective employee is a prohibited person.

The obligation on firearms dealers with respect to the recoding of firearms transactions are also strengthened in the bill. Firearms dealers will need to provide the firearms registrar with monthly, rather than quarterly, returns of acquisition and disposal records. To support the increased supervision of dealers' transactions, the bill also increases penalties associated with the unlawful disposal and unlawful acquisition of firearms. The penalty for these offences is increased from imprisonment for one year to 10 years in the case of prohibited firearms, and imprisonment for five years in any other case.

The illegal trade in small arms remains a concern, both nationally and internationally. In order for Australian firearms controls to be effective, it is essential that each and every jurisdiction have in place a robust and comprehensive set of laws to deal with those who seek to profit from the illegal trade in firearms. The bill, therefore, creates the new offence of trafficking in firearms. The penalty of 20 years imprisonment reflects the gravity of the offending conduct.

A successful prosecution of this offence will require evidence of the unlawful acquisition or disposal of firearms on at least three occasions over a 12-month period. This offence will represent one of the key tools in the fight against the illegal firearms trade in the territory and Australia as a whole.

Finally, the bill also creates a new category of licence—paintball marker adult firearms licence. As members have highlighted in their speeches, the applicant will need to satisfy the registrar that they have participated in at least four paintball competitions before a paintball marker licence can be issued. This will ensure that only those adults who can show a genuine interest in and commitment to the sport of paintball will be in a position to lawfully acquire and possess paintball markers.

While minors will not be able to own paintball markers, they will be able to participate in the sport, with the written consent of their legal guardian, as a result of

the government's amendment to the bill. The use of privately owned paintball markers will only be permitted on approved paintball ranges, and licensees will need to comply with the safe storage requirements in part 5 of the act.

This legislation is important for ongoing community safety in the territory and I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.09): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the government amendments. *[See schedule 3 at page 2787]*.

This amendment will allow for the commencement of the provisions related to the prohibition of high-powered laser pointers to take effect immediately after notification.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 7, by leave, taken together and agreed to.

Clause 8.

MR STEFANIAK (Ginninderra) (6.10): I move amendment No 1 circulated in my name *[see schedule 4 at page 2791]*.

An earlier draft of the bill enabled persons over the age of 16 years to possess and use but not own paintball markers at an approved paintball range. However, the bill, in its final form, provides only for adults—that is, persons 18 years or over—to be permitted. That is at odds with other jurisdictions, some of which have even younger age thresholds and it puts the ACT ranges at a competitive disadvantage. Indeed, there is a paintball range in New South Wales, only a few kilometres from the border, which offers persons aged 16 or over the opportunity to possess and use paintball markers.

There are two important things to note here. The first is that minors would not be permitted to own paintball markers and the second is that minors would only be permitted to possess—that is, to have on their person—and use paintball markers on approved paintball ranges. They would not be entitled to own, possess, or use

paintball markers elsewhere. This provision will enable young people to gain experience in and learn about the responsibility of using firearms. That is all part of a legitimate learning process so that they develop a good grounding for the future.

The gamesmanship and fun of paintball battles must not go unnoticed here either. If and when young people sought to take a high level of interest in the ownership, possession, use and handling of firearms or weapons as enthusiasts, collectors, sportspeople or professionals, they would have had the benefit of learning about those matters in a controlled, safe, and non-threatening environment. And of course paintball games are often used by various companies and groups to take their employees out as a form of bonding.

I think the Assembly went out once with the *Canberra Times* just to see what it was like. My colleague Senator Humphries went there with several other people. It was a well-conducted range. I think everyone appreciated the experience. It was a lot of fun. They are effectively dangerous weapons, so they have to be used in a controlled environment.

Given that everyone else seems to have 16 and 17-year-olds involved, there is no reason why the ACT cannot. So I commend my amendment to the Assembly, although I note Mr Corbell has got a very similar amendment and obviously he will be speaking to his amendment as well.

MR MULCAHY (Molonglo) (6.12): As I indicated earlier, I think the amendments that Mr Stefaniak is putting forward make a lot of sense. I cannot see any basis why 16 and 17-year-olds should not be allowed to take advantage of these paintball facilities. I gather the government has got something similar in mind. It seems a reasonable age for this kind of activity. It appears to be consistent with other jurisdictions and we should not be disadvantaging ACT businesses in relation to their competitors across the border. So I think that the amendment ought to be supported as presented.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.13): The government will not be supporting this amendment. The government's amendment does address the key issue that Mr Stefaniak raises by providing a scheme where 16 and 17-year-olds are able to participate with the written consent of their legal guardian. We believe that that consent is important. We are talking about weapons, and we believe that, for minors to use weapons, the consent of their legal guardian is appropriate.

Amendment negatived.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.14): I move amendment No 2 circulated in my name *[see schedule 3 at page 2787]*.

This amendment will allow 16 and 17-year-olds to participate in paintball sports at approved paintball ranges with the written consent of their legal guardian. This amendment has been included following the careful consideration of the legitimate

commercial interests of paintball operators and recognises the growing popularity and development of the sport of paintball in Australia. This change to the participation age for paintball will bring the ACT into line with the provisions in New South Wales.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 23, by leave, taken together and agreed to.

Clause 24.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.15): I seek leave to move amendments Nos 3 and 4 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 3 and 4 circulated in my name together *[see schedule 3 at page 2787]*.

These are transitional provisions dealing with the changed reference to the Children and Young People Act 1999. The dictionary will provide for definitions of "responsible person" and "parental responsibility".

Amendments agreed to.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.16): I move amendment No 5 circulated in my name *[see schedule 3 at page 2788]*.

At present a person between the ages of 12 and 18 is able to obtain a minors firearms permit. In modernising and simplifying the licensing, the bill applies the same licensing requirements imposed on adult firearms licences to minors firearms licences. Where a minors firearms licence departs from an adult firearms licence is in respect of the categories of firearms licence a minor can hold and their genuine reasons to possess or use firearms. Currently, a young person is limited to holding a firearms licence for the purpose of firearms training and target pistol training.

Although all Australian jurisdictions limit the possession of firearms to people over 12 years of age, the basis on which young people between 12 and 18 are able to obtain authority to possess or use a firearm is left to individual states and territories to determine. Although Canberra is often referred to as a city state, it must be remembered that the ACT has a small but very significant rural community. This importance in terms of firearms policy is underscored by the fact that the ACT Rural Landholders Association is represented on the ACT Firearms Consultative Committee. Of the approximately 5,000 adult firearms licences, 108 are registered with the genuine reason of primary production. These licensees use their firearms in their business as primary producers to manage the everyday tasks involving the protection

of livestock and pasture from vermin as well as the humane destruction of sick and injured livestock.

Members of the ACT Rural Landholders Association have put it to me, through the Firearms Consultative Committee, that primary producers who work on the land in the ACT and who have young children are not currently able to teach and mentor their sons or daughters in the use of the very important tool that a firearm represents on a rural property.

It is for this reason that the government is supporting the extension of the valid reasons for minors firearms licences for primary production. The government believes it is important to recognise and support primary producers. As a result, with a change in this clause, a young person whose parent is a firearms licensee, who is a primary producer, will be able to obtain a minors firearms licence with instruction in the use of firearms for primary production as the stated reason on their licence. This will allow the young person to engage in shooting activities on the family farm under the supervision of the person with parental responsibility who is also a primary producer firearms licensee. However, the government does not support an extension of the minors licence for recreational hunting on rural land.

The compelling nature of primary producers' land management needs is not evident for recreational hunting and the effect of the alternative amendment proposed by Mr Stefaniak would be to extend recreational hunting for all minors licences in the territory. We do not believe that is appropriate. As a result, we do not support an extension of the power to that extent.

MR STEFANIAK (Ginninderra) (6.19): In speaking to Mr Corbell's amendment, I will also be moving amendment No 2 circulated in my name, which he has made comment about.

MR SPEAKER: We can only deal with Mr Corbell's amendment at this stage.

MR STEFANIAK: It probably would have been tidier to deal with mine first, Mr Speaker, because I can count the numbers. We could have got rid of that and then—

MR SPEAKER: Mr Corbell has moved his.

MR STEFANIAK: In relation to the matter, I will speak to my amendment in speaking to Mr Corbell's, to save time.

MR SPEAKER: You have to speak to Mr Corbell's amendment because your amendment cannot be moved yet.

MR STEFANIAK: I am doing that, but the comments I will make in speaking to Mr Corbell's amendment relate to my amendment as well. I am pleased that Mr Corbell moved his amendment, but it only goes part of the way in dealing with what is necessary. What I think is necessary is what is contained in my amendment No 2. The amendments in this bill in relation to licences for minors limit the

possession and use of firearms to certain categories, for training purposes only, on firing ranges. I think that is somewhat restrictive. Until now, and in other states, minors could fire weapons under the supervision of a responsible adult. You can fire them on ranges and be trained on ranges. In fact, they have to do approved courses. But they could also use them for recreational hunting, for primary production and for other legitimate purposes. That is also an essential part of training a young person effectively in the use of a firearm.

The existing act allows the possession and use of firearms by minors under adult supervision for instruction in recreational hunting or vermin control on rural land or in primary production. We do not have any situations in the ACT where people might seek to use firearms in that capacity. Nonetheless, there are some situations, and they should be catered for.

In addition, very few, if any, incidents have occurred which might support the efficacy of the amendments. Indeed, to remove these provisions, which this bill would do, without making amendments, would have the effect of stifling valuable training opportunities for young people in the development of their skills under supervision.

The amendment which I will put before the Assembly goes somewhat further than Mr Corbell's. That is why it is preferable. It would restore to the holders of minors licensing categories A and B only, the ability to possess and use firearms covered under those categories for genuine reasons of instruction about the safe use of firearms for recreational hunting or vermin control on rural land or in primary production. The amendment requires that such possession and use be under the supervision of an adult who holds licences in the same category—that is, A and B. Neither of these amendments—Mr Corbell's or mine—seeks to change the bill's provisions relating to minors licences in category H, which is pistols. Young people, even under the bill, will be able to be trained in the use of pistols on a range.

I do not think there is any need—indeed, it is quite unsafe—for people to use pistols in hunting vermin or anything like that. In fact, it can be quite dangerous and it is totally unnecessary. No responsible person is seeking that. So there should not be a need for minors to possess and use pistols in circumstances other than those which the bill contemplates. But in terms of class A and class B, it is a very important part of practical training for young people to be able to use these weapons in a rural situation.

I think we have about 200 or so farms in the ACT. Many of them are probably too close in even to allow sheep, but there are some in the ACT where people are invited to visit. People have friends and family there, and the rural property is used for recreational hunting and shooting. It helps the primary producer. Invariably, they are often family members or close friends. Certainly, I can see nothing wrong with a father, an uncle or an older brother taking out somebody who is under 18. That older person would have to be the holder of the relevant A or B licence and would be assisting with that young person's training in a recreational hunting capacity or a vermin control capacity.

Whilst I am pleased that the attorney amended it so that at least young people who live in the bush are able, under their parent's supervision, to use a class A or class B

weapon, I think that is still unduly restrictive. Whilst there are probably not many farms in the ACT where people do go and shoot, there are some. I cannot think of any instances to date, since 1996, when we have had our new legislation, where a young person has misused a weapon.

In New South Wales, young people are able to do exactly what my amendment states, and I believe that is the case in other states as well. So the bill, as it stands, is overly restrictive. The attorney's amendment, whilst welcome, deals only with young people who are the sons or daughters of a rural farmer in the ACT. I do not see why we should be different from other states in this regard. There is no reason to further restrict the legitimate use by young people. Legitimate training is a very important part of learning how to properly handle a weapon, if you do handle it in a recreational hunting or shooting situation, or in a primary production or a vermin control type of situation.

Restricting it to just a parent or guardian is also being overly restrictive. Invariably, the practice here is for young people to go out with an older brother; usually it is probably the father, but often it can be an uncle. I have a brother-in-law who owns a rural property. Certainly, in the past he has gone shooting with nephews and the like and he is a very responsible person.

I just do not see the need for this bill to be so restrictive. Whilst I think the attorney's amendment goes some way, my amendment is preferable. Mine is the one that members should support. Having said that, of course I can count. I would commend my amendment to the attorney if he has a late change of mind. Even with his improvement, it is still overly restrictive. I appreciate that he has heard from the rural lessees and that that is their main concern. It is quite legitimate and is totally covered by my amendment as well. I have also received concerns from the Sporting Shooters Association and several other people who are involved in recreational shooting and hunting. In fact, "women for hunting" came to see me several months ago. All those groups were keen to see the situation interstate applied here. Accordingly, I commend my amendment instead of the attorney's.

DR FOSKEY (Molonglo) (6.27): I want to speak briefly now; I assume we will have a chance to speak to Mr Stefaniak's amendment in a moment. I am not going to support Mr Stefaniak's amendment. I am not sure about this one, either. There is no doubt that the ACT is different from other states because any rural properties we have are not that far from urban environments, national parks or nature parks. I understand that my vote is not going to make a large difference. This is an issue on which there needs to be some discretion. I do not think it should be different according to where the rural property is located because it is the case that many are located in areas where people inadvertently may be, and bullets can escape into national parks. Those are my concerns about this amendment.

MR MULCAHY (Molonglo) (6.28): I endorse everything that Mr Stefaniak said in his comments on this amendment. I think the amendment falls short in terms of dealing with all the situations that are important. I think it is very important, particularly for young people in rural environments, to learn about and respect the use of weapons. I was taught how to use firearms at the age of 12. I made sure I did not

have any firearms in my possession when our first child was born because I know kids can be inquisitive. It was always done under supervision until I was an adult and it worked well. It taught you skills and how to deal with different situations when you were in a rural environment.

I recognise what Dr Foskey said about the proximity to metropolitan urban areas here in Canberra, but I think it would be too complicated to start putting in prescriptive rules about where you live and about access. There are obviously overriding expectations that people do not start firing, particularly long-range weapons, towards built-up areas. Anybody who has dealt with weapons would know that is a fundamental precaution to take. Certainly, those in a rural environment, particularly from my experience, having grown up in a state where there are a lot of people on the land, respect that particular approach.

I am also never comfortable when we start stepping out of sync with the rest of the country. I am assuming that what Mr Stefaniak said was right; I have not researched the other jurisdictions. I do not think it is good law or good policy to start having differentiations on matters of this nature. Whilst the minister said it was not appropriate to allow minors under supervision to engage in recreational hunting or shooting, he failed to offer any plausible reason. I do not know whether this is once again political correctness floating into this place. If he has a compelling argument, I would love to hear it. I would love to hear why it is okay across the border but it is not okay in this jurisdiction. Those are my views.

Amendment agreed to.

Mr Stefaniak: I wish to move amendment No 2 circulated in my name.

MR SPEAKER: I have been having a discussion with the Clerk about it. It is inconsistent with something that has just been passed. Therefore, it is out of order.

Mr Stefaniak: If it was upheld, it would negate Mr Corbell's amendment.

MR SPEAKER: It is inconsistent with something that has just been passed. Therefore, it is out of order.

Mr Corbell: It is revisiting the question.

MR SPEAKER: It is more or less revisiting the question, but standing order 141 covers it. I will read it:

> An amendment shall not be moved if it is inconsistent with a previous decision on the question.

We have just made the decision.

Mr Mulcahy: Move an amendment to tack on the recreation one.

Mr Stefaniak: I could do that. That is why I thought it would have been easier to do mine first.

MR SPEAKER: It might have been, in hindsight.

Mr Stefaniak: Obviously Mr Corbell has the numbers; I can count.

MR SPEAKER: The debate is not a matter of convenience; it is a matter of getting through it.

Mr Stefaniak: I note what you are saying.

MR SPEAKER: I have ruled.

Mr Stefaniak: It is quite clear that Mr Mulcahy and I support mine; Mr Corbell and Dr Foskey support his. If you are ruling in that way, Mr Speaker, I accept your ruling. Mr Corbell's amendment stands. I refer back to what I said when discussing his amendment.

MR SPEAKER: I have already ruled on it. Sit down, please.

Clause 24, as amended, agreed to.

Clause 25.

MR STEFANIAK (Ginninderra) (6.32): I move amendment No 3 circulated in my name *[see schedule 4 at page 2791]*.

The bill provides, and the attorney referred to it in his speech, that the registrar shall issue permits to acquire second and subsequent firearms before 28 days after the date of the permit application. I would say that that is an inefficiency and a layer of bureaucracy that is unnecessary for the safe management and regulation of firearms in the ACT. A person is not permitted to apply for a permit to acquire unless the person is the holder of a licence. In securing a licence, they have to jump through all the hoops, run the gauntlet of police checks and all the identification that is required and so on. By the time the licence is issued, the registrar is well aware of the licence holder's eligibility to hold the licence.

So when they come to the point of wishing to acquire additional firearms they should be able to make the application for a permit to acquire and be issued with a permit almost as an over-the-counter arrangement. They should not have to front up to the registrar, lodge their application and then have the door slammed shut in their face for nearly a month. The opportunity to acquire might be lost in that time. If people are involved in sporting competitions, there can be some real problems there.

Other jurisdictions have, I am advised, recognised this situation. Victoria, I am also advised, has some of the toughest firearms legislation in the country, given that we do have a national scheme. With any national scheme, there are regional differences, as we are seeing a few more emerge tonight. They are the toughest in the country, though, I am told.

Queensland and the Northern Territory, too, in this area have much less stringent arrangements. The upper house of our immediate neighbour, New South Wales, has passed legislation to relax these rules in that state, with the support, I think, of both major parties; and that goes before their lower house. So one can assume New South Wales is going to come in line with Victoria, Queensland and the Northern Territory.

I do not believe we should fall behind, and bona fide licence holders should reasonably expect to receive a better service there. However, the opposition does recognise that an application for a permit to acquire provides the registrar with an opportunity to undertake a quick recheck of the record of a licence holder. Invariably, once you have a firearm and you are a licence holder for five years and you acquire another firearm, all the work has been done. But it is conceivable that you might have been convicted of an offence between acquiring your first firearm and your second firearm.

So we think that the registrar should have an opportunity to undertake a quick recheck of the record of a licence holder. That may involve a simple request to police to check their records. So I think it is reasonable to expect the registrar should be allowed a little time for that review. Our amendment is simple. It will require the registrar to issue or not to issue a permit to acquire by no later than 14 days after the date of the application. That is ample time, I am told, for the registrar and the police to make the necessary checks for a second or subsequent weapon.

I hear what the attorney says, but certainly police officers I have spoken to say that usually these checks are done in about five days. Whilst the Sporting Shooters Association, who saw me in relation to this, would obviously like us to come fully into line with other states, especially Victoria, New South Wales and Queensland, in this regard, they do not have a particular problem if it was a shorter period. Anything is better than what we have at present. Fourteen days is a reasonable compromise. It enables those rechecks to be done, but it also is a much more reasonable period if people who are involved in competitions need weapons for a certain type of competition.

I note what Dr Foskey said earlier in terms of how many weapons people should have. I did ask that question of the sporting shooters. People engaged in competitions and serious shooters could have as many as between about 20 and 30 weapons quite legitimately. I would imagine the vast majority of shooters have nothing like that and I think that is entirely appropriate. I do think there is merit in what she says in relation to ensuring that people do not have an absolute plethora of weapons if they do not need them. But I throw that one in simply because, in the course of this conversation, it came up.

That having been said, I think 14 days is a most reasonable compromise. It does ensure the necessary checks are in there for the authorities. It is something that our registry is more than capable of doing, but it is a little bit fairer than what we have at present for legitimate shooters. And whilst it does not completely take away that period for second or subsequent weapons, which other states do, I think it is a very reasonable compromise. I commend it to members of the Assembly.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.37): This is one of those interesting moments when Mr Stefaniak is at odds with ACT Policing, because it is the very clear view of the ACT firearms registrar that the existing cooling-off period is a very important part of the work of the registrar. For those reasons, the government will not be supporting this amendment.

As Mr Stefaniak has highlighted, the New South Wales parliament has recently considered a similar amendment and done away with the 28-day waiting period for permits to acquire second or subsequent firearms. And as Mr Stefaniak notes, some other jurisdictions have as well.

But I think it is important to remind members that, following the Port Arthur massacre, the Australasian Police Ministers Council convened a special meeting and agreed to a national plan for the regulation of firearms, which was the nationwide agreement on firearms, and this cooling-off period was one of those provisions that were agreed after the Port Arthur massacre. As well as banning automatic rifles and shotguns, the agreement also provided for mandatory waiting periods for permits to acquire firearms. The rationale for this requirement was to enable appropriate checks to be made on licensees in order to ascertain whether circumstances had occurred since the issuing of the original licence which would render the licensee unsuitable to posses the firearm or which would render the licensee ineligible for that type of a firearm.

As I have said earlier, the ACT firearms registrar has found the existing cooling-off period critically important for the cross-referencing of local and interstate records of criminal convictions. And the registrar cites instances where a permit to acquire checks revealed either criminal convictions or protection orders in the period since the last check was performed. I believe the onus needs to be on those who argue for this change to outline why 28 days is such an enormous inconvenience. Yes, it is an inconvenience imposed on individuals purchasing second or subsequent firearms but the regular screening of firearms licensees is a critical component of a robust and integrated scheme whose principal aim is to ensure that firearms do not fall into the wrong hands.

As I have indicated, there are no compelling arguments for this change and, in light of the advice I have received from the ACT firearms registrar about the appropriateness and importance of the existing period of 28 days, the government will not support moving away from the current provisions or indeed, and importantly, from the 1996 firearms agreement following the Port Arthur massacre.

DR FOSKEY (Molonglo) (6.40): I do take the point that a person applying for a permit to acquire a firearm must already hold an appropriate category of firearms licence and, therefore, will already have gone through the background check and cooling-off period and I note that a number of other jurisdictions have done away with any waiting period whatsoever for a permit to acquire a gun.

It is in this light, I suppose, that the opposition's amendment is relatively conservative in that it retains a 14-day waiting period in which a registrar can consult with the police to ensure they are not aware of any change in the applicant's circumstances that would indicate a potential problem. If this amendment was directed solely at reducing

the waiting period for people applying for a permit to acquire a replacement firearm or a second firearm in the category in which they already possess a similar firearm, then I would have thought about supporting it.

I recognise that the majority of people applying for these permits will be highly responsible and, for them, the enforced wait merely serves as an annoyance. However, I agree with the Attorney-General that the longer, 28-day period serves a useful purpose in some cases. In that case, I will not be supporting that amendment.

Amendment negatived.

Clause 25 agreed to.

Clauses 26 to 57, by leave, taken together and agreed to.

Clause 58.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.42): I seek leave to move amendments Nos 6 and 7 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 6 and 7 circulated in my name together *[see schedule 3 at page 2788]*.

These amendments are a result of amendments to important definitions in the Children and Young People Act. These amendments are necessary to ensure that the correct law applies to instances where firearms laws relate to minors.

Amendments agreed to.

Clause 58, as amended, agreed to.

Clauses 59 to 67, by leave, taken together and agreed to.

Clause 68.

MR SPEAKER: Mr Stefaniak, do you wish to move your amendment?

Mr Stefaniak: No. My amendment No 2 has been defeated and this is consequential. This is my amendment No 5.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.44): I move amendment No 8 circulated in my name *[see schedule 3 at page 2789]*.

Government amendment No 8 ensures that schedule 3, licence categories and authority conferred, reflects the extended reasons available for category A and B firearms for minors firearms licences. It is consequential to the previous amendments.

Amendment agreed to.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.45): I move amendment No 9 circulated in my name *[see schedule 3 at page 2789]*.

Again, this is a consequential amendment to the previous amendments relating to minors.

Mr Stefaniak: As is mine, which lapses.

Amendment agreed to.

Clause 68, as amended, agreed to.

Clause 69.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.46): I seek leave to move amendments Nos 10 and 11 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 10 and 11 circulated in my name together *[see schedule 3 at page 2789]*.

Again, these amendments are consequential to the issues relating to minors.

Amendments agreed to.

Clause 69, as amended, agreed to.

Clauses 70 to 75, by leave, taken together and agreed to.

Proposed new clause 75A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.47): I move amendment No 12 circulated in my name which inserts a proposed new clause 75A *[see schedule 3 at page 2790]*.

This amendment will allow the firearms registrar to make a declaration about the possession or use of laser pointers prohibited in the relevant schedule. The amendments contemplate that people in certain professional, technical or scientific classes will be excluded from the offence. This will ensure that individuals with genuine reasons, such as astronomers, including amateur astronomers, academics and surveyors, can continue to use these items without the requirement for a permit to possess and use the devices. This provision will commence immediately following notification to allow for a declaration to be made.

Proposed new clause 75A agreed to.

Clause 76 agreed to.

Proposed new clauses 76A and 76B.

MR STEFANIAK (Ginninderra) (6.48): I move amendment No 6 circulated in my name which inserts proposed new clauses 76A and 76B *[see schedule 4 at page 2792]*.

One of the acts that this bill amends is the Prohibited Weapons Act 1996. Amongst other things, it adds a number of weapons to the list of prohibited weapons, including trench knives and double-edged knives such as daggers. Correspondence and discussions with the ACT Antique and Historical Arms Association, as well as an individual collector, point out that this would mean that many collectors would be in breach of the legislation because their collections range across very valuable and important antique, heritage and historical knives.

The challenge in seeking to regulate knives and such is twofold. Firstly, it is utterly impossible to capture every situation in which a knife, or indeed any implement, either immediately or very shortly after modification could behave like a knife. The person seeking to stab or slash someone or something would not need to be very inventive to find or modify an implement pretty quickly. Secondly, individual knives are not very easily defined. Unlike firearms, for example, knives do not, as a rule, carry any kind of singularly identifying manufacturing mark or serial number. I think there is an unintended consequence of these particular amendments in that, if they are passed, collectors of knives of antique, historical heritage value and importance will suddenly find themselves contrary to the law.

These items might be family heirlooms, war souvenirs and, in some instances, centuries old. They are highly prized and highly valued by their owners and in many cases command significant prices when offered for sale. Given their value, these knives are kept secure by their owners, thereby reducing the risk of their being acquired unlawfully by other persons. It would be rare indeed for these kinds of knives to be carried by those wishing to use them for unlawful purposes. I can think of no instances where that has occurred in the ACT.

Other issues regarding these amendments include the cultural significance of certain types of double-edged knives, the use of certain knives for professional and recreational activities such as scuba diving and the fact that some of these weapons are readily and legally available just over the border in New South Wales.

I will leave those later issues aside for now. Perhaps they should be the subject of the regime of monitoring and review that I mentioned earlier. My amendment addresses only the antique, heritage and historical issues that have been raised with me. It empowers a registrar to issue general permits to persons who can demonstrate that they are collectors and that the weapon or articles are part of a genuine antique, heritage or historical collection.

Permit holders will not need to specify the individual items in the collection but the registrar may impose permit conditions and requirements, including expiry dates, and may, at any time, cancel a permit. It is very similar in that respect to what has been proposed by Mr Corbell. My amendment will also enable permit holders to surrender their permits and will require the registrar to review the collector permits at least every five years. The amendment also provides for an appeal mechanism.

This amendment addresses a very serious deficiency in this bill. It preserves the antique, heritage and historical values of the many collections in our community that are important to our culture. I have tried to work out the best way of doing this and one of the suggestions was maybe to make it for a couple of different types of categories that were made before 1950. I am very appreciative of the parliamentary counsel for coming up with this. I have been advised that this type of set-up—the permit and the amendment I have put—was actually envisaged when the discussions were being held.

The antique collectors were somewhat surprised when they did not see it in the final legislation. They were led to believe it would be in there because it is a simple, tidy and effective way of ensuring proper regulation without causing collectors to have to register every single time they pick up an item. The parliamentary counsel who came up with this felt that it was a particularly tidy and useful way of addressing the issues here, and I thank them for it. I also note that I was advised that this type of system was what was envisaged. It was believed, certainly by the historical collectors association, that it would be in the legislation. I am not sure why it did not occur. It would have been tidier if it was. I commend the amendment to the Assembly. Hopefully, this time the government might support it.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.53): The government will not be supporting this amendment. I too have had representations from collectors of antique weapons, as I know have Mr Gentleman and some of my other colleagues. I understand that people who are legitimate collectors of military and other weapons are required to hold a permit to possess individual items where those items fall into one of the descriptions of prohibited weapons. Where a person is a collector of antique weapons or where a person comes into the possession of a family heirloom, such as an item souvenired during wartime, and the item is included in the list of prohibited weapons, they can approach the ACT Firearms Registry to obtain a prohibited weapons permit.

It is important to remind ourselves that, as well as preventing the proliferation of dangerous items in the community, the role of prohibited weapons legislation is to keep track of the lawful ownership of these items. All Australian jurisdictions, except Tasmania, have in place a scheme for the control or complete prohibition of a range of dangerous items. Whilst there remains a degree of divergence in the type of items covered across jurisdictions, for the most part items that the community would perceive as offensive are included in prohibited weapons legislation.

The government's bill makes a series of amendments to the Prohibited Weapons Act to bring the existing list of prohibited weapons into closer alignment with the Customs

(Prohibited Imports) Regulations 1956. Schedule 2 of those customs regulations covers goods such as warfare items, various bladed goods, hand-to-hand combat and martial arts weapons, incapacitation devices and security law enforcement equipment.

The intention is to make sure that our prohibited weapons align with those weapons that are prohibited from importation into the country, and I think that makes sense. The goods covered in the customs regulations and the ACT Prohibited Weapons Act are based on the uniform prohibited weapons list which was developed at the 37th meeting of the Australasian Police Ministers Council in 1993. That list was formulated in order to deliver the greatest possible consistency between the commonwealth, states and territories.

New South Wales, Victoria, South Australia, Western Australia and the Northern Territory currently prohibit trench knives and require individuals who wish to own these items to obtain a permit. In that respect, our approach is consistent with those other jurisdictions. As with 28-day waiting periods for permits to acquire, there is a degree of inconvenience for law-abiding citizens engaged in legitimate pursuits and interests, but I stress here once again the importance of ensuring that these dangerous items do not fall into the wrong hands or are lost track of in the community.

MR MULCAHY (Molonglo) (6.56): The amendment that Mr Stefaniak has put forward proposes to allow for the issuing, as he said, of a special collectors permit for collections and weapons that form part of a genuine antique, heritage or historical collection. He has, in his amendment, addressed the issue of having conditions that those permits are subjected to and requiring that the registrar review the collectors permits at least every five years.

This seems to be a reasonable addition to the range of licensing instruments that can be issued by the registrar. I find it a bit strange that the attorney says what he has in mind will make it consistent with other jurisdictions, whereas all afternoon we have been hearing a whole lot of excuses as to why things should not be in line with other jurisdictions. So it seems that one minute it suits us to be in line and another time it does not suit us to be in line.

As to the alignment with the Australian customs area, I will not get too distracted on that but I am not absolutely convinced that the listing and the approach of Australian customs in this area is entirely sensible. I have seen examples of where they have really gone to extremes in relation to toys and souvenirs that they have impounded from people. I am aware of an instance only last year that was completely over the top. So I am not entirely sure that that was a biblical truth in terms of it being an appropriate listing approach. It may be down to interpretation and whether that should be directing how the ACT governs its affairs. You are either consistent with other jurisdictions or you throw it out the door and run your own race. Ultimately, these matters are the responsibility of ministers, but the officials probably have a bit of explaining to do, as to why they have not been able to reach outcomes with their interstate colleagues to get some measure of uniformity in an area such as this. It has been such a topical issue in Australia since the terrible events in 1996.

Yes, we have made progress. I looked at the Australian criminology institute's reports recently. I went through them in great detail about the level or otherwise of the use of

firearms in assaults. There has been a dramatic increase in the use of knives in crime. But the bottom line is that I think Mr Stefaniak's amendment is sensible. I reject the attorney's rationale for his amendment. As Mr Stefaniak said, he has got the numbers to do what he wishes, but I still want to put on the record that I do not think that the approach is appropriate. I think in this case the amendment is sensible and reasonable and ought to be supported by members.

DR FOSKEY (Molonglo) (6.59): Many of the provisions in Mr Stefaniak's proposed new section 10 are really sensible, but they are not stand-alone provisions so I cannot support the whole amendment. The reason is that I am not comfortable with the idea of a collector not being required to compile and retain a register of all their weapons. At the very least, they should be required to provide and maintain a written description, accompanied by a photograph of each item in their collection. Current technology makes this possible. A private register could be submitted online to the registrar. I urge the government to consider instituting such a scheme because, as has been remarked, there is a lot of sense being talked but it is a question of how we do it.

Proposed new clauses 76A and 76B negatived.

Clauses 77 to 79, by leave, taken together and agreed to.

Proposed new clause 79A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7.00): I move amendment No 13 circulated in my name which inserts a new clause 79A *[see schedule 3 at page 2791]*.

Including handheld laser pointers in the current schedule of the Prohibited Weapons Act ensures that the item is prohibited immediately following notification of the amending act. This will mean that where a person is convicted of the possession or use of a prohibited laser pointer they will be liable to a $10,000 fine or imprisonment for one year.

The description is identical to the description in the commonwealth Customs (Prohibited Imports) Regulations 1956. Governments across Australia have created or are in the process of creating a legal framework to prohibit high-powered laser pointers. While the government strongly supports the continuing use of laser pointers by members of the community with a genuine reason for owning them, the risk of catastrophic injury as a result of the behaviour of a small number should not be ignored.

The increasing number of incidents involving people using these items to target aircraft and vehicles creates a significant risk for the community. Whilst many of these instances are simply caused by mischief makers, the real risk, to aircraft in particular, cannot be ignored. In the last 12 months, there have been seven reported instances of lasers being used to target aircraft in the ACT alone. Laser pointers are dangerous when misused in this fashion as they distract pilots and may even cause eye damage.

While we have been very fortunate that no serious accidents have occurred to date, it is not a risk that the government is prepared to tolerate. The inclusion of this item is a restatement of the government's continuing commitment to and support for the national approach to the control and prohibition of dangerous weapons. This matter has been a cause for concern in all Australian jurisdictions. The Police Ministers Council recently resolved to have this matter reviewed by the Model Criminal Law Officers Committee for the consideration of model provisions. The ACT will consider these model provisions in order to ensure that the ACT is not out of step with other jurisdictions on this question.

MR STEFANIAK (Ginninderra) (7.03): The opposition will be supporting this amendment, as we do any sensible amendments from the government. Might I say that I commented earlier in another debate that this government often takes forever in getting sensible changes to the law enforced. I think I made that comment in relation to the very sensible amendments dropped on the table today in relation to sexual assaults, something I believe could have occurred a couple of years earlier.

This laser problem is a fairly recent phenomenon and it emanates from some pretty scary things happening in New South Wales. It is a great danger to pilots and, indeed, passengers. The last thing I think anyone would want to see is a misused laser bringing down a passenger aircraft, with several hundred people on board, into a built-up area. It is horrendous. You are talking 9/11 stuff there. It is often just through absolute stupidity, with some fool playing around with a laser. It is an incredibly serious matter and needs to be treated as such.

We welcome this amendment. Indeed, it is a timely amendment and it has been brought forward in a timely manner. Given that we are, effectively, pretty close to the end of the bill, might I say that we will certainly monitor this to see how well this goes and whether, in fact, any further amendments need to be made in relation to lasers, just like we will monitor the other part of the bill to see whether any further amendments are needed in relation to sensible regulation of dangerous weapons and firearms.

I think, on some parts of this bill and in some of the debate tonight, we have got overly technical. It is important to ensure that dangerous items are not misused. I think we do that fairly well with firearms. I am concerned that the government is being overly difficult in terms of things like heirlooms.

This particular amendment, however, is timely; we certainly support it and it brings us into line with both commonwealth legislation and New South Wales legislation. We are an island within New South Wales and we will always support the government when it has sensible moves to bring us into line with New South Wales. It is a pity it is rather selective in when it wants us to come into line with some state or otherwise when its own ideology seems to be paramount.

But this is certainly one instance where it is utterly essential, as I think I have said from the beginning on this particular issue when it first came to light several months ago, that we be in line with New South Wales. All flights to Canberra from New

South Wales are over New South Wales territory. We will be in line with commonwealth legislation as well.

Proposed new clause 79A agreed to.

Clause 80.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7.06): I move amendment No 14 circulated in my name *[see schedule 3 at page 2791]*.

This amendment, which is the final government amendment, includes high-powered laser pointers in the new schedule 14, other prohibited weapons, in the amended Prohibited Weapons Act. Once other amendments commence, the maximum penalty for the use or possession of prohibited weapons, including laser pointers, will be a $50,000 fine or imprisonment for five years.

Amendment agreed to.

Clause 80, as amended, agreed to.

Remainder of bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

Supplementary answer to question without notice
Members—travel

MR SPEAKER: Earlier today, Mr Mulcahy asked a question on notice in relation to proposed travel to Kiribati and other matters. Mr Mulcahy will be aware that I introduced the practice in December 2004 of tabling on a regular basis a non-executive members travel report. The cost that Mr Mulcahy seeks will be detailed in a future report to the Assembly. I was tempted to leave it until then, but I thought, now that the question had been asked, we can answer it.

Can I also remind members that the visit to Kiribati was a result of a decision of the ACT CPA branch in March 2008 where it was resolved to send a bipartisan delegation along with the Clerk in response to the initiative of the Commonwealth Parliamentary Association to twin the Australian Capital Territory parliament with that of Kiribati.

The estimated cost of the travel is: fares, $14,283; accommodation, $840; and the estimated meal cost of $600. There will be no cost incurred in Kiribati, as the delegation is staying at the high commissioner's residence. None of these costs are being met from members' study trip allowances.

The duration of the travel to Kiribati is five days. The delegation departs Canberra on Monday, 21 July, and returns on Friday, 25 July. It should be noted that there are only two flights to Tarawa in a week; so if you think you are missing out on something, think again.

A supplementary question was: "What other international or domestic travel for members between now and October have you approved and what is the funding source?" In order to provide an answer today, rather than in August when the Assembly next meets, I provide the following information: if there are any approvals in the time available that I have not seen, I will advise the Assembly accordingly.

I have approved the attendance of members of the Standing Committee on Planning and Environment at a conference in Sydney in July. The travel will be funded from the committee budget. I understand a member will be travelling to the ASPG conference in Brisbane in July, although I have not been able to ascertain whether formal approval has yet been given for the travel. That travel will be funded from the member's study trip allocation.

The Kiribati trip that Mr Mulcahy referred to in his question is CPA travel, and he may be aware from his attendance in Perth last year at the CPA seminar that CPA travel is not approved by the Speaker; that travel is determined in accordance with a roster which is agreed to by the branch. In accordance with that roster, a Labor member will be attending the CPA conference in Malaysia in August, and two Labor members will be attending the regional conference in Hobart after crossbench members declined to nominate for one of the positions.

In addition, Mrs Dunne will be attending a meeting in Sydney on 21 July on behalf of the ACT branch in relation to Commonwealth Women's Parliamentarians Group issues. The CPA travel will be funded from the interparliamentary relations part of the Assembly budget.

I will be attending the Presiding Officers and Clerks conference in Adelaide next week. This travel will be funded from the secretariat budget.

This sort of travel, in my view, is an extremely important part of the work that we do in the Assembly and I endorse it completely.

Paper

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7.10): I table, for the information of members, an additional explanatory statement to the Crimes (Forensic Procedures) Bill which I neglected to do during the debate. For completeness, I table that explanatory statement now. I present the following paper:

> Crimes (Forensic Procedures) Bill 2008—Supplementary explanatory statement to the Government amendments.

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

International affairs—China and Tibet

MR STEFANIAK (Ginninderra) (7.11): This matter was drawn to my attention and is something that I will circulate to members because, with our limited time for private members business, it would be difficult to do it as a motion. The Senate recently agreed to a motion which I will read out and which it would be appropriate for us to adopt and pass on, I would imagine, either to the Prime Minister or the foreign minister. It was moved by Senator Nettle and she added Senator Bartlett's name to the motion, which stated:

> That the Senate—
>
> (a) notes that:
>
> (i) the International Covenant on Civil and Political Rights applies to the treatment of Falun Gong Practitioners worldwide,
>
> (ii) the practise of religion should not form the basis of the incarceration of any individual;
>
> (b) appreciates the commitment by the Prime Minister (Mr Rudd) to being a zhengyou, or a 'true friend', to the Chinese leadership and his willingness to raise challenging human rights issues; and
>
> (c) expresses its support for an end to the persecution of Falun Gong practitioners in China.

The question was agreed to. I could not see whether there was debate on that or not. I will follow that up to see whether that has been finalised. In this Olympic year, given some of the controversy over the torch relay and the quite proper statements made by the Chief Minister in relation to respecting people's human rights to protest, the fact is that there are civil rights abuses in China and, if we are to be a true friend, we should not try to hide things from our friend; you tell your friend when your friend, you feel, is doing the wrong thing. The Chinese are big boys and girls and they can certainly take that. I think it shows a certain amount of maturity by Australia in so doing.

It might be sensible for us to add something in relation to the persecution of pro-democracy people in Tibet as well. In 1951, the Chinese government signed with the Dalai Lama a 19-point treaty which guaranteed, effectively, autonomy for Tibet. It effectively made Tibet something a bit like the old British protectorate system whereby the national government looks after defence and foreign affairs and all the internal affairs are run by the autonomous region or, indeed, state. I do not think even the Dalai Lama these days wants to go quite that far. Clearly, any sort of accommodation there would be in the interests of everyone.

I probably intend adding something there which we could then pass on to the Prime Minister, because I think it is important that we help our friends by making suggestions on how we feel they should do things better. There are certainly a number

of citizens in Australia who feel very strongly about it—migrants from Tibet and, indeed, migrants from China. I think Australia has a good, very friendly but robust relationship with China and it is important that we are frank with them and indeed that they be frank with us if they think we are doing things they do not necessarily approve of.

What I propose doing is circulating that to members out of session. Perhaps we could all sign it. I will make sure the Senate has in fact passed it. I think it is rather appropriate, in this Olympic year, that we pass that on to, I would imagine, probably the Prime Minister, being the appropriate authority, given that the Senate has passed a motion which would probably go to the Prime Minister or the foreign minister.

ACT National Trust
Stepping Stones

MR MULCAHY (Molonglo) (7.15): I wanted to mention two recent events. One was on Saturday and was the occasion when the National Trust launched historic signs which are to be erected at Canberra's heritage places. Mr Gentleman and I were at Dirrawan Gardens in Reid on Saturday. The occasion was the Chief Minister's launch of the ACT National Trust historic signs project. It signified the first phase of a National Trust project called heritage places and included the launch of a particular publication that related to Reid in which there is a time chart on that suburb of Canberra going back to the first European naming of the plains in the area as Limestone Plains and tracing its history and Griffin's design, the original layout of Reid and so on.

The National Trust signage program also will include two important Aboriginal places in Girrawah Park and Mulligans Flat, which, they report, were used to obtain stone for the manufacture of a wide range of implements. They are also placing signs at the site of an early rural homestead, Athllon in Tuggeranong; at the ruins of a former convict's home at Amaroo; at the site of two former school houses where children of the early rural community were taught; at the Old Coach Road; at Mulligans Flat—and this will appeal to Lainie—which once provided a vital link to the railhead at Gundaroo during the 19th century.

Interestingly also, they are going to place a sign in Fyshwick—and I was not aware of this; other members might have been—which apparently in 1918, during the final year of World War I, hosted an internment camp which was built and covered much of the commercial district, with residents being mainly German and Austrian nationals who had come from other internment camps in Australia and from the British colonies in the Pacific.

The National Trust is to be commended for this initiative. I guess there were somewhere in the order of 150 residents who attended this plaque unveiling in Reid on Saturday, including, I believe, the great-great-grandson of former Prime Minister Reid, a gentleman, who is a Canberra resident, by the name of Cameron Reid. The whole occasion was a wonderful event in one of Canberra's most important suburbs from a heritage point of view and I was pleased to be part of it.

On Sunday, there was another event—this was the initiative of St Margaret's Uniting Church in Hackett—where the work of Stepping Stones came into strong focus. We were welcomed by Jo Bishop and the Reverend Harvey Smith and other members of the church community, including Jeff Bishop, who was chair of their aged and disability committee. On that occasion, the Chief Minister was also present. He and Mrs Stanhope conducted a reading. We were also treated to a concert by a group of disabled people afterwards. They and their families were present and there was, on the occasion of the service, a collection taken up to help with the work of Stepping Stones. They should be formally recognised for their important work and for the great day that was held at St Margaret's Church in Hackett last Sunday, and my congratulations go to them.

Ms Ingrid Betancourt
International affairs—Burma

DR FOSKEY (Molonglo) (7.18): I want to talk today about what has really been a very wonderful event in the world of the Global Greens. I think I have talked before here about Ingrid Betancourt, who was the Green Colombians candidate for the Senate and who, in February 2002, was kidnapped by the revolutionary forces, so-called, there, the FARC. She had been held a captive and moved around within the jungles of Colombia for six years. There have been many efforts to have her released.

At the Global Greens conference in Sao Paolo in very early May, we moved a motion to put pressure on the Colombian government to do all it could to secure the release of Ingrid Betancourt. Her husband and somebody who had been a captive with her for a period of time were there. He spoke about the experiences that they had when he and Ingrid tried to escape from the FARC. Clearly, that was not successful. Ingrid Betancourt is certainly very ill and it will probably take her many years to recover. I think the important thing is that she is alive and that she is free.

I need to acknowledge in this the efforts made by the French President and the Venezuelan President in their attempts to persuade the Colombian government to make every effort to rescue Ingrid. I should say that 14 other people have been freed at the same time. I am sure they are no less important but they are not known to me. I think it is a great day that Ingrid Betancourt has been freed, after six years, and I think that Colombian politics will be the better for it—that is, if she feels safe in Colombia. It is quite possible that she will be given asylum in some other country. I do think Venezuela has made that offer.

I want to say, as I have a couple of minutes left—and I hope not to annoy people—this: it is out of the news, but the people of Burma are still suffering most enormously. While the media moves on, people are still suffering and that should be remembered. The money has stopped pouring in and people need to know that there are ways that they can donate that will go to the people who need it. One of those ways is probably through the Red Cross.

I know that AFEDA has now got a campaign. I also want to mention that the Burma-Australia Association is collecting money that is distributed through the monks of Burma and if people—and I am sure that everybody does, if they have not already—want to contribute to help feed the Burmese people, they can do so through that

association. The Burmese people cannot drink the water, in many cases. Remember the Burmese junta decided to export their rice crop rather than feed people, many of whom had lost their livelihoods and their food in the cyclone and the resultant floods. So there is still need in Burma and those who are able to should consider giving their support.

Canberra City Pipes and Drums

MR GENTLEMAN (Brindabella) (7.22): I want to rise tonight to talk about an event I attended on Saturday night on behalf of the Chief Minister, the Canberra City Pipes and Drums 17th annual highland ball. After the official party, Mr John Cordiner and his wife, Kerrie Cordiner, as well as official guests from the Russian Embassy, were piped into the ball, I had the pleasure of joining my old APS inspector, Mr Paul Breen, and his wife, and Mr Greg Lee, who was on my original APS recruitment course, and some of my colleagues, Chris and Wanda Lind and June Gillespie.

The Canberra City Pipes and Drums was the brainchild of four Canberra men—Bob McCaffrey, Rex French, Ted Howell and Angus Cattanach—who felt that the national capital should have its own pipe band. The band was formed to provide for non-competitive participation in the development, presentation and enjoyment of Scottish pipe and drum music in the Canberra region. The CCPD officially came into existence in November 1991, when its constitution was ratified and registered.

In 1993, the Canberra City Pipes and Drums was honoured and proud to be appointed the honorary pipe band to the Australian Federal Police. The AFP has supported the band over the years by providing uniform items and performance opportunities. The band displays the police insignia and black and white dicing on its glengarries and drums. Following an invitation to participate in the International Police Tattoo in Adelaide in May 2006, the band was approached by the AFP and asked whether, in addition to being known as the Canberra City Pipes and Drums, the band could also be known as the AFP Pipes and Drums. In January 2006, a special general meeting of the CCPD agreed to the motion and it became known as the AFP Pipes and Drums.

Although still non-competitive, the band strives to improve and maintain its performance standard through group and individual tuition, workshops and other strategies. The band's performance calendar has continued to grow as the performers have gained public recognition within the Canberra region, and the band is regularly asked to play for Canberra multicultural festivals, community festivals, sporting events, weddings, funerals and other private functions. Members would have seen the band at a more solemn occasion than I: Trevor Kaine's state funeral, of course.

The band wears two tartans, the ancient Caledonian and the Canberra tartans. The ancient Caledonian was chosen as the official tartan for the band because of its distinctive non-clan-specific origin. The Canberra tartan was designed by two members of the band and is a registered tartan. The band's pipe corps wears the ancient Caledonian tartan, and the drum corps wears the Canberra tartan.

It was a most enjoyable event and the evening went on, culminating in a spontaneous performance for the patrons of the Hellenic Club, all of whom attended. It is great to hear that the band will be representing Canberra at the Edinburgh Military Tattoo in

2009. Congratulations to the Canberra City Pipes and Drums for 17 years service to the territory and I wish them all the best for the tattoo next year.

Question resolved in the affirmative.

The Assembly adjourned at 7.27 pm until Tuesday, 5 August 2008, at 10.30 am.

Schedules of amendments

Schedule 1

Justice and Community Safety Legislation Amendment Bill 2008

Amendments moved by the Attorney-General

1
Schedule 1
Amendment 1.27
Page 11, line 8—

omit

section 45 (3)

substitute

section 45 (4)

2
Schedule 1
Amendment 1.52
Proposed new section 48 (1) (b) (iii)
Page 19, line 24—

insert

(iii) is satisfied that the breach justifies the termination of the tenancy.

Schedule 2

Crimes (Forensic Procedures) Amendment Bill 2008

Amendments moved by the Attorney-General

1
Clause 28
Proposed new section 49A (1) (b)
Page 13, line 9—

omit

2
Clause 35
Proposed new section 56 (2) (a)
Page 22, line 14—

omit proposed new section 56 (2) (a), substitute

(a) if the serious offender is serving a sentence of imprisonment at a correctional centre or other place—a corrections health professional for the centre, or health professional (however described) for the place, be present while the sample is taken; or

3
Clause 35
Proposed new section 56 (2A) (a)
Page 22, line 23—

omit proposed new section 56 (2A) (a), substitute

(a) if the serious offender is serving a sentence of imprisonment at a correctional centre or other place—a corrections health professional for the centre, or health professional (however described) for the place, be present while the sample is taken; or

4
Clause 46
Proposed new section 72 (1) (f) (i)
Page 28, line 23—

omit proposed new section 72 (1) (f) (i), substitute

(i) if the serious offender is serving a sentence of imprisonment at a correctional centre or other place—a corrections health professional for the centre, or health professional (however described) for the place, be present while the blood is taken; or

5
Clause 47
Proposed new section 72 (1) (fa) (i)
Page 29, line 5—

omit proposed new section 72 (1) (fa) (i), substitute

(i) if the serious offender is serving a sentence of imprisonment at a correctional centre or other place—a corrections health professional for the centre, or health professional (however described) for the place, be present while the sample is taken; or

6
Clause 59
Proposed new section 84B
Page 37, line 19—

omit proposed new section 84B, substitute

84B Who may analyse forensic material?

(1) The Minister may enter into an agreement with 1 or more of the following to analyse forensic material for the Territory:

(a) a forensic laboratory accredited with the National Association of Testing Authorities Australia;

(b) another forensic laboratory that the Minister considers on reasonable grounds is competent to analyse forensic material.

(2) An agreement with a forensic laboratory may allow the outsourcing of the analysis of forensic material to another forensic laboratory.

7
Clause 81

Proposed new section 98A (4) (b) (i)
Page 53, line 28—

omit proposed new section 98A (4) (b (i), substitute

(i) no appeal against the acquittal is made during the appeal period; or

8
Proposed new clause 98A
Page 61, line 26—

insert

98A Dictionary, new definition of *health professional*

insert

health professional means a health professional registered under the Health Professionals Act 2004 or someone who is a health professional registered under a corresponding law of a local jurisdiction within the meaning of that Act.

9

Clause 107

Page 65, line 1—

omit clause 107, substitute

107 Schedule 1, item 4, column 2

after

transgender

insert

or intersex

107A Schedule 1, item 5, column 3, new dot point

after 2nd dot point, insert

- police officer

107B Schedule 1, items 7 and 8, column 2

after

transgender

insert

or intersex

Schedule 3

Firearms Amendment Bill 2008

Amendments moved by the Minister for Police and Emergency Services

1
Clause 2
Page 2, line 4—

omit clause 2, substitute

2 Commencement

(1) This Act (other than a provision mentioned in subsection (2) or (3)) commences on a day fixed by the Minister by written notice.

(2) Section 75A and section 79A commence on the day after this Act's notification day.

(3) The following provisions commence 1 year after this Act's notification day:

- section 71
- section 72
- section 80
- part 4
- schedule 1, amendments 1.14 and 1.16
- schedule 2, amendment 2.4.

(4) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to a provision mentioned in subsection (3).

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

2
Clause 8
Proposed new section 4BE (3A)
Page 13, line 2—

insert

(3A) A person who is 16 or 17 years old (a ***young participant***) is authorised to possess or use the paintball marker if the possession or use is in accordance with—

(a) the requirements stated in subsection (3) (a) and (b); and

(b) the written consent of a responsible person for the young participant.

Note A ***responsible person*** for a young participant is a person with ***parental responsibility*** for the participant (see dict).

3
Clause 24
Proposed new section 42C
Page 59, line 13

omit

4
Clause 24
Proposed new section 42E, new note
Page 60, line 23

insert

Note A ***responsible person*** for an applicant is a person with ***parental responsibility*** for the applicant (see dict).

5
Clause 24
Proposed new section 42K (2)
Page 63, line 15—

insert

(2) An applicant for a category A or category B minors firearms licence also has a genuine reason to possess or use a firearm if the applicant wants to receive instruction that is—

(a) about the safe use of the firearm for primary production; and

(b) given under the supervision of a person who—

(i) is a responsible person for the applicant; and

(ii) holds an adult firearms licence of that category under which that use is a genuine reason for the person to hold the licence.

Note A ***responsible person*** for an applicant is a person with ***parental responsibility*** for the applicant (see dict).

6
Clause 58
Proposed new section 213A
Page 175 line 26

insert

213A Transitional meaning of *parental responsibility*

(1) In this Act, until the *Children and Young People Act 2008*, section 15 commences:

parental responsibility—see the Children and Young People Act 1999, section 17.

(2) This section has effect despite the dictionary definition of ***parental responsibility***.

7
Clause 58
Proposed new section 215
Page 176, line 10

omit proposed new section 215, substitute

215 Expiry—pt 20

(1) Section 213A and note 2 to the dictionary definition of ***parental***

responsibility expire on the day the *Children and Young People Act 2008*, section 15 commences.

(2) This part (other than section 213A) and schedule 4, items 43 and 44, expire 1 year after the commencement day.

8
Clause 68
Proposed new schedule 3, new item 11A
Page 194—

insert

11A	category A (minors firearms licence)	the following firearms, other than prohibited firearms: (a) airguns (b) rim-fire rifles (other than self-loading); (c) shotguns (d) shotgun and rim-fire rifle combinations	licensee	possess or use firearm where genuine reason is instruction— (a) about safe use of firearm for primary production; and (b) given under supervision of a person who— (i) is a responsible person for the applicant; and (ii) holds a category A adult firearms licence under which that use is a genuine reason for the person to hold the licence

9
Clause 68
Proposed new schedule 3, new item 12A
Page 195—

insert

12A	category B (minors firearms licence)	the following firearms, other than prohibited firearms: (a) muzzle-loading firearms (other than pistols); (b) centre-fire rifles (other than self-loading); (c) shotgun and centre-fire rifle combinations	licensee	possess or use firearm where genuine reason is instruction— (a) about safe use of firearm for primary production; and (b) given under supervision of a person who— (i) is a responsible person for the applicant; and (ii) holds a category B adult firearms licence under which that use is a genuine reason for the person to hold the licence

10
Clause 69
Proposed new dictionary, definition of parental responsibility
Page 211, line 10

omit the definition, substitute

parental responsibility—a person has ***parental responsibility*** for a child or young person if the person has parental responsibility for the child or young person under the Children and Young People Act 2008.

Note 1 Parental responsibility is dealt with in the *Children and Young People Act 2008*, div 1.3.2.

Note 2 For the meaning of ***parental responsibility*** before the commencement of the *Children and Young People Act 2008*, see s 213A.

11
Clause 69
Proposed new dictionary, definition of *responsible person*
Page 212, line 12

omit the definition, substitute

responsible person, for a child or young person, means a person with parental responsibility for the child or young person.

12
Proposed new clause 75A
Page 224, line 11—

insert

75A New sections 6A and 6B

insert

6A Declarations about authorised possession and use of laser pointers

(1) The registrar may, in accordance with any guidelines under section 6B, declare that the possession or use of a laser pointer is authorised.

Note 1 A power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters (see Legislation Act, s 48.)

Note 2 A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

(2) A declaration may provide for the authorisation—

(a) to apply generally or in a particular case; or

(b) to be conditional.

(3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(4) In this section:

laser pointer means a prohibited weapon that is a hand-held article, commonly known as a laser pointer, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW.

6B Guidelines for declarations under section 6A

(1) The Minister may make guidelines about the making of a declaration under section 6A.

(2) The registrar must comply with any guidelines under this section.

(3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

13
Proposed new clause 79A
Page 229, line 7—

insert

79A Schedule 1, new item 31

insert

31 Hand-held articles, commonly known as laser pointers, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW.

14
Clause 80
Proposed new schedule 1, part 1.4, new item 8
Page 236—

insert

8 hand-held articles, commonly known as laser pointers, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW

Schedule 4

Firearms Amendment Bill 2008

Amendments moved by Mr Stefaniak

1
Clause 8
Proposed new section 4BE (3)
Page 12, line 25—

omit everything before paragraph (a), substitute

(3) A person who is at least 16 years old is authorised to possess or use the paintball marker if—

3
Clause 25
Proposed new section 46B
Page 98, line 12—

omit proposed new section 46B, substitute

46B Permits to acquire to be issued within 14 days

A permit issued to acquire a firearm must be issued not later than 14 days after the day the application for the permit is made.

6
Proposed new amendments 76A and 76B
Page 225, line 10

insert

76A New section 10

insert

10 Collector permits

(1) Without limiting section 9, the registrar may issue a permit (a ***collector permit***) authorising the possession of a kind of prohibited weapon or prohibited article, without reference to a particular weapon or article, if the registrar is satisfied that—

(a) the applicant for the permit is a collector of weapons or articles of that kind; and

(b) a weapon or article authorised to be possessed under the permit will form part of a genuine antique, heritage or historical collection.

(2) A regulation may provide for mandatory or discretionary grounds for refusing the issue of a collector permit.

(3) A collector permit may be issued subject to conditions.

Example

a condition that a weapon or article possessed under the permit may not be disposed of by the permit holder other than to someone else who holds a collector permit or by surrender to a police officer

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) The conditions may provide for the expiration of the collector permit, limit the authority it gives and impose requirements on the person to whom the permit is issued.

(5) The registrar may, for any reason the registrar considers sufficient, cancel a person's collector permit by giving written notice to the person.

(6) A person to whom a permit was issued may surrender the permit for cancellation.

(7) The registrar must periodically, and at least every 5 years, review the collection permits in force under this section.

76B Review of decisions
Section 14 (1) (a) and (b)

substitute

(a) refusing to issue a permit under section 9 (1) or section 10 (1); or

(b) cancelling a permit under section 9 (5) or section 10 (5).

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Answers to questions

Public interest disclosure (Question No 2047)

Mrs Burke asked the Chief Minister, upon notice, on 6 May 2008 *(redirected to the Acting Chief Minister)*:

> Can the Minister provide details of dates of training in regard to the *Public Interest Disclosure Act 1994*, provided by ACT Government to its employees, including its Occupational Health and Safety Commissioner, chief executive officers of ACT Health and the Injury Prevention and Management Unit of ACT Health, its managers and supervisors; if not, why not.

Ms Gallagher: The answer to the member's question is as follows:

> Within the ACT Government, Senior Executives Responsible for Business Integrity and Risk (SERBIR) are responsible for both the provision of information regarding Public Interest Disclosures (PID) and the handling of any such disclosures within their individual agencies. This information is primarily made available to ACT Public Service staff through a range of publications, including the ACT Integrity Policy.
>
> Within ACT Health, I can advise that executives of ACT Health attended a briefing session on PID legislation and management provided by the Government Solicitor's office in February 2008, and information relating to PID processes was provided to ACT Health staff via a Chief Executives' Alert in March 2008.

Seniors—hospital care (Question No 2053)

Mrs Burke asked the Minister for Health, upon notice, on 6 May 2008:

(1) How is food delivered and presented to elderly patients on the wards at (a) Calvary Public Hospital and (b) The Canberra Hospital and what system is in place for those who are unable to feed themselves;

(2) Are sealed plastic containers used for food delivered to elderly patients;

(3) Do health care and/or hospital staff have the ability to override the administrative arrangements regarding how food is delivered, presented and returned if the elderly person is unable to feed themselves;

(4) How many times, during the last five years, 2003 to 2008, have issues and/or complaints been raised in regard to the feeding of elderly patients in Canberra's public hospitals;

(5) What action was taken in relation to such complaints.

Ms Gallagher: The answer to the member's question is as follows:

(1) Meals are delivered to the wards and distributed to each patient either in their room or in the dining room of Ward 11A by Food Services staff. Patients are provided with trays of food for breakfast, lunch and dinner. Tea and snacks are provided three times each day between main meals. The food items on the trays are provided heated or chilled, as required. Each meal is provided according to the dietary requirements of the individual and their specific menu selections.

Registered nurses (RN) are responsible for ensuring that the nutritional needs of patients in their care are met. The RN may allocate responsibility for feeding a patient to another team member to assist the patient and a record is kept when inadequate intake of nutrition is noted.

Meal delivery times are arranged and scheduled with ward staff to enable sufficient resources are allocated to assist with feeding those patients that require assistance. Ward staff ensure that:

- Patients are either sitting up in bed or sitting comfortably in a chair
- The meal is within reach
- Food is cut if the patient is unable to use a knife and fork
- Clothing is protected with a bib, if required
- Hot beverages are poured and allowed to cool

(2) Food trays at the hospital generally contain a mixture of covered and commercially pre-packaged sealed items. Sealed items are used throughout the hospital for drinks, juices, milk and yoghurt, including in wards with elderly patients.

Typically, items are pre-sealed to ensure the integrity of the product, elimination of contamination opportunities, consistency of nutritional and daily intake portions, and compliance with food safety Hazard Analysis Critical Control Points (HACCP) requirements.

If it is identified that a patient is unable to access a product, irrespective of their age, ward staff and volunteers will remove the container lid on delivery. The selection of some special patient dietary options will mean that no sealed containers are used.

(3) Yes, depending on the patient's dietary requirements. If it is identified that a patient is unable to access a food item, irrespective of their age, ward staff and volunteers will assist with meal presentation. The selection of some special patient dietary options will mean that no sealed containers are used. If a meal is not able to be consumed by the patient, within a specified food safety timeframe, an alternative would be sought. There is some capacity to offer soup, snacks or fruit depending on the dietician's advice. Alternatively, another meal can be delivered at a more appropriate time.

(4) ACT Health does not keep a register of complaints down to that level of detail, therefore it is not possible to advise the number or volume of issues and/or complaints around feeding of elderly patients in Canberra's public hospitals.

However, I can advise that, any issues relating to food delivery to elderly patients are immediately identified through the ward staff for resolution and are then addressed promptly in consultation with the Food Services department.

The staff of Ward 11A maintain a close liaison with the Food Services department to ensure the needs of elderly patients are constantly monitored and any immediate issues for individual patients are addressed promptly.

(5) Action taken to assist elderly patients include having more staff present during patient meal times and improved aspects of food packaging and presentation. For example, earlier this year ward and food services staff reviewed a range of issues and alternatives that had been identified by patients, relatives and staff of TCH Ward 11A that could improve service and quality for elderly patients, such as:

- Juice containers (lids);
- Packaging of sweets and salads;
- Packaging of butter, margarine and jams;
- The number of meals (e.g. six small versus three main);
- Bottled water – delivered with seal cracked and cup;
- Milo provided as well as tea and coffee;
- Soup as mid-meal in winter;
- Levels of fibre in meals (considered in conjunction with the Nutrition department)

Children—protection (Question No 2056)

Mrs Burke asked the Minister for Children and Young People, upon notice, on 6 May 2008 *(redirected to the Minister for Health)*:

(1) Further to the Minister's statements on 14 December 2006 (Hansard, pp 4242-3) concerning a draft memorandum of understanding (MOU) between ACT Policing and Child at Risk Health Unit (CARHU) and given the epidemic of child abuse in recent times and the admission of disclosable conduct within the Sexual Assault Response Project and by employees of ACT Health, has the Minister ensured a MOU is in place between ACT Policing, the Director of Public Prosecution, the ACT Health, Child at Risk Health Unit and family support services, that clearly defines roles, responsibilities, duties and procedures to be followed by each agency when crimes against children are reported; if not, why not; if so, how and when did this occur;

(2) How does this MOU, if it exists, ensure all employees are compliant with the *Public Interest Disclosure Act 1994* and *Occupational Health and Safety Act 1989* safety duties to employees and third parties, namely the children at risk and their families;

(3) What does the CARHU provide to the community since being renamed Child at Risk Health Unit;

(4) How, if at all, has the role of the CARHU changed;

(5) In relation to staffing at CARHU, (a) how many staff are currently employed, (b) what is the composition of staff employed and (c) are all the positions currently filled; if not, how long have the positions been vacant and what impact does this have on service provision for meeting the health needs for children at risk in the ACT;

(6) Does CARHU currently have a finalised MOU with the Sexual Assault and Child Abuse Team and the Director of Public Prosecutions; if so, how long has it been in place; if not, why not;

(7) What training has been undertaken and provided to staff of CARHU;

(8) Who is providing the intersectional training at CARHU and what are the qualifications and skills of the trainer/educator;

(9) Is there a current interagency agreement between all agencies, intrinsic to child protection in the ACT, to clarify roles and responsibilities;

(10) How is the public informed or educated to understand the different roles and responsibilities at various interagencies;

(11) What service model is used to assist children 10 years and under who have sexualised behaviours;

(12) How is the effectiveness of the service model outlined in part (11) measured and by whom and by what means;

(13) On 17 October 2006 was the Minister asked in question on notice No. 1326 regarding what form of memorandum of understanding and suitable protocols have been developed between the Child At Risk Assessment Unit, Family Services and ACT Policing that clearly show that roles and functions are clearly defined for each agency, and that the Minister's response was that a memorandum of understanding between the Department and ACT Health was entered into on 31 January 2005 and a review of the Memorandum is under consideration and that a meeting between ACT Health and the Department to progress the review met on 30 November 2006 with further meetings scheduled; if so, what final MOU's are now in place in 2008;

(14) How has the Minister ensured interagency co-operations and training has occurred;

(15) What evidence exists to show that interagency co-operation between all services, integral to child protection since 2004, are in practice.

Ms Gallagher: The answer to the member's question is as follows:

(1) The MOU between the Child at Risk Health Unit (CARHU) and ACT Policing has been finalised and is in the process of being signed by both parties. CARHU is also covered by the MOU between ACT Health and the Office for Children, Youth and Family Services which translated into a four year Service Partnership Agreement (SPA) between the Department of Disability, Housing and Community Services (DHCS) and ACT Health in 2007.

(2) The purpose of the MOU is to set out the working relationship between ACT Policing and CARHU in relation to the provision of services involving cases of allegations of sexual and/or physical assault where the person (victim) is under the age of 15 years.

The MOU aims to enhance an efficient and effective working relationship between ACT Policing and CARHU with regard to children and young people who have been sexually and/or physically abused; to ensure a timely and comprehensive investigative process, that children and young people are protected from further harm from abuse, that the process of investigation is conducted in a sensitive manner to ensure the best health and psychological outcomes for the child/young person and their families, and that the quality of evidence gathered meets the standards required.

The parties to the MOU are bound, by virtue of the conditions of their employment, to comply with all relevant legislation, including the Public Interest Disclosure Act 1994 and the Occupational Health and Safety Act 1989.

(3) Since the renaming of the Child at Risk Health Unit, the services that are now provided include an early intervention approach as well as the therapeutic work around children who have been abused. The services are as follows:

- A 24 hour forensic medical service for abused children & adolescents
- Medical clinics for abused and/or neglected children and adolescents
- Developmental Assessments for abused and neglected children.
- An Out of Home Care Clinic, which provides health screens for all children in the ACT coming into the care system
- A Health Needs Assessment Service for children and young people who are clients of Care and Protection Services and have unmet health needs.
- Consultation Services to professionals in the health and community sector regarding child abuse issues
- Medical consultation services to doctors within TCH or in the community
- Concerns interviews, for parents and carers to discuss concerns about child abuse and trauma
- A Sexualised Behaviours Therapy Program for children aged 10 and under displaying sexualised behaviours.
- A Sexual Abuse Therapy program for children and adolescents who have been sexually abused.
- A Trauma Therapy program for children and their families who have experienced neglect, domestic violence and physical abuse.
- Parent-Child Interaction Therapy, an evidenced based program to improve maternal sensitivity and decrease externalising behaviours, in children who have experienced abuse related trauma.

(4) In 2005 CARHU was restructured. A new position of Clinical Coordinator (Social Worker/Psychologist) was appointed to the unit to oversee clinical programs, to evaluate and restructure services and to train and provide clinical supervision to staff. This position was in addition to the Unit Manager (Social Worker/Psychologist) who is responsible for operational matters.

Prior to the restructure, social workers and psychologists at the CARHU conducted psychosocial assessments of children and families for Care and Protection Services and the Family Court. These services are now provided by Care & Protection Services' Assessor & Therapy Services Assessment Unit.

Since 2005 the CARHU ceased conducting these psycho-social assessments, and now focusses on a more comprehensive provision of health services inclusive of nursing, developmental assessments and an expansion of counseling services to children and families who have been affected by abuse and/or neglect. The name was changed to the Child at Risk Health Unit to reflect these changes.

CARAU SERVICES Prior to 2005	**CARHU ENHANCED SERVICES**
Intake Service Concerns interviews Consultation services	**Consultation Services** • Intake Service • Concerns interviews • Community and professional consultation services
Medical Assessments Forensic Assessments	**Assessment Services** • Medical Assessment Clinics • Forensic Assessments
	Nursing Services • Out of Home Care Clinic • Health Needs Assessments • Consultation Service

Developmental Assessments	• Developmental Assessments
Psychosocial Assessments	
Limited Counselling Service	**Specialist Therapeutic Programs** • Sexual Abuse • Sexualised Behaviours • Trauma • Parent Child Interaction Therapy
Training and Education	**Training and Education** • Training packages to professionals within and external to ACT Health

(5) CARHU currently employs 11.80 full time equivalent (FTE) staff. The compositions of staff currently employed are as follows:

Manager – Social Worker	1FTE
Clinical Coordinator – Social Worker	.8FTE
Senior Paediatrician	1FTE
Child Medical Officer	.8FTE
Child Medical Officer	.4FTE
Paediatric Registrar	1FTE
Psychologist	1FTE
Psychologist	1FTE
2 x Social Worker	2FTE
Social Worker	.4FTE
ASO 3	.8FTE
ASO 2	1FTE
ASO 2	.6FTE

At the time of completing the response to the questions on notice the vacancies in CARHU are:

- 1 FTE Nurse - Vacant March 2008 - temporary contract to commence June 2008
- 1 FTE Social Worker/Psychologist – Vacant April 2008- temporary contract to commence July 2008
- 0.6 FTE CMO - Vacant June 2005 – Reclassifying position to staff specialist
- 0.8 FTE Social Worker/Psychologist – Vacant January 2005 due to workers compensation claim – Reclassifying position to nursing position to address increased need for nursing services

Unfilled positions have not impacted on the capacity of CARHU to respond in a timely manner to referrals because vacancies have been filled by staff on temporary contracts.

(6) The staff specialist at the CARHU has been working closely with the ACT Sexual Assault, Child Abuse Team (SACAT) through a draft MOU which has now been finalised. There is no MOU in place between the CARHU and the DPP because it has not been deemed necessary. CARHU doctors' involvement with the DPP is subsequent to the negotiations between the AFP and the DPP.

(7) The staff receive training from a range of sources depending on their professional specialty. Core training for Psychologists and Social Workers within CARHU in areas such as sexualised behaviours and sibling sexual abuse has been provided by a specialist consultant to NSW Health. The medical staff are members of the NSW/ACT Child Protection Special Interest Group and annually attend the child physical and sexual abuse medical conference.

CARHU staff access relevant training as it becomes available, however, due to the highly specialised nature of the work carried out at the CARHU, standard training packages are usually not useful. For this reason the team is provided with quarterly clinical supervision sessions from Dr John Boots, a child psychiatrist from Sydney with expertise in the child abuse and neglect field.

Training attended by CARHU staff since 2005 includes:

- Assessment and Treatment of Children with Sexualised Behaviours
- Transforming Problem Sexual Behaviour
- Separation, Reunification and Restoration – Sibling Sexual Abuse
- Children with Fetal Alcohol Spectrum Disorder
- Parent and Infant Relationships
- Medical Forensic Aspects of Child Sexual Assault
- Parent -Child Interaction Therapy
- Children and Domestic Violence
- Developmental Attachment
- Parent and Infant mental health attachment

(8) The Clinical Coordinator has a Bachelor of Social Work (University of Sydney) and has 20 years experience in the area of child and adolescent mental, trauma and child protection provides intersectional training to CARHU staff. External expertise is sought when necessary to provide additional specialist training as outlined in the response to question 7.

(9) See response to (1)

(10) ACT Health provides information about CARHU services to the public as follows:

- ACT Health has a web site that outlines the CARHU services
- CARHU has a brochure for professionals/referrers that outlines CARHU's services
- CARHU relies on primary health care providers who refer clients to inform them of the role of CHU and ensures that these services are well informed of the role of the unit.
- CARHU staff routinely meet with other agencies to provide information and consultation about CARHU services.

(11) The CARHU uses the NSW Health service model, for treating children under 10 years who have sexualised behaviours. The author of this service model is Mary-Jo McVeigh and she has provided training to the CARHU team. In addition the unit uses protocols developed by Dr William N. Friedrich, an internationally recognised expert in this area.

(12) The CARHU team utilises internationally recognised tools to evaluate the effectiveness of all the therapeutic programs it provides, including specific psychometric tests such as the *Trauma Symptom Checklist for Children*, and the *Strengths & Difficulties Questionnair*e.

(13) See response to (1)

(14) Interagency co-operation and training has occurred through the following:

- The development of the Key Performance Indicator (KPI) to measure the proportion of children aged 0-14 years of age that are entering substitute and kinship care that have had a health screen. This KPI relies on the successful interagency relationship between CARHU and CPS. Children entering out of home care in C&P are referred to the Out of Home Care Clinic (OHCC) at CARHU.

- The ACT Health Child Protection Training team works in partnership with Learning and Community Education within the Office of Children Youth and Family Support (OCYFS) to provide Level 3 Child Protection full day training for ACT Health frontline clinicians. Level 3 Child Protection training is facilitated by one trainer from ACT Health and another from OCYFS.

- These two training teams have also designed and implemented the *What about Me*? Training program. This program consists of a series of workshops that focus on children living with Domestic Violence, Substance Using parents, and helping services to engage more successfully with families with complex issues.

- All non-government organisations (NGO) funded by ACT Health are provided with Level 2 Child Protection Training facilitated by an ACT Health trainer and if Level 3 training is required this is provided by the OCYFS trainer.

(15) The evidence of the existence of interagency co-operation between all services, integral to child protection since 2004 that is now in practice can be attributed to the collaboration between the OCYFS and ACT Health in:

- The development of the two Child Protection Liaison Officer positions, one with ACT Health and one with the OCYFS. These positions work across both departments to provide support to staff to better understand their roles in child protection and reporting. They have also been instrumental in the development of protocols and procedures around keeping children safe that is complimentary to both departments.

- The collaboration between both the OCYFS and ACT Health in service development. One of the major projects from this is the IMPACT (Integrated Multi-agencies for Parents and Children Together) Program. The focus of this program is to provide a multi-agency response to pregnant women, their partners and their families who have been identified as having a significant mental health issue, and/or are receiving opioid replacement therapy, whose complex issues and intensive support needs indicate the need for a multi service response.

Griffith oval No 1
(Question No 2080)

Mr Mulcahy asked the Minister for Planning, upon notice, on 17 June 2008:

(1) What is the status of the proposal to encircle Griffith Oval (No 1) with a fence;

(2) Have any amendments been made to the original application;

(3) When is the final decision expected.

Mr Barr: The answer to the member's question is as follows:

(1) The ACT Planning and Land Authority approved with conditions a development application to fence Griffith Oval (No 1) on 9 May 2008. Revised drawings complying with these conditions have not yet been submitted.

(2) The conditions imposed on the approval will alter the original application by reducing the height of the fence to one metre (from 1.2 metres); increasing the number of un-gated openings in the fence to ensure accessibility; and relocating the cricket training nets rather than removing them.

(3) Revised architectural drawings complying with the conditions of approval are expected to be lodged with the ACT Planning and Land Authority within the next two weeks. If the drawings satisfy the conditions of approval the project can proceed to the construction phase.

ActewAGL—meter reading (Question No 2083)

Dr Foskey asked the Minister for Housing, upon notice, on 17 June 2008:

(1) What is the current practice for electricity meter readings at public housing properties if the person performing the reading cannot gain access to the meter;

(2) What avenues do residents of multi-residential public housing complexes have when their bills are distorted due to an approximation when access can not be gained.

Mr Hargreaves: The answer to the member's question is as follows:

(1) ActewAGL does not differentiate between private and public dwellings for the purpose of meter reading. Issues relating to access are addressed to the occupier of the property.

(2) If the tenant is invoiced on the basis of an estimate, ActewAGL may adjust a later invoice to reflect the actual consumption, once known or more accurately estimated. The issue is covered in the ActewAGL Electricity Supply Standard Customer Contract (clause 8.7).

Housing—Monterey complex (Question No 2084)

Dr Foskey asked the Minister for Housing, upon notice, on 17 June 2008:

Are the public housing units in the Monterey complex in Reid on the list of public housing properties to be retrofitted to improve energy ratings.

Mr Hargreaves: The answer to the member's question is as follows:

(1) No. The implementation strategy is based on a range of criteria which mean that a relatively recent construction such as Monterey is not a priority compared to older stock.

Planning—Kerrigan Street, Dunlop (Question No 2085)

Dr Foskey asked the Minister for Planning, upon notice, on 17 June 2008:

Was the Concept Plan for the development on section 193, Kerrigan Street, Dunlop exempt from public notification under the Land Act regulations; if so, why.

Mr Barr: The answer to the member's question is as follows:

(1) Please refer to my 1 May 2008 response to Question on Notice No. 2001, Dr Foskey, regarding Kerrigan Street.

As previously advised, no public consultation was undertaken as part of the preparation of the Dunlop 5 West Concept Plan during 2003 and 2004. The area now known as Section 193 Dunlop is located within the Dunlop 5 West estate.

The previous *Land (Planning and Environment) Act 1991* and its accompanying regulations did not deal with concept plans because the concept planning process was not a statutory process under the Land Act.

Alexander Maconochie Centre—drug policies (Question No 2089)

Mr Seselja asked the Attorney-General, upon notice, on 17 June 2008:

(1) In relation to page 21 of the Draft Adult Corrections Health Services Plan 2007-2010, does the Government still intend to undertake a full and comprehensive evaluation of the proposed drug polices and services and their subsequent effect on prisoners and staff at the Alexander Maconochie Centre (AMC) and to consider whether there is a need for a needle exchange program or needle and syringe program (NSP) at the AMC; if so, (a) will the evaluation itself consider the issues of whether a needle program or NSP should be instituted at the AMC, (b) who will conduct this evaluation, (c) what budget will be allocated to this exercise and (d) when will it occur and how long will it take;

(2) Is the Government aware of any other such evaluations, trials or actual NSP programs which have been implemented at other Australian prisons; if so, what have been their recommendations or results.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes.
a) Yes.
b) To be announced, in the context of the 09/10 budget.
c) To be announced, in the context of the 09/10 budget.
d) The data collection for the evaluation of existing drug policies and services at the AMC will commence from the time prisoners are received into the facility. This data will be continually reviewed and updated so that after a period of 18 months, a clear picture of prison policies and services is available for decision-making. It is

not yet known how long the decision making process will take, this will become more apparent following the 18 month period of prisoners being received into the AMC.

(2) No. NSP has not been implemented in any other Australian jurisdiction.

Occupational health and safety—compliance inspection and enforcement (Question No 2092)

Mr Stefaniak asked the Minister for Industrial Relations, upon notice, on 17 June 2008 *(redirected to the Attorney-General)*:

In relation to the matters concerning the Office of Regulatory Services raised on 19 May 2008 during hearings of the Select Committee on Estimates 2008-2009 (a) how much has been provided in the budget for work safety compliance inspection and enforcement activities for 2008-09 and (b) what are the estimated outcome costs for these items for 2007-08.

Mr Corbell: The answer to the member's question is as follows:

a) With the inclusion of funding for additional Inspectors, it is anticipated that total salary costs for enforcement of OHS compliance in the 2008-09 financial year will be $997,432.

b) The estimated cost for the 2007-08 financial year is $584,458.

Workers compensation (Question No 2095)

Mr Stefaniak asked the Minister for Industrial Relations, upon notice, on 17 June 2008:

In relation to Budget Paper 4, page 38, Accountability Indicators, Review of Workers Compensation Scheme, (a) when will the review be completed, (b) will a report be produced; if so, when; if not, why not, (c) will the report be available to the public; if so, when; if not, why not, (d) what is the scope of the review, (e) what are the terms of reference, (f) who is undertaking the review, (g) what public consultation was invited, (h) how much will the review cost and (i) when will amending/new legislation be introduced to the Assembly.

Mr Barr: The answer to the member's question is as follows:

(a) Following money being provided in the 2006-07 budget, the Government engaged an independent consultant to review the ACT's private sector workers' compensation scheme. A review team was engaged late in 2006 and provided a final report to Government in August 2007. Subsequent work arising from the review will be conducted throughout 2008-09.

(b) The review team delivered their final report to Government in August 2007.

(c) The review team's final report was made available to the public on the Chief Minister's Department website late in 2007.

(d) The scope of the review was to consider the policy and legislation supporting the ACT public sector workers' compensation scheme.

(e) The terms of reference for the review were:

1 Comparative analysis of ACT premiums and those of other jurisdictions having particular regard to the differing profiles of each jurisdiction in terms of size, risk profile, etc.

2 Identification of the factors that contribute to the high premium rates in the ACT in light of the industry profiles.

3 An assessment of the claim costs by payment type and identification of the cost drivers in the scheme.

4 An analysis of legal costs, separately assessing costs for insurers / employers and those incurred on behalf of workers. This analysis should consider the nature of such costs (e.g. disbursements for expert reports, legal fees per se, etc.).

5 An analysis of the cost and effectiveness of the rehabilitation provisions within the Act, including an assessment of the level of compliance with the return to work requirements and the impact these requirements are having on duration rates/continuous rates and costs, and whether there are any identifiable trends from a medical perspective.

6 An analysis of the current and future viability of the ACT workers' compensation scheme. This should include an analysis of the impact of employers leaving the premium pool to self-insure under the ACT scheme or Comcare. The impact of two workers' compensation schemes (public and private sectors) operating in the ACT should also be considered.

7 Identification of sustainable benefit structure for the scheme including an analysis of the impact of common law on the scheme, noting the treatment of this issue in other jurisdictions.

8 A comparative analysis of definitions of wages, worker and injury across jurisdictions and a recommended approach that is appropriate for the ACT scheme.

9 An analysis of the extent to which the objectives of the 2002 amendments to the Act are being achieved and identification of any barriers that have emerged with regard to achievement of those objectives.

10 An analysis of the interaction between the workers' compensation scheme and other insurance schemes, for example compulsory third party insurance.

11 Identification of elements of the Act and its administration that could be amended to achieve consistency with the workers' compensation schemes of the Australian States and the Northern Territory.

12 Having regard to all of the above, changes to the current scheme design that would be likely to improve scheme performance.

13 The review is to consider any other substantive inquiries that have been undertaken.

14 The review will encourage participation from stakeholders and the community.

(f) The review team comprised a consortium led by local OHS specialists Australian Health and Safety Services Pty Ltd in partnership with Canberra office of national law firm Dibbs Abbott Stillman, and Melbourne based actuaries Cumpston Sarjeant Pty Ltd.

(g) The review team undertook extensive public consultation throughout the first half of 2007. This included distributing an issues paper to key stakeholders, which invited further public comment on the terms of reference for the review. They also made presentations to a number of stakeholders and interviewed groups and individuals who expressed an interest in the review.

(h) $400,000 was allocated in the 2006-07 Budget to be spent over three consecutive financial years.

(i) The review team was asked to inquire into the workings of the ACT Scheme and report to Government. This included recommending any legislative changes that they considered necessary, but without further consultation it would be premature to introduce amending legislation at this stage.

After receiving the final report, the Government sought the advice of the OHS Council, who were asked to give their views on the review team's recommendations. The Government is currently considering Council's advice. Any proposals for amending legislation will be considered thereafter.

Fireworks
(Question No 2096)

Mr Stefaniak asked the Minister for Industrial Relations, upon notice, on 17 June 2008:

In relation to Budget Paper 4, page 38, Accountability Indicators, Review of Consumer Fireworks (the budget indicates completion in 2007-08 – estimated outcome – review report presented to the Assembly on 14 February 2008), (a) has the Government developed a response to the review report tabled in the Assembly on 14 February 2008; if so, when will the response be tabled in the Assembly; if not, why not, (b) when will amending legislation be introduced to the Assembly.

Mr Barr: The answer to the member's question is as follows:

The report tabled in the Legislative Assembly on 14 February 2008 was the Government's report on the outcomes of the statutory review of the *Dangerous Substances Act 2004* (the Act). It is not necessary nor appropriate for the Government to respond to its own report.

Roads—parking infringements (Question No 2105)

Dr Foskey asked the Attorney-General, upon notice, on 25 June 2008:

In relation to the response to question on notice No 2073, why has the number of parking infringements decreased each year since 2004.

Mr Corbell: The answer to the member's question is as follows:

The number of parking infringements issued since 2004 has decreased due to:

(a) The loss of approximately 3,700 Territory off street pay parking spaces due to redevelopment in Civic, Belconnen, Woden and Tuggeranong; and

(b) Fluctuating parking officer levels since the formation of the Office of Regulatory Services in 2006.
