



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**

**Legislation Scrutiny Committee**

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# **Annual Report**

**2019 – 20**

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**July 2020**



# Contents

<b>Chair's Preface</b> .....	<b>5</b>
<b>Committee Members</b> .....	<b>6</b>
<b>Committee Secretariat</b> .....	<b>7</b>
<b>Terms of Reference</b> .....	<b>8</b>
<b>1 Introduction</b> .....	<b>10</b>
Establishment and Functions of the Committee.....	10
Report Structure .....	10
<b>2 Outstanding Inquiries</b> .....	<b>11</b>
Economic Policy Scrutiny Committee .....	11
Liquor Bill 2019.....	11
Hemp Industry Bill 2019 .....	13
Construction Contracts (Security of Payments) Legislation Amendment Bill 2019 .....	14
Electoral Legislation Further Amendment Bill 2019 .....	15
Social Policy Scrutiny Committee.....	16
Youth Justice and Related Legislation Amendment Bill 2019 .....	16
Education and Care Services (National Uniform Legislation) Amendment Bill 2019....	18
Environment Protection Bill 2019 .....	19
<b>3 Bill Referrals</b> .....	<b>21</b>
Introduction.....	21
Economic Policy Scrutiny Committee .....	21
Transport Legislation Amendment Bill 2019 .....	21
Water Further Amendment Bill 2019.....	23
Sex Industry Bill 2019.....	24
Firearms Legislation Amendment Bill 2019.....	25
Work Health and Safety (National Uniform Legislation) Amendment Bill 2019 .....	26
Criminal Property Forfeiture Amendment Bill 2019.....	28
Courts Legislation Amendment Bill 2019 .....	29
Residential Tenancies Legislation Amendment Bill 2019 .....	29
Social Policy Scrutiny Committee.....	30
Burial and Cremation Bill 2019.....	31
Statute Law Revision and Repeals Bill 2019 .....	32
Territory Parks and Wildlife Conservation Amendment Bill 2019 .....	33
Mental Health and Related Services Amendment Bill 2019 .....	33
Local Government Bill 2019 .....	34
Evidence and Other Legislation Amendment Bill 2019.....	34
National Disability Insurance Scheme (Worker Clearance) Bill 2019 .....	35
Marine Pollution Legislation Amendment Bill 2019 .....	36
Legislation Scrutiny Committee.....	37
Justice Legislation Amendment (Domestic and Family Violence) Bill 2019 .....	37
Ports Legislation Amendment Bill 2019 .....	39
Licensing (Director-General) Repeal Bill 2019.....	39
Petroleum Legislation Miscellaneous Amendments Bill 2019 .....	40
Sexual Offences (Evidence and Procedure) Amendment Bill 2019 .....	41

Treaty Commissioner Bill 2020 .....	42
Planning Amendment Bill 2020 .....	43
Transport Legislation Amendment Bill 2020 .....	44
Liquor Amendment Bill 2020 .....	44
Judicial Commission Bill 2020 .....	45
Return to Work Legislation Amendment Bill 2020.....	46
Firearms Legislation Amendment Bill 2020.....	47
<b>4 Petition Referrals .....</b>	<b>49</b>
Introduction .....	49
Petition No. 36 .....	49
Petition No. 38 .....	50
Petition No. 39 .....	50
Petition No. 41 .....	51
Petition No. 42 .....	51
Petition No. 43 .....	52
Petition No. 44 .....	52
Petition No. 46 .....	53
Petition No. 47 .....	53
Petition No. 48 .....	54
<b>5 Committee Statistics .....</b>	<b>55</b>
Introduction .....	55
Committee Inquiries.....	56
Reports and Recommendations .....	57
Petitions .....	61
<b>Appendix A: Standard Procedures for Bill Inquiries .....</b>	<b>63</b>
<b>Bibliography.....</b>	<b>64</b>

## Chair's Preface

This report details the activities of the Economic and Social Policy Scrutiny Committees for the period 1 July 2019 to 27 November 2019 when the committees were dissolved, and the Legislation Scrutiny Committee for the period 28 November 2019 to 30 June 2020.

During the reporting period, the Assembly referred 28 Bills to scrutiny committees for inquiry and report. Pursuant to Standing Order 200(4), 22 reports were sent to the Speaker out of session prior to the due date; six of which were tabled in the first sittings following introduction of the Bill.

As detailed in Chapter 3, the Committee recommended that the Assembly pass all of the Bills referred for inquiry and report with the exception of the Firearms Legislation Amendment Bill 2020 (Serial 121). However, in many instances the Committee proposed amendments to the Bills to ensure that they had due regard to the rights and liberties of individuals and the institution of Parliament, were unambiguous and drafted in a sufficiently clear and precise manner. That 90% of the Committees' proposed amendments and recommendations were subsequently accepted by the Government attests to the value and importance of the Bill scrutiny process.

Although the level of public participation in the Committees' inquiries varied according to the nature of the Bill under consideration, feedback from those organisations and individuals that made submissions or appeared before the Committee has been extremely positive. Indeed, a number of people commended the Government on its initiative to 'open Parliament to the people' and provide an opportunity for members of the public to participate in the legislative process.

Pursuant to Sessional Order 17, during the reporting period the Assembly referred 10 petitions to scrutiny Committees for consideration as to whether they should be debated. The Committee recommended that the Assembly debate all of the referred petitions. Of these, four were subsequently debated in the Assembly.

On behalf of the Committee, I would like to thank all those who made submissions or appeared before the Committee. Their input has been invaluable and of great assistance to the Committee in its consideration of proposed legislation. In addition, the Committee thanks the Chief Executives of agencies for their responsiveness in providing information to the Committee and appearing at public briefings and hearings. The Committee also thanks Professor Ned Aughterson for the provision of legal advice to the Committee.

Finally, I would like to thank my fellow Committee members for their bipartisan commitment to the legislative review process.



**Mr Tony Sievers MLA**

**Chair**

## Committee Members

	<b>Mr Tony Sievers</b> Member for Brennan	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
	Standing:	House, Public Accounts
	Sessional:	Legislation Scrutiny Committee
	Chair:	Legislation Scrutiny Committee
	<b>Ms Sandra Nelson MLA</b> Member for Katherine	
	<b>Party:</b>	Territory Labor
	Parliamentary Position	Acting Deputy Speaker
	<b>Committee Membership</b>	
	Sessional:	Legislation Scrutiny
	Deputy Chair:	Legislation Scrutiny
	<b>Mr Joel Bowden MLA</b> Member for Johnston	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
	Sessional:	Legislation Scrutiny
	<b>Mrs Lia Finocchiaro MLA</b> Member for Spillett	
	<b>Party:</b>	Country Liberals
	Parliamentary Position:	Leader of the Opposition
	<b>Committee Membership</b>	
	Standing:	Privileges
	Sessional:	Legislation Scrutiny
	<b>Mrs Robyn Lambley MLA</b> Member for Araluen	
	<b>Party:</b>	Territory Alliance
	Parliamentary Position:	Acting Deputy Speaker
	<b>Committee Membership</b>	
	Standing:	Standing Orders and Members' Interests
	Sessional:	Legislation Scrutiny
<b>Note:</b> Pursuant to Standing Order 181, on Tuesday 10 March Member for Karama, Ms Ngaree Ah Kit, was discharged from the Committee and replaced by Member for Johnston, Mr Joel Bowden.		

## Committee Secretariat

First Clerk Assistant: Russell Keith

Committee Secretary: Julia Knight

Committee Secretary: Jennifer Buckley

Senior Research Officer: Elise Dyer

Administration/Research Officer: Melissa Campaniello

Administration Assistant: Kim Cowcher

Contact Details: GPO Box 3721 DARWIN NT 0801

Tel: +61 08 8946 1485

Email: [LSC@nt.gov.au](mailto:LSC@nt.gov.au)

## Terms of Reference

### Sessional Order 13

#### *Establishment of Legislation Scrutiny Committee*

- (1) Standing Order 178 is suspended.
- (2) The Assembly appoints a Legislation Scrutiny Committee.
- (3) The ordinary membership of the scrutiny committee will comprise three Government Members, one Opposition Member nominated to the Speaker in writing by the respective Whip and one non-party aligned Member to be appointed by motion.

The Committee's membership will be supplemented by alternate members who may be nominated to participate at meetings and undertake a role on the committee in the place of ordinary committee members. The nomination of alternate committee members will be in writing by the ordinary member to the committee chair.

Alternate Committee members must be from the same category of Members of the Assembly as the ordinary member nominating them such as the same political party or a non-party aligned Member.

- (4) The functions of the scrutiny committee shall be to inquire and report on:
  - (a) any matter referred to it:
    - (i) by the Assembly;
    - (ii) by a Minister; or
    - (iii) on its own motion.
  - (b) any bill referred to it by the Assembly;
  - (c) in relation to any bill referred by the Assembly:
    - (i) whether the Assembly should pass the bill;
    - (ii) whether the Assembly should amend the bill;
    - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
      - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
      - (B) is consistent with principles of natural justice; and
      - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
      - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and

- (E) confers powers to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
  - (F) provides appropriate protection against self-incrimination; and
  - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
  - (H) does not confer immunity from proceeding or prosecution without adequate justification; and
  - (I) provides for the compulsory acquisition of property only with fair compensation; and
  - (J) has sufficient regard to Aboriginal tradition; and
  - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether the bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
  - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
  - (C) authorises the amendment of an Act only by another Act.
- (5) The Committee will elect a Government Member as Chair.
- (6) The Committee will provide an annual report on its activities to the Assembly.

Adopted 27 November 2019

# 1 Introduction

## Establishment and Functions of the Committee

- 1.1 The Northern Territory Social Policy and Economic Policy Scrutiny Committees were established by the Assembly on Thursday, 24 August 2017 under Sessional Order 13. However, on 27 November 2019 the Assembly dissolved these committees and established the Legislation Scrutiny Committee and referred outstanding Bill inquiries to the new Committee.<sup>1</sup>
- 1.2 The functions of the Legislation Scrutiny Committee include to inquire into and report on any matter referred to it by the Assembly, a Minister or on its own motion.
- 1.3 The Committee also has a duty to examine any Bill referred to it by the Assembly and determine whether the Assembly should pass the Bill or amend the Bill and whether the Bill has sufficient regard to the rights and liberties of individuals and the institution of Parliament.
- 1.4 In accordance with clause 6 of its Terms of Reference, the Committee is required to provide an annual report on its activities.
- 1.5 Pursuant to Sessional Order 17, adopted on 20 March 2018, the Committee is also required to consider petitions referred by the Assembly, determine whether the petition should be debated and advise the Clerk accordingly.<sup>2</sup>

## Report Structure

- 1.6 Chapter 2 provides a summary of the outcomes of outstanding Economic Policy and Social Policy Scrutiny Committee inquiries from the 2018-2019 reporting period.
- 1.7 Chapter 3 provides a summary of Bills referred to and considered by the Social and Economic Policy Scrutiny Committees and the Legislation Scrutiny Committee during the current reporting period.
- 1.8 Chapter 4 provides a summary of Petitions referred to and considered by the Committee during the current reporting period.
- 1.9 Chapter 5 provides an overview of statistics regarding the number of Bills referred to the scrutiny committees, submissions received, inquiry timeframes, reports tabled, and recommendations accepted by the Government. Information is also provided on Petitions referred to the Committees and the number recommended for debate and subsequently debated in the Assembly.

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<sup>1</sup> Hon Natasha Fyles, MLA, Leader of Government Business, *Draft – Daily Hansard – Day 2 – Wednesday 27 November 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/755087>, p.94

<sup>2</sup> Legislative Assembly of the Northern Territory, *Thirteenth Assembly – Sessional Orders – As adopted 27 November 2019*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>, pp.14-15

## 2 Outstanding Inquiries

### Economic Policy Scrutiny Committee

- 2.1 As noted in the Committee's previous Annual Report<sup>3</sup>, at the end of the 2018-2019 reporting period the Committee had yet to finalise four Bill inquiries that were due for report in August and September 2019. Following is a summary of the outcomes of those inquiries.

#### **Liquor Bill 2019**

- 2.2 On 15 May 2019 the Assembly referred the Liquor Bill 2019 (Serial 95) to the Committee for inquiry and report by 6 August 2019.<sup>4</sup>
- 2.3 The primary purpose of this Bill was to minimise the harm associated with the consumption of liquor while at the same time recognising that the sale, supply, and consumption of liquor is a legitimate social and economic activity. Comprising a complete re-write of the *Liquor Act 1978*, and amending over 20 other Acts, the Bill incorporated 70 of the recommendations from the *Alcohol Policies and Legislation Review*.<sup>5</sup>
- 2.4 The Committee received 18 submissions to its inquiry. Submissions provided a cross-section of views, reflecting the challenges inherent in achieving harm minimisation objectives without placing an unwarranted burden on liquor businesses.
- 2.5 On the 20 May 2019 the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice and the Department of the Chief Minister. The Committee also held a public hearing on 10 July 2019 with 23 witnesses appearing. Following examination of the Bill and consideration of the evidence, the Committee recommended that the Assembly pass the Bill with 20 legislative amendments and two recommendations for action by the Government.
- 2.6 In summary, recommendations 2, 8 and 12 sought to ensure greater transparency and accountability in relation to delegation of the Director's powers, applications for transfers, and liquor accords. Recommendations 3, 5, 9, 13, 20, 21 and 22 aimed to ensure that the Bill was unambiguous and drafted in a clear and precise manner. Recommendations 6, 11 and 14 aimed to reduce the regulatory burden on licensees by facilitating greater procedural efficiencies while still ensuring that harm minimisation objectives were met.
- 2.7 Recommendations 10, 17, 18 and 19 sought to ensure effective operation of the relevant provisions while recommendations 15 and 16 aimed to strengthen provisions to better meet harm minimisation objectives. Of the two recommendations for action by the Government, recommendation 4 sought to ensure that separate community

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<sup>3</sup> Economic Policy Scrutiny Committee, *Annual Report 2018-19*, Legislative Assembly of the Northern Territory, Darwin NT, September 2019, <https://parliament.nt.gov.au/committees/EPSC#AR>

<sup>4</sup> Hon. Natasha Fyles MLA, Attorney-General and Minister for Justice, Draft – Daily Hansard – Day 5 - 15 May 2019, <http://hdl.handle.net/10070/307367> p.1

<sup>5</sup> Explanatory Statement, *Liquor Bill 2019 (Serial 95)*, <https://parliament.nt.gov.au/committees/EPSC/95-2019>

- impact assessment guidelines would be provided for different types of licence or authority applications. Recommendation 7 aimed to ensure that appropriate standard provisions for annual events, such as New Year's Eve and ANZAC Day were included in the regulations prescribing conditions on time of operation.
- 2.8 Key issues of concern in this Bill included clauses 68(2), 105 and 129 to 132. Clause 68(2) required applications to transfer a licence to be made as if the proposed transferee was applying for a new licence, with clauses 48 to 54 applying to these applications. There was no provision to make clause 55, which related to the consideration of applications, applicable to transfer applications. The exclusion of clause 55 meant that there were no provisions to enable several highly relevant elements of the application consideration process to be implemented, including: requirement that the Director refer an accepted application to the Commission; timeframe in which the referral must occur; scope for objections to be made to the application; and an assessment of the transferee's financial stability and character.
- 2.9 The Committee considered that while not all provisions in clause 55 were relevant to the consideration of applications for transfers, provisions critical to transfer applications, such as those identified above, should be provided for. The Committee therefore recommended that the Bill be amended to include a clause separate from clause 55 setting out how a transfer of a licence should be considered, including the matters identified above.
- 2.10 Clause 105 required a licensee to prepare a quarterly return of their liquor purchases and sales under the licence. Several submissions raised concern that this requirement was a significant impost on licensees, many of whom would not have the appropriate point of sale systems required to enable compliance in a cost effective manner.
- 2.11 While acknowledging the considerable benefits of collecting retail sales data, the Committee considered it important to balance these benefits against the additional burden that collection of such data would place on licensees. Although Riley Review Recommendation 2.6.5 specified that licensees should be required to provide regular returns of the volume of alcohol sales from their premises, this recommendation proposed that returns be required on a six monthly or yearly basis rather than quarterly as provided for in clause 105. The Committee therefore recommended that clause 105 be amended to minimise the burden on business while meeting the intent of the Riley Review recommendation by only applying to licensees who have a wholesale authority.
- 2.12 Clauses 129 to 132 set out provisions for local liquor accords. Concerns were raised by Hospitality NT that the proposed provisions for Liquor Accords could result in restrictive new practices being determined without reference to the Liquor Commission.
- 2.13 Under clause 130 a liquor accord could provide for anything that might prevent or reduce alcohol-related violence and identified a range of potential actions such as requiring licensees to charge higher prices for liquor, or to cease or restrict the sale and service of liquor earlier than otherwise allowed. Clause 129(2) provided for the Director to require a licensee to be a party to a local liquor accord while clause 132(1)

provided for the Director to vary a liquor accord at any time by giving written notice to the coordinator of the accord.

- 2.14 The Committee considered the power proposed for the Director, to both require licensee's to join accords and to vary the accord, to be potentially very significant given that a number of issues relating to decision-making processes and the management of accords were not clearly addressed in the Bill.
- 2.15 Although the Committee supported making provision for accords it considered it to be premature to give the Director such powers before the framework for decision-making under the accord had been determined. In the absence of such a framework, the Director's power to vary an accord, and consequently the licence conditions of those subject to the accord, could unfairly affect some licensees. The Committee therefore recommended that the Bill be amended to remove the Director's power to vary an accord on the Director's own initiative and to provide minimum consultation requirements for determining and varying accords.
- 2.16 The Committee tabled its report in the Assembly on 13 August 2019. In responding to the report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted the two recommendations for government action (recommendations 4 and 7) along with 16 of the 19 legislative amendments proposed by the Committee.<sup>6</sup>
- 2.17 The Committee's report, associated minutes of proceedings, Government's response to the Committee's report, submissions received and transcripts of the public briefing and hearing, are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/95-2019>.

### **Hemp Industry Bill 2019**

- 2.18 On 16 May 2019 the Assembly referred the Hemp Industry Bill 2019 (Serial 91) to the Committee for inquiry and report by 6 August 2019.<sup>7</sup>
- 2.19 In presenting the Bill, the Minister for Primary Industry and Resources, the Hon Paul Kirby MLA, stated that the purpose of the Bill was to:
- Put in place a regulatory framework allowing for the development and operation of an industrial hemp industry here in the Northern Territory.<sup>8</sup>
- 2.20 As noted in the Explanatory Statement key elements of the Bill included the:
- Establishment of a licencing regime for the possession, cultivation, processing or supply of industrial hemp for both the commercial production of industrial hemp products and scientific research, instruction, analysis or study.
  - Provision of exemptions, where applicable, to the Misuse of Drugs Act.

<sup>6</sup> Government Response, *Inquiry into the Liquor Bill 2019, Tuesday 13 August 2019* <https://parliament.nt.gov.au/committees/EPSC/95-2019#REPORT>

<sup>7</sup> Hon Paul Kirby MLA, *Draft - Daily Hansard – Day 6 – 16 May 2019*, <http://hdl.handle.net/10070/307368>, p.5

<sup>8</sup> Hon Paul Kirby MLA, *Draft - Daily Hansard – Day 6 – 16 May 2019*, <http://hdl.handle.net/10070/307368> p.2

- Clarification of responsibilities and accountabilities for sharing of administrative powers between the Chief Executive Officer of the responsible regulatory agency and the Commissioner of Police.
  - Provision for authorised inspectors under the Act.
  - Provision for offences and penalties for contravening specified provisions of the Act.<sup>9</sup>
- 2.21 When presenting the Bill to the Assembly, the Minister noted that industrial hemp differs markedly from both narcotic cannabis and medicinal cannabis as it contains very low levels of delta-9-tetrahydrocannabinol (commonly known as THC), typically less than 1% of its dry weight, and has no psycho-active effects on individuals. By contrast, narcotic cannabis can contain in excess of 15% of its dry weight while THC in medicinal cannabis can have low or high THC.<sup>10</sup>
- 2.22 The Committee received one submission to its inquiry and held a public briefing with the Department of Primary Industry and Resources on the 20 May 2019.
- 2.23 As the Committee had no matters to bring to the attention of the Assembly, the Committee presented its 'No Issues' report to the Speaker on 19 July 2019 for subsequent tabling in the Assembly on 6 August 2019. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/91-2019>.

### ***Construction Contracts (Security of Payments) Legislation Amendment Bill 2019***

- 2.24 On 15 May 2019 the Assembly referred the Construction Contracts (Security of Payments) Legislation Amendment Bill 2019 (Serial 92) to the Committee for inquiry and report by 6 August 2019.
- 2.25 The Bill sought to amend the *Construction Contracts (Security and Payments) Act 2004*, *Community Justice Centre Act 2005* and Construction Contracts (Security of Payments) Regulations 2005. The primary purpose of the Bill was to provide clarification on payment disputes, the adjudication process, and determinations made by adjudicators. The Bill also introduced new provisions to allow parties to construction contracts valued at \$505 million or over to opt out of the statutory dispute resolution process, provided that certain criteria are met.<sup>11</sup>
- 2.26 The Committee received three submissions to its inquiry which were largely supportive of the Bill and held a public briefing with the Department of the Attorney-General and Justice on 20 May 2019. Following consideration of the evidence, the Committee recommended that the Assembly pass the Bill with the legislative amendments proposed in recommendations 2 – 4.

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<sup>9</sup> Explanatory Statement, *Hemp Industry Bill 2019*, <https://parliament.nt.gov.au/committees/EPSC/91-2019>, p.1

<sup>10</sup> Hon Paul Kirby MLA, *Draft - Daily Hansard – Day 6 – 16 May 2019*, <http://hdl.handle.net/10070/307368>, pp.2-3

<sup>11</sup> Explanatory Statement, *Construction Contracts (Security of Payments) Legislation Amendment Bill 2019 (Serial 92)*, <https://parliament.nt.gov.au/committees/EPSC/92-2019>, p.1

- 2.27 Recommendation 2 proposed that the Bill be amended to clarify that the meaning of payment claim includes claims for a construction contract that has expired or been terminated for payment of an amount in relation to an accrued right for the contract. Recommendation 3 proposed that the Bill provide for the Regulations to provide guidance on the relevant factors to be considered by adjudicators when exercising the discretionary powers provided for in proposed section 33(1A). Recommendation 4 proposed that section 38 be amended to require that the content of a determination made under section 33(1)(b) state the reasons that an adjudicator relied upon when proceeding with an application that contained technical deficiencies.
- 2.28 The Committee tabled its report on 6 August 2019. In responding to the Committee's report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that while the Government accepted recommendation 2, it did not support recommendations 3 and 4.<sup>12</sup> The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions, tabled papers and transcript from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/92-2019>.

### ***Electoral Legislation Further Amendment Bill 2019***

- 2.29 On 20 June 2019 the Assembly referred the Electoral Legislation Further Amendment Bill 2019 (Serial 96) to the Committee for inquiry and report by 17 September 2019.<sup>13</sup>
- 2.30 This Bill sought to amend the *Electoral Act 2004* to establish a new scheme for political donations and electoral expenditure in the Northern Territory. In addition, it included provisions to implement non-financial electoral reforms to streamline and contemporise the voting and electoral process. The primary aim of these amendments was to provide increased transparency and accountability in relation to electoral activity in the Northern Territory.<sup>14</sup>
- 2.31 The Committee received two submissions to its inquiry and held a public briefing with the Department of the Chief Minister on 3 July 2019. Following examination of the Bill and consideration of the evidence, the Committee recommended that the Assembly pass the Bill with five legislative amendments.
- 2.32 Key areas of concern raised in submissions included the absence of a cap on expenditure by third party campaigners, the requirement for parties and candidates to maintain a Territory campaign account, and the introduction of provisional voting for persons not enrolled to vote on Election Day. Although both submissions supported the intent of the reforms a number of amendments were suggested. The Committee considered all concerns raised in submissions but, after examining the evidence, determined that no amendments were required in relation to the points raised.

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<sup>12</sup> Government Response, *Inquiry into the Construction Contracts (Security of Payments) Legislation Amendment Bill 2019*, <https://parliament.nt.gov.au/committees/EPSC/92-2019>

<sup>13</sup> The Hon Michael Gunner MLA, Chief Minister, Draft Daily Hansard – Thursday 20 June 2019, <http://hdl.handle.net/10070/308154>, p.20

<sup>14</sup> Explanatory Statement, *Electoral Legislation Further Amendment Bill 2019 (Serial 96)*, <https://parliament.nt.gov.au/committees/EPSC/96-2019>, p.1

- 2.33 During its examination of the Bill the Committee did, however, identify a number of technical issues with clauses related to early voting centres, the definition of candidate, and disclosure requirements for persons making donations to candidates. Consequently, it recommended amendments to these clauses to ensure that the Bill would effectively implement the stated policy intent and would be ‘unambiguous and drafted in a sufficiently clear and precise way’, as per the Committee’s terms of reference.
- 2.34 The Committee tabled its report in the Assembly on 17 September 2019. As highlighted in the Government’s response to the Committee’s report, all of the Committee’s recommendations regarding legislative amendments were accepted by the Government.<sup>15</sup> The Committee’s report, associated minutes of proceedings, Government response, submissions and tabled papers are available on the Committee’s website at <https://parliament.nt.gov.au/committees/EPSC/96-2019>.

## **Social Policy Scrutiny Committee**

- 2.35 As noted in the Committee’s previous Annual Report<sup>16</sup>, at the end of the 2018-2019 reporting period the Committee had yet to finalise three Bill inquiries that were due for report in August and September 2019. Following is a summary of the outcomes of those inquiries.

### ***Youth Justice and Related Legislation Amendment Bill 2019***

- 2.36 On Wednesday 20 March 2019 the Assembly referred the Youth Justice and Related Legislation Amendment Bill 2019 (Serial 85) to the Committee for inquiry and report by Thursday 20 June 2019. On 9 May 2019 the Assembly agreed to an extension of the report date to 6 August 2019.
- 2.37 This Bill sought to amend the *Youth Justice Act 2005* and associated regulations, the *Bail Act 1982* and associated regulations, and the *Police Administration Act 1978*. As noted in the Explanatory Statement, the Bill aimed to implement the intention and direction of a further 11 recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory relating to the youth justice system.<sup>17</sup>
- 2.38 The Committee received 26 submissions to its inquiry. All of the submissions received were generally supportive of the intent of the Bill in delivering key reforms as set out in the recommendations of the Royal Commission. However, a number of concerns were raised regarding the extent to which the proposed amendments fully implemented the Royal Commission’s recommendations.

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<sup>15</sup> Government Response, *Inquiry into the Electoral Legislation Further Amendment Bill 2019*, 18 September 2019, <https://parliament.nt.gov.au/committees/EPSC/96-2019#REP>

<sup>16</sup> Social Policy Scrutiny Committee, *Annual Report 2018-2019*, Legislative Assembly of the Northern Territory, Darwin NT, August 2019, <https://parliament.nt.gov.au/committees/spsc>

<sup>17</sup> Explanatory Statement, *Youth Justice and Related Legislation Amendment Bill 2019 (Serial 85)*, <https://parliament.nt.gov.au/committees/spsc/85-2019>, p.1

- 2.39 On 1 April 2019 the Committee held a public briefing with representatives from Territory Families. The Committee also held a public hearing on 30 May 2019 with 21 witnesses appearing. Following examination of the Bill and consideration of the evidence, the Committee recommended that the Assembly pass the Bill with five legislative amendments and one recommendation for action by the Government.
- 2.40 To summarise, the Committee recommended that regulation 2A of the Bail Regulations 1983 be amended to address the omission of section 130(3A) of the *Criminal Code Act 1978* as a 'prescribed offence.' To clarify the intended operation of section 8A of the *Bail act 1982*, the Committee recommended that this section be amended to provide that the presumption in favour of bail for youth is subject to consideration of the matters mentioned in sections 24 and 24A of the Act.
- 2.41 Acknowledging the concerns of submitters, the Committee also recommended that the Government review the operation of proposed section 137 of the *Police Administration Act 1978* and present a report to the Assembly as soon as practicable after the end of its first year of operation. This section sought to implement the intent of Royal Commission recommendation 25.03(2) by legislating a time limit on how long a young person may be held in lawful custody by Police without charge for the purpose of questioning and investigation. Taking into consideration the unique operational realities of the Northern Territory, the Bill favoured a 24 hour time limit before review by a judicial officer is required, rather than setting a lower limit and including 'carve out' provisions as is the case in equivalent legislation elsewhere in Australia. However, the majority of submitters raised concerns that the approach taken in the drafting of this provision failed to fully implement the recommendation of the Royal Commission.
- 2.42 While submitters supported implementation of the Royal Commission's recommendation to close court proceedings involving young people to the public, concerns were nevertheless raised regarding the extent to which the proposed amendments to section 49 of the *Youth Justice Act 2005* supported accountability and transparency of the youth justice system. Consistent with equivalent legislation elsewhere in Australia, and taking into consideration subsequent provisions in section 50 (restriction of publication), the Committee recommended that section 49 be amended to provide that, unless the Court directs otherwise, where proceedings relate to an offence or alleged offence, a genuine representative of the news media may be present.
- 2.43 The Committee also proposed two amendments to section 50 of the *Youth Justice Act 2005*. Firstly, to address a minor grammatical drafting error in subsection (2)(b), and secondly to amend the list of particulars that are deemed likely to lead to the identification of youth, witnesses or other parties associated with court proceedings in subsection (7). While the need for a statutory non-publication regime was not disputed by submitters, concerns were raised that, as drafted, the list of particulars was significantly more prescriptive than equivalent provisions elsewhere in Australia.
- 2.44 While subsection 50(7) replicated section 534(4) of the *Children, Youth and Families Act 2005* (Vic), shortly after the Bill was introduced the Victorian Parliament repealed this provision on the grounds that it was much broader than analogous provisions in

other jurisdictions and unduly limited reporting on cases by preventing the publication of matters which may not actually identify a person in a particular case. Noting that the Victorian legislation, as amended, strikes an appropriate balance between protecting a person's right to privacy, open justice and the freedom of the press to report on details of a court proceeding, the Committee recommended that the Bill be amended to align with the new provisions in Victoria as set out in section 13 of the *Open Courts and Other Acts Amendment Act 2019* (Vic).

2.45 Pursuant to Standing Order 200(4) the Committee presented its report to the Speaker on 16 July 2019 for subsequent tabling in the Assembly on 6 August 2019. As highlighted in the Government's response to the Committee's report, all of the Committee's recommendations regarding legislative amendments were accepted by the Government.<sup>18</sup> On 3 February 2020, the Minister for Territory Families, the Hon Dale Wakefield MLA, advised the Assembly that the Government accepted recommendation 4, noting that:

the responsible Minister will review and report on the operation of proposed section 137 of the *Police Administration Act 1978*, to the Legislative Assembly at the end of its first year of operation.<sup>19</sup>

2.46 The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions, tabled papers and transcripts from the public briefing and public hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/85-2019>.

### ***Education and Care Services (National Uniform Legislation) Amendment Bill 2019***

2.47 On Thursday 16 May 2019 the Assembly referred the Education and Care Services (National Uniform Legislation) Amendment Bill 2019 (Serial 93) to the Committee for inquiry and report by Tuesday 6 August 2019.

2.48 This Bill sought to amend the *Education and Care Services (National Uniform Legislation) Act 2011* (NT) and the Education (Infringement Notice) Regulations 2019 to streamline the administration of the Act by amending the mechanism used to adopt the Education and Care Services National Law in the Northern Territory.<sup>20</sup>

2.49 On 20 May 2019 the Committee held a public briefing with representatives from the Department of Education. No submissions were received to the Committee's inquiry. While the Committee recommended that the Assembly pass the Bill, it noted that in providing for adoption of the National Law as in force from time to time, the Bill delegates to the Victorian Parliament the power to amend this law for the Northern Territory. In the event that a provision of the National Law or associated regulations is not considered to be in the best interests of the Northern Territory, the Department

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<sup>18</sup> Government Response, *Inquiry into the Youth Justice and Related Legislation Amendment Bill 2019*, 18 September 2019, <https://parliament.nt.gov.au/committees/spsc/85-2019>

<sup>19</sup> Government Response, Recommendation 4 – Inquiry into the Youth Justice and Related Legislation Amendment Bill, 3 February 2020, <https://parliament.nt.gov.au/committees/spsc/85-2019>, p.1

<sup>20</sup> Explanatory Statement, *Education and Care Services (National Uniform Legislation) Amendment Bill 2019* (Serial 93), <https://parliament.nt.gov.au/committees/spsc/93-2019>, p.1

of Education advised the Committee that the Legislative Assembly may amend the Act so that the provision in question does not apply.

- 2.50 The Committee presented its report to the Speaker on 2 July 2019 for subsequent tabling in the Assembly on 6 August 2019. The Committee's report and associated minutes of proceedings, tabled papers and transcript from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/93-2019>.

### ***Environment Protection Bill 2019***

- 2.51 On Thursday 16 May 2019 the Assembly referred the Environment Protection Bill 2019 (Serial 94) to the Committee for inquiry and report by Tuesday 6 August 2019. On 20 June 2019 the Assembly agreed to extend the report date to 17 September 2019.<sup>21</sup>
- 2.52 This Bill sought to establish the *Environment Protection Act 2019*. Repealing the *Environmental Assessment Act 1982* and the *Environmental Assessment Amendment Act 1994*, the purpose of the Bill was to:
- support implementation of Government's environmental regulatory reform commitments by reforming the Territory's environmental impact assessment and approval process.<sup>22</sup>
- 2.53 The Committee received 46 submissions to its inquiry, including 21 proforma submissions. On 20 May 2019 the Committee held a public briefing with representatives from the Department of Environment and Natural Resources. The Committee also held a public hearing on 29 July 2019 with 21 witnesses appearing.
- 2.54 Although the majority of submissions supported reform of the NT's environmental management framework, clarification was sought regarding the intended operation of various provisions within the Bill. Submitters also put forward a number of suggestions as to how the Bill might be improved. Following examination of the Bill and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with 14 amendments.
- 2.55 Recommendations 2 – 5, 7 – 9, and 15 sought to strengthen provisions and ensure that the Bill promoted transparency and accountability in the environmental impact assessment and approval process. For example, in the absence of climate change legislation, the majority of submitters expressed particular concern that the Bill was silent on the issue of climate change and greenhouse gas emissions. While noting that these matters are inherent in several of the principles of ecologically sustainable development that decision makers are required to consider in the environmental impact assessment and approval process, recommendation 2 proposed that clause 42(b) be amended to specifically reference the impacts of a changing climate as a matter to be taken into account when assessing, planning and carrying out actions that may have a significant impact on the environment.

<sup>21</sup> Daily Hansard, Day 1 – Thursday 20 June 2019, <http://www.territorystories.nt.gov.au/jspui/handle/10070/308154>, p.12

<sup>22</sup> Explanatory Statement, *Environment Protection Bill 2019 (Serial 94)*, <https://parliament.nt.gov.au/committees/spsc/94-2019>, p.1

- 2.56 The Northern and Central Land Councils also suggested that in determining whether a person is fit and proper to hold an environmental approval, clause 62(a)(i) should be amended to provide that, in addition to the matters listed, the Minister may also have regard to whether there are reasonable grounds to believe that the person has contravened a law of the Territory or another jurisdiction that relates to Aboriginal heritage and culture, including Aboriginal sacred sites. As such, recommendation 7 proposed that this clause be amended accordingly.
- 2.57 Recommendations 10, 11 and 14 aimed to ensure that the Bill was unambiguous and drafted in a sufficiently clear and precise manner. For example, Ward Keller raised concern that, as drafted, clause 142 regarding directions by the CEO to carry out an environmental audit was somewhat vague and open ended. To clarify the intended operation of the legislation, recommendation 11 proposed that clause 142 be amended to more closely align it with section 458 of the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*.
- 2.58 Recommendation 6 sought to address the Committee's concerns regarding the extent to which provisions in the Bill had sufficient regard to the institution of Parliament in relation to the appropriate delegation and parliamentary oversight of legislative power. The Committee was particularly concerned that clauses 36, 38 and 39 regarding the declaration and revocation of protected environmental areas and prohibited actions, confer decision making power on the Administrator which is inconsistent with section 32(3) of the *Northern Territory (Self Government) Act 1978* (Cth) and section 34(1) of the *Interpretation Act 1978* (NT).
- 2.59 Given the potential impact on development, the Committee was also concerned that the Bill did not require that such declarations and revocations, including the associated statements of reason, be tabled and subject to scrutiny by the Parliament. Further, while the Bill provided that the Minister must publish statements of reasons, it did not specify a timeframe within which this must occur. The Committee therefore recommended that these clauses be amended accordingly.
- 2.60 Finally, recommendations 12 and 13 sought to ensure that the Bill had sufficient regard to the rights and liberties of individuals in relation to the delegation of administrative power to appropriately qualified environmental officers, and ensuring that search warrants may only be issued by a judicial officer.
- 2.61 The Committee tabled its report in the Assembly on Tuesday 17 September 2019. In responding to the report the Minister for Environment and Natural Resources, the Hon Eva Lawler MLA, advised that the Government accepted all of the Committee's recommendations.<sup>23</sup>
- 2.62 The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions, tabled papers and transcripts from the public briefing and public hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/94-2019>.

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<sup>23</sup> Government Response, *Inquiry into the Environment Protection Bill 2019*, 19 September 2019, <https://parliament.nt.gov.au/committees/spsc/94-2019>

### 3 Bill Referrals

#### Introduction

- 3.1 Over the reporting period the Assembly referred a total of 28 Bills for inquiry and report. In accordance with clause 13(4)(c) of its Terms of Reference, following examination of a Bill the Committee is required to determine:
- (i) whether the Assembly should pass the bill;
  - (ii) whether the Assembly should amend the bill;
  - (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
  - (iv) whether the bill has sufficient regard to the institution of Parliament.

To facilitate the Bill inquiry process, the Committee adopted a *Standard Procedure for Bill Inquiries* (see Appendix A).

- 3.2 Following is an overview of Bills referred to the Economic and Social Policy Scrutiny Committees and the Legislation Scrutiny Committee during the reporting period, the outcome of the Committees' considerations and subsequent responses by the Government.

#### Economic Policy Scrutiny Committee

- 3.3 As detailed below, from 1 July 2018 to 27 November 2019 when the committee was dissolved, the Assembly referred eight Bills to the Economic Policy Scrutiny Committee for inquiry and report.

#### ***Transport Legislation Amendment Bill 2019***

- 3.4 On 7 August 2019 the Assembly referred the Transport Legislation Amendment Bill 2019 (Serial 98) to the Committee for inquiry and report by 15 October 2019.<sup>24</sup>
- 3.5 This Bill implemented Tranche 2 of three tranches of work arising from a legislative review undertaken by the Department of Infrastructure, Planning and Logistics. The main purpose of the Bill was to remedy identified shortcomings in the legislation relating to road safety, police enforcement and clarification of statutory obligations.<sup>25</sup>
- 3.6 The Committee received one submission to its inquiry which expressed support for the Bill. A public briefing was held with the Department of Infrastructure, Planning and Logistics on 21 August 2019.
- 3.7 In reviewing the Bill the Committee identified a number of potential issues and sought legal advice to clarify whether the provisions in the Bill had sufficient regard to the rights and liberties of individuals and were unambiguous and drafted in a sufficiently clear and precise way. Following consideration of the evidence received, the

<sup>24</sup> Hon. Eva Lawler MLA, Minister for Infrastructure, Planning and Logistics, *Draft - Daily Hansard – Day 2 – 7 August 2019*, <http://hdl.handle.net/10070/753831>, p.5

<sup>25</sup> Explanatory Statement and Statement of Compatibility with Human Rights, *Transport Legislation Amendment Bill 2019 (Serial 98)*, <https://parliament.nt.gov.au/committees/EPSC/98-2019>, p.1

Committee recommended that the Assembly pass the Bill with six legislative amendments.

- 3.8 To summarise, clause 14 which deemed a licence holder who occupies the front passenger seat next to a learner driver (other than a driving instructor under s 19(1) of the *Traffic Act*) to be the driver for the purposes of the offences under Part V of the *Traffic Act*. The Department advised the Committee that this provision was aimed at supervising drivers not learner and provisional licence holders. While the Committee agreed with the intention of this provision it noted that the wording could inappropriately result in the holders of learner and provisional licences being treated as supervising drivers. As such, recommendation 3 proposed that section 19(7) be amended such that it only applies to a person who is over the age of 18 and is a holder of a full licence.
- 3.9 Recommendation 5 related to clause 28 which enabled a police officer to require a person to provide a blood sample if they had previously been required to submit to a breath test or breath analysis but the breath analysis instrument had malfunctioned. This is an invasive procedure and it is questionable that a blood sample should be requested without the officer having cause to believe that there is a relevant concentration of alcohol in the person's breath or blood. The Department advised that this provision was only intended to apply to a person who was required to submit to a breath analysis. A breath analysis may be required after a person fails a breath test, fails to give a sufficient sample for a breath test, or where police had a reasonable cause to suspect that a driver was impaired by alcohol. As such, the Committee recommended that proposed section 29AAG(1)(ab) be amended to remove the words 'breath test or'.
- 3.10 Other amendments recommended by the Committee related to: the absence of provisions for breath or drug testing of driving instructors when they are supervising a learner driver (Recommendation 2); inconsistencies in offence provisions for driving instructors (Recommendation 4); and exemptions from provisions of the Act (Recommendation 6).
- 3.11 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 11 October 2019 for subsequent tabling in the Assembly on 15 October 2020. As highlighted in the Government's response to the Committee's report, all of the Committee's recommendations regarding legislative amendments were accepted by the Government.<sup>26</sup> The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions and the transcript of the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/98-2019>.

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<sup>26</sup> Government Response, *Inquiry into the Transport Legislation Amendment Bill 2019*, 17 October 2019, <https://parliament.nt.gov.au/committees/EPSC/98-2019#REP>, p. 43

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### **Water Further Amendment Bill 2019**

- 3.12 On 14 August 2019 the Assembly referred the Water Further Amendment Bill 2019 (Serial 100) to the Committee for inquiry and report by 15 October 2019.<sup>27</sup>
- 3.13 This Bill sought to implement the Government's commitment to reinstate Strategic Aboriginal Water Reserves by embedding the Strategic Aboriginal Water Reserve Policy Framework into *Water Act 1992*. The purpose of this Bill was to:
- capture aspects of the Northern Territory Government's Strategic Aboriginal Water Reserves Policy Framework (October 2017) into legislation to ensure that strategic Aboriginal water reserves remain an enduring requirement of water allocation plans made under the Water Act 1992.<sup>28</sup>
- 3.14 The Committee received eight submissions to its inquiry. On the 21 August 2019 the Committee held a public briefing with representatives from the Department of Environment and Natural Resources. The Committee also held a public hearing on 24 September 2019 with six witnesses appearing.
- 3.15 Five of the submissions supported the Bill but suggested amendments or raised concerns for future review while the remaining submissions raised issues that were not within the scope of the Bill. The primary issues raised in submissions concerned the scope of the definitions for "eligible Aboriginal people", "eligible land" and "Aboriginal economic development" and the degree to which these definitions adequately represented the interests of Aboriginal people, taking into account that not all Aboriginal people have land rights or exclusive native title.
- 3.16 The determination of "eligible land" is central to the operation of Aboriginal water reserves. Eligible land is clearly defined in the Bill and includes Aboriginal land as defined in the *Aboriginal Land Rights (Northern Territory) Act 1993* (Cth); land under an exclusive possession native title determination; and Aboriginal land (Northern Territory enhanced freehold). "Eligible Aboriginal people" are those who have rights to, or a connection to, one of these three land tenures. Land under a non-exclusive possession native title determination is not considered to be eligible land. This exclusion was challenged by two submitters who noted that the majority of native title determinations in the Northern Territory are non-exclusive determinations over pastoral leases.
- 3.17 The Committee acknowledged these concerns but noted that the purpose of the Policy Framework is to promote the capacity of Aboriginal people to conduct water dependent commercial developments. Commercial developments on non-exclusive native title land would require the agreement of other rights holders, most commonly the pastoral lease holder and may impede the setting up of commercial developments. This could have an adverse impact on the ability to achieve the main aim of the Policy Framework which is to facilitate water-related Aboriginal economic development. Consequently, while the Committee considered that further exploration

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<sup>27</sup> Hon Eva Lawler MLA, Minister for Environment and Natural Resources, *Draft - Daily Hansard – Day 5 – 14 August 2019*, <http://hdl.handle.net/10070/753835>, p.4

<sup>28</sup> Explanatory Statement, *Water Further Amendment Bill 2019 (Serial 100)*, <https://parliament.nt.gov.au/committees/EPSC/100-2019>, p.1

of opportunities to advance economic development for non-exclusive native title rights holders is warranted, it did not fall within the scope of the Bill.

- 3.18 The Committee recommended amendments to clauses 6 and 7 of the Bill to reduce ambiguity and to ensure the intent of the clauses was clear. Following examination of the Bill, and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the legislative amendments proposed in recommendations 2 and 3.
- 3.19 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 14 October 2019 for subsequent tabling in the Assembly on 15 October 2020. As highlighted in the Government's response to the Committee's report, both of the Committee's recommendations regarding legislative amendments were accepted by the Government.<sup>29</sup> The Committee's report, associated minutes of proceedings, Government response, copies of submissions and transcript of the public briefing and hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/100-2019#PB>.

### **Sex Industry Bill 2019**

- 3.20 On 18 September 2019 the Assembly referred the Sex Industry Bill 2019 (Serial 105) to the Committee for inquiry and report by 26 November 2019.
- 3.21 The Bill sought to repeal the *Prostitution Regulation Act 1992* and establish a regulatory framework for the provision of sex work in the Northern Territory. The purpose of the Bill was to decriminalise sex work; legalise sex work contracts; enhance worker, client and public health safety; prohibit exploitation of sex workers; prohibit the use of children in sex work; and 'enable the sex industry to operate in accordance with the laws of the Territory and the Commonwealth as they apply to all individuals and businesses generally'.<sup>30</sup>
- 3.22 The inquiry generated significant community interest, with 46 submissions received by the Committee. On 24 of September 2019 the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice. The Committee also held a public hearing on 29 October 2019 with 18 witnesses appearing before the Committee. Following examination of the Bill, and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the legislative amendments proposed in recommendations 2 and 3.
- 3.23 While the majority of submissions supported the Bill they also proposed a number of amendments. Submissions reflected a clear polarisation of views on whether the most effective way to regulate the industry was through decriminalisation or through partial criminalisation as adopted in Sweden.
- 3.24 The key issues raised with respect to the clauses in the Bill concerned suitability certificates, advertising, spent convictions and anti-discrimination measures. In

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<sup>29</sup> Government Response, *Inquiry into the Water Further Amendment Bill 2019*, 16 October 2019, <https://parliament.nt.gov.au/committees/EPSC/100-2019#REP>

<sup>30</sup> Explanatory Statement, *Sex Industry Bill 2019 (Serial 105)*, <https://parliament.nt.gov.au/committees/EPSC/105-2019>, p.4

addition, the Committee's legal counsel raised technical issues in relation to offences prohibiting the involvement of children in sex work and the requirement for sex services businesses to hold suitability certificates. The majority of recommendations made by the Committee were of a technical nature and aimed to ensure that clauses were unambiguous and drafted in a sufficiently clear and precise manner.

- 3.25 Recommendations 2 and 4 were of particular importance. Recommendation 2 aimed to ensure that there was no risk that a child involved in sex work could be prosecuted while Recommendation 4 proposed that penalties for non-compliance with the requirement to hold a suitability certificate be prescribed in the regulations. The Committee further proposed that the legislation be reviewed between 3-5 years after commencement (Recommendation 6). The Government accepted all six recommendations made by the Committee.<sup>31</sup>
- 3.26 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 20 November 2019 for subsequent tabling in the Assembly on 26 November 2019. The Committee's report, associated minutes of proceedings, Government response, copies of submissions and transcripts of the public briefing and hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/105-2019#PB>.

### **Firearms Legislation Amendment Bill 2019**

- 3.27 On 18 September 2019 the Assembly referred the Firearms Legislation Amendment Bill 2019 (Serial 106) to the Economic Policy Scrutiny Committee for inquiry and report by 26 November 2019.
- 3.28 The Bill amended the *Firearms Act 1997* (NT) and the *Firearms Regulations 1997* (NT) and introduced a new firearm prohibition order scheme to enable the Commissioner of Police to make an order prohibiting an individual from acquiring, having possession of, or using any firearm or firearm related item. The Bill also increased maximum penalties for certain offences and expanded the scope of disqualifying offences.<sup>32</sup>
- 3.29 The Committee held a public briefing with representatives from the Northern Territory Police Force on 24 September 2019 and received four submissions to its inquiry. Although three of the submissions supported the Bill with amendments, Civil Liberties Australia expressed the view that the Bill should not be passed.
- 3.30 Key issues raised during the inquiry concerned the expansive powers provided to police and the associated infringement of human rights. Particular concern was expressed regarding the search powers the Bill sought to provide to police, with the Bill seeking to enable these powers to be exercised, without warrant or consent, if police deem the exercise of the power to be "reasonably required" to determine whether a person with a firearms protection order is contravening the order.

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<sup>31</sup> Government Response, *Inquiry into the Sex Industry Bill 2019*, 26 November 2019, <https://parliament.nt.gov.au/committees/EPSC/105-2019>

<sup>32</sup> Explanatory Statement, *Firearms Legislation Amendment Bill 2019 (Serial 106)*, <https://parliament.nt.gov.au/committees/EPSC/106-2019>, p.1

- 3.31 While acknowledging these concerns the Committee noted that there are precedents for such infringements, particularly in relation to preventing criminal conduct that threatens public safety. The Committee also considered there to be sufficient safeguards against inappropriate use of the powers and noted that the Bill provided for the Ombudsman to review the exercise of police powers within two years after commencement and that NT Police would be implementing mandatory training on Firearm Protection Orders for relevant officers.
- 3.32 Following examination of the Bill, and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the legislative amendments proposed in recommendations 2 to 7.
- 3.33 Five of the proposed amendments were technical in nature and sought to ensure the Bill was unambiguous and drafted in a sufficiently clear and precise manner. Recommendation 7 proposed an amendment to provide that the Police Commissioner's powers in relation to firearm protection orders could only be delegated to a police officer at the level of superintendent or higher. Although the Committee considered it may be necessary to allow some infringement of human rights, it noted that as the Bill made rights and liberties dependent on administrative power, it is essential to ensure that the power is sufficiently defined and subject to appropriate review.
- 3.34 The Committee tabled its report in the Assembly on 26 November 2019. In responding to the report the Minister for Police Fire and Emergency Services, the Hon Nicole Manison MLA, advised that five of the six amendments recommended by the Committee had been accepted.<sup>33</sup>
- 3.35 The Committee's report, associated minutes of proceedings, Government response, copies of submissions and transcripts of the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/106-2019>.

### ***Work Health and Safety (National Uniform Legislation) Amendment Bill 2019***

- 3.36 On 19 September 2019 the Assembly referred the Work Health and Safety (National Uniform Legislation) Amendment Bill 2019 (Serial 103) to the Committee for inquiry and report by 26 November 2019.
- 3.37 The primary purpose of the Bill was to amend the *Work Health and Safety (National Uniform Legislation) Act 2011* to create a new offence of industrial manslaughter.<sup>34</sup> Under the *Criminal Code*, individuals can be charged with manslaughter for a workplace death, however, the maximum penalty of life imprisonment cannot be converted to a financial penalty to be applied to bodies corporate found guilty of manslaughter. In the Bill's draft form, the offence provision was to apply to any person who breached a health and safety duty where the breach caused the death of a

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<sup>33</sup> Government Response, *Inquiry into the Firearms Legislation Amendment Bill 2019 (Serial 106)*, 19 September 2019, <https://parliament.nt.gov.au/committees/EPSC/106-2019#REP>.

<sup>34</sup> Explanatory Statement, *Work Health and Safety (National Uniform Legislation) Amendment Bill 2019 (Serial 103)*, <https://parliament.nt.gov.au/committees/EPSC/103-2019>, p.1

- person to whom a duty was owed. As initially drafted, the offence provision would apply to workers, senior officers and bodies corporate.
- 3.38 The Committee received 14 submissions to its inquiry, held a public briefing on 24 September 2019 and held public hearings on 18 November 2019. Evidence was provided to the Committee from trade unions, peak business organisations and legal organisations. The trade unions supported the creation of the offence of industrial manslaughter, however, recommended the offence provision only apply to senior officers and persons conducting a business or undertaking, while peak business organisations considered that there was no evidence to suggest that the creation of the offence would improve workplace health and safety.
- 3.39 Following consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with three amendments. These amendments sought to include a definition of ‘causes the death’ consistent with the definition contained within the *Criminal Code*. The Committee also recommended that the regulator be required to seek the consent of the Director of Public Prosecutions for any prosecution under the Act in relation to a death caused by a breach of a health and safety duty, and that there be a mechanism for a matter involving a death to be referred to the Director of Public Prosecutions where a person has been advised that a prosecution will not be brought. The Committee further recommended that the government investigate and adopt appropriate codes of practice to provide clear guidance on safe work practices.
- 3.40 The Committee tabled its report in the Assembly on 26 November 2019. In responding to the report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted all of the Committee’s recommendations for legislative amendments.<sup>35</sup> The Assembly also amended the offence provision to only apply to a person conducting a business or undertaking or an officer of a person conducting a business or undertaking. The result of this amendment is that a worker cannot be charged with industrial manslaughter for a breach of a health and safety duty, however, they can still be charged with manslaughter under the *Criminal Code*.<sup>36</sup>
- 3.41 On the 3 March 2020, the Attorney-General and Minister for Justice, further advised that the Government had considered recommendation 5, noting that:

On 26 February 2020, I approved the adoption of the updated model Codes of Practice, including those the Northern Territory had not yet adopted

The adoption will be gazetted in the next available general Northern Territory Government Gazette. The Codes of Practice will also be published in full on the NT Worksafe website.<sup>37</sup>

<sup>35</sup> Government Response, *Inquiry into the Work Health and Safety (National Uniform Legislation) Amendment Bill 2019*, <https://parliament.nt.gov.au/committees/EPSC/103-2019>

<sup>36</sup> Daily Hansard, *Wednesday 27 November 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/755087>, pp.79-87

<sup>37</sup> Government Response, Recommendation 5 – Inquiry into the Work Health and Safety (National Uniform Legislation) Amendment Bill 2019, 3 March 2020, <https://parliament.nt.gov.au/committees/EPSC/103-2019#REP>, p.1

- 3.42 The Committee's report, associated minutes of proceedings, subsequent responses from the Government, copies of submissions and the transcripts of the public briefing and hearings are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/103-2019>.

### ***Criminal Property Forfeiture Amendment Bill 2019***

- 3.43 On 16 October 2019 the Assembly referred the Criminal Property Forfeiture Amendment Bill 2019 (Serial 108) to the Committee for inquiry and report by 11 February 2020.
- 3.44 This Bill amended the *Criminal Property Forfeiture Act 2002* to implement provisions related to the Territory's participation in the Intergovernmental Agreement on the National Cooperative Scheme on Unexplained Wealth, and legislated the equitable sharing of proceeds that are obtained as a result of contributing actions under the Commonwealth's *Proceeds of Crime Act 2002*.<sup>38</sup>
- 3.45 The Committee received one submission to its inquiry from the Northern Territory Legal Aid Commission. While the Commission was of the view that the Bill should not be enacted, the Committee notes that the rationale for this view was based on the Commission's opposition to existing provisions in the *Criminal Property Forfeiture Act 2002*, rather than the proposed amendments as set out in the Bill.
- 3.46 However, as detailed in the Committee's report, clarification was sought from the Department of the Attorney-General and Justice regarding the definition of, and subsequent references to, 'contributing jurisdictions.' While the Committee recommended that the Assembly pass the Bill, to ensure that it was drafted in a sufficiently clear and precise manner, the Committee also recommended that proposed sections 130G(4)(d), 130P(3) and the heading of 130Q be amended by removing the word 'other' in relation to references to 'contributing jurisdictions'.
- 3.47 The Committee presented its report to the Speaker on 2 December 2019 for subsequent tabling in the Assembly on 11 February 2020. In responding to the Committee's report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA advised that the Government accepted the Committee's proposed amendments.<sup>39</sup>
- 3.48 The Committee's report, associated minutes of proceedings, subsequent response from the Government, copy of submission received, tabled papers and transcripts from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/108-2019>.

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<sup>38</sup> Explanatory Statement, *Criminal Property Forfeiture Amendment Bill 2019 (Serial 108)*, <https://parliament.nt.gov.au/committees/EPSC/108-2019>, p.1

<sup>39</sup> Government Response, *Inquiry into the Criminal Property Forfeiture Amendment Bill 2019*, 13 February 2020, <https://parliament.nt.gov.au/committees/EPSC/108-2019>

### **Courts Legislation Amendment Bill 2019**

- 3.49 On 16 October 2019 the Assembly referred the Courts Legislation Amendment Bill 2019 (Serial 111) to the Committee for inquiry and report by 11 February 2020.
- 3.50 Amending the *Administration and Probate Act 1969*, the *Local Court Act 2015*, the *Supreme Court Act 1979* and the Electronic Transactions (Northern Territory) Regulations 2001, the primary purpose of this Bill was to provide for electronic filing and case management in the Supreme Court and the Local Court.<sup>40</sup>
- 3.51 As the Committee did not receive any submissions and had no matters to bring to the attention of the Assembly, the Committee presented its 'No Issues' report to the Speaker on 2 December 2019 for subsequent tabling in the Assembly on 11 February 2020. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/111-2019>

### **Residential Tenancies Legislation Amendment Bill 2019**

- 3.52 On 16 October 2019 the Assembly referred the Residential Tenancies Legislation Amendment Bill 2019 (Serial 112) to the Committee for inquiry and report by 11 February 2020.<sup>41</sup>
- 3.53 The Bill sought to make amendments to the *Residential Tenancies Act 1999* and the Residential Tenancies Regulations 2000 in order to address administrative and operational issues with the Act and Regulations. The Bill represented the first tranche of a series of reforms aimed at modernising the Act to ensure it reflects contemporary attitudes to renting.
- 3.54 The Committee held a public briefing with representatives from the Department of the Attorney-General and Justice and the Department of Local Government, Housing and Community Development on 29 October 2019 and received 10 submissions to its inquiry. The Committee also held a public hearing on 9 December 2019, with nine witnesses appearing.
- 3.55 Following examination of the Bill, and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the legislative amendments proposed in recommendations 2, 3, 5 and 6.
- 3.56 Significant issues of concern raised during the inquiry related primarily to the new provisions for the keeping of pets; entry of landlords to premises under an order from the Tribunal; and a number of the provisions relating to new *Part 15, Termination for purposes under the Housing Act*.
- 3.57 The Committee recommended that the provisions on pets be removed from the Bill (recommendation 2). These provisions provided a presumption that a tenant may keep a pet by providing written notice to the landlord. If the landlord objected to pets they could apply to the Tribunal to determine whether the objection was

<sup>40</sup> Explanatory Statement, *Courts Legislation Amendment Bill 2019 (Serial 111)*, <https://parliament.nt.gov.au/committees/EPSC/111-2019>, p.1

<sup>41</sup> Hon Natasha Fyles MLA, Attorney-General and Minister for Justice, *Draft - Daily Hansard – Day 2 – 16 October 2019*, p.8, <https://www.territorystories.nt.gov.au/jspui/handle/10070/754880>.

- unreasonable. While acknowledging the important role that pets play in wellbeing, the Committee was of the view that these provisions posed an unreasonable burden on the landlord and would benefit only a small proportion of tenants in private rental housing, noting that there are no restrictions on pets in public housing other than those imposed by Council by-laws.
- 3.58 Recommendation 3 proposed technical amendments to the provisions on landlords entering a rental premises under an order from the Tribunal and sought to ensure that the new subsections were unambiguous and drafted in a sufficiently clear and precise manner.
- 3.59 Recommendations 5 and 6 proposed that the notice times for vacating rental premises, and for making a submission to the Department regarding a proposed relocation under Division 3 of new *Part 15, Termination for purposes under the Housing Act*, be extended from seven to 14 days. The Committee considered the seven day timeframes to be insufficient. In addition, tenants in remote areas face a number of barriers when seeking to access legal or other advice to assist with putting their case. While the Committee acknowledged that there may be circumstances where there is an urgent need to relocate the tenant due to health or safety risks associated with the premises, it noted that these circumstances are adequately addressed under section 86 of the Act which provides for a landlord to terminate a tenancy by 2 days' notice if the premises are flooded, unsafe or uninhabitable.
- 3.60 The Committee made three recommendations for Government action relating to notice periods for fixed and periodic tenancies; the current requirement for tenants to be present at initial inspections; and provisions relating to domestic violence. These recommendations concerned matters that were not within the scope of this Bill but which were of significant concern to stakeholders and which the Committee deemed should be addressed in the next tranche of reforms.
- 3.61 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 17 December 2019 for subsequent tabling in the Assembly on 11 February 2020. In responding to the report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted all of the Committee's recommendations except for Recommendation 2.<sup>42</sup>
- 3.62 The Committee's report, associated minutes of proceedings, submissions received, subsequent response from the Government, submissions, tabled papers and transcripts from the public briefing and hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/EPSC/112-2019#Report>.

## **Social Policy Scrutiny Committee**

- 3.63 As detailed below, from 1 July 2018 to 27 November 2019 when the committee was dissolved, the Assembly referred eight Bills to the Social Policy Scrutiny Committee for inquiry and report.

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<sup>42</sup> Government Response, *Residential Tenancies Legislation Amendment Bill 2019*, 18 February 2020, <https://parliament.nt.gov.au/committees/EPSC/112-2019#Report>

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**Burial and Cremation Bill 2019**

- 3.64 On 7 August 2019 the Assembly referred the Burial and Cremation Bill 2019 (Serial 97) to the Committee for inquiry and report by 15 October 2019.
- 3.65 Repealing and replacing the *Cemeteries Act 1952* (NT), this Bill sought to establish the *Burial and Cremation Act 2019* to provide for “the declaration and management of cemeteries for the burial of human remains, the licensing and management of facilities for disposal of human remains, and for related purposes.”<sup>43</sup>
- 3.66 The Committee received eight submissions to its inquiry. On 21 August 2019 the Committee held a public briefing with representatives from the Department of Local Government, Housing and Community Development. The Committee also held a public hearing on 23 September 2019 with 11 witnesses appearing.
- 3.67 While the submissions were generally supportive of the proposed legislation, clarification was sought regarding the intended operation of various clauses. A number of submitters also raised concern regarding the extent to which the proposed legislation may interfere with traditional burial practices and disproportionately affect Aboriginal people. Particular concern was noted in relation to clause 39 regarding the requirement that approval be sought from the Chief Executive Officer of the Agency for burials outside of cemeteries, and the associated offence provision at clause 40.
- 3.68 However, as highlighted by the Department, approval for burials is not a new requirement. Irrespective of where a body is buried, whether inside a cemetery or outside of a cemetery on a pastoral lease, private land or Aboriginal land, the Department emphasised the importance of ensuring that there are no known legal impediments to burial.
- 3.69 In formalising current practices and policy guidelines, the Committee notes that the provisions of the Bill specifically recognise and protect the authority of traditional owners and senior next of kin and serve to ensure that human remains are treated with dignity and respect. While acknowledging submitter’s concerns regarding the associated offence provision, the Committee was satisfied that they are justified under the circumstances and that the maximum penalty provided for in the Bill is commensurate with other serious offences across the Northern Territory statute book.
- 3.70 Following examination of the Bill and consideration of the evidence received, the Committee recommended that the Assembly pass the Bill as drafted. However, in light of the issues raised in submissions, the Committee also recommended that the Government review the operation of clauses 39 and 40, to ensure that they are not unduly impacting on traditional burial practices, and present a report to the Legislative Assembly as soon as practicable after the end of the first year of operation.
- 3.71 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 8 October 2019 for subsequent tabling in the Assembly on 15 October 2019. The Committee’s report, associated minutes of proceedings, copies of

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<sup>43</sup> Explanatory Statement, *Burial and Cremation Bill 2019* (Serial 97), <https://parliament.nt.gov.au/committees/spsc/97-2019>, p.1

submissions, tabled papers and transcripts from the public briefing and public hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/97-2019>.

- 3.72 In response to Territorian's concerns as to how the proposed legislation would interact with customary decision-making on Aboriginal land, on 28 November 2019 the Minister for Local Government, Housing and Community Development, the Hon Gerald McCarthy MLA, advised the Assembly that the Government had decided to withdraw the Bill.<sup>44</sup>

### **Statute Law Revision and Repeals Bill 2019**

- 3.73 On 14 August 2019 the Assembly referred the Statute Law Revision and Repeals Bill 2019 (Serial 99) to the Committee for inquiry and report by 15 October 2019.
- 3.74 This Bill provided for the repeal of obsolete Acts and provisions of Acts and for the repeal of legislative provisions that have not been commenced and are not going to be commenced. Consequential to the repeal of the *Agents Licensing Amendment Act 2002* and the *Auctioneers Act Repeal Act 2002*, the Bill also sought to make amendments to the *Agents and Licensing Act 1979*, the *Agents Licensing Regulations 1979*, and the *Auctioneers Act 1935*:

The substantive amendments to the Act relate to the amendment of the current licensing scheme for auctioneers, so that statutory responsibility for such licensing moves from the Minister to the Agents Licensing Board. The licensing provisions in the *Auctioneers Act 1935* (such as applications, penalties for breach and appeals) are to be amended so that they are consistent with those in the *Agents Licensing Act 1979*. The two Acts overlap in so far as most licensed auctioneers of land are also licensed or registered under the *Agents Licensing Act 1979*.<sup>45</sup>

- 3.75 On 21 August 2019 the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice. The Committee received one submission to its inquiry from the Law Society NT that raised concern regarding the proposed repeal of the *Personal Injuries (Civil Claims) Act 2003*. While noting that Supreme Court Direction 6, as a substitute for the Act, appeared to be working well, the Department advised that the Acting Attorney-General and Minister for Justice, the Hon Gerald McCarthy MLA, had undertaken to write to the Hon Chief Justice Michael Grant and Her Honour Chief Judge Elizabeth Morris and seek their comments on the issues raised by the Law Society NT.
- 3.76 The Department further advised that should either the Chief Justice or Chief Judge suggest that there was a practical need to retain any of the provisions of the *Personal Injuries (Civil Claims) Act 2003*, the Government would reconsider its position regarding its repeal. Given the Department's response, the Committee recommended that the Assembly pass the Bill. However, to ensure that the Assembly

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<sup>44</sup> Hon Gerald McCarthy MLA, Minister for Local Government, Housing and Community Development, *Draft Daily Hansard – Wednesday 27 November 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/755087>, p.97

<sup>45</sup> Statement of Compatibility with Human Rights, *Statute Law Revision and Repeals Bill 2019 (Serial 99)*, <https://parliament.nt.gov.au/committees/spsc/99-2019>, p.1

was appropriately informed, the Committee also recommended that the Attorney-General and Minister for Justice table the responses from the Chief Justice and Chief Judge regarding the proposed repeal of the *Personal Injuries (Civil Claims) Act 2003* in the Assembly prior to or at the time of the second reading debate.

- 3.77 Pursuant to Standing Order 200(4) the Committee presented its report to the Speaker on 1 October 2019 for subsequent tabling in the Assembly on 15 October 2019. The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions, tabled papers and transcripts from the public briefing and public hearing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/99-2019>.

### ***Territory Parks and Wildlife Conservation Amendment Bill 2019***

- 3.78 On 14 August 2019 the Assembly referred the Territory Parks and Wildlife Conservation Amendment Bill 2019 (Serial 101) to the Committee for inquiry and report by 15 October 2019.
- 3.79 Amending the *Territory Parks and Wildlife Conservation Act 1976*, the Bill sought to provide for a new category of Aboriginal Rangers as conservation officers, to specifically recognise their role in the Northern Territory, and confer greater powers for the protection and management of traditional lands.<sup>46</sup>
- 3.80 The Committee held a public briefing with representatives from the Department of Tourism, Sport and Culture on 21 August 2019. The Committee did not receive any submissions to its inquiry. The Northern Land Council did, however, advise the Committee that they were happy to say that their comments on proposed amendments had been taken on board by the Department in the drafting of the Bill.
- 3.81 Having no issues to bring to the attention of the Assembly, the Committee recommended that the Bill be passed and tabled its 'No Issues' report in the Assembly on 17 September 2019. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/101-2019>.

### ***Mental Health and Related Services Amendment Bill 2019***

- 3.82 On 18 September 2019 the Assembly referred the Mental Health and Related Services Amendment Bill 2019 (Serial 103) to the Committee for inquiry and report by 26 November 2019.
- 3.83 This Bill sought to amend the *Mental Health and Related Services Act 1998* to confer the jurisdiction of the Mental Health Review Tribunal on the Northern Territory Civil and Administrative Tribunal; following which the Mental Health Review Tribunal will cease to exist.<sup>47</sup>

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<sup>46</sup> Explanatory Statement, *Territory Parks and Wildlife Conservation Amendment Bill 2019 (Serial 101)*, <https://parliament.nt.gov.au/committees/spsc/101-2019>, p.1

<sup>47</sup> Explanatory Statement, *Mental Health and Related Services Amendment Bill 2019 (Serial 104)*, <https://parliament.nt.gov.au/committees/spsc/104-2019>, p.1

- 3.84 On 23 September 2019 the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice. As the Committee did not receive any submissions to its inquiry and had no matters to bring to the attention of the Assembly, the Committee recommended that the Bill be passed.
- 3.85 Pursuant to Standing Order 200(4), the Committee presented its 'No Issues' report to the Speaker on 18 October 2019 for subsequent tabling in the Assembly on 26 November 2019. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/104-2019>.

### **Local Government Bill 2019**

- 3.86 On 18 September 2019 the Assembly referred the Local Government Bill 2019 (Serial 107) to the Committee for inquiry and report by 26 November 2019.
- 3.87 Repealing and replacing the *Local Government Act 2008*, the Explanatory Statement noted that:

The underlying principles for the Local Government Act 2019 are that local government is a distinct and essential sphere of government and that the system of local government needs to be: flexible and adaptable to the diverse interests and needs of the many communities within the Territory. The system of local government also needs to be comprehensive, democratic, responsive to community needs, and accountable to both local communities and the public generally.<sup>48</sup>

- 3.88 The Committee held a public briefing on 23 September 2019 with representatives from the Department of Local Government, Housing and Community Development. The Committee received five submissions to its inquiry which were generally supportive of the Bill and acknowledged the extensive work undertaken by the Department to modernise the existing legislation and strengthen the governance and accountability requirements for local government in the Northern Territory.
- 3.89 While clarification was sought regarding the anticipated operation of a number of clauses, the Committee was satisfied with the Department's advice and subsequently recommended that the Assembly pass the Bill. Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 31 October 2019 for tabling in the Assembly on 26 November 2019. The Committee's report, copies of submissions, tabled papers and transcripts from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/107-2019>.

### **Evidence and Other Legislation Amendment Bill 2019**

- 3.90 On 19 September 2019 the Assembly referred the Evidence and Other Legislation Amendment Bill 2019 (Serial 102) to the Committee for inquiry and report by 26 November 2019.
- 3.91 As highlighted in the Explanatory Statement, this Bill sought to amend the *Evidence Act 1939* to:

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<sup>48</sup> Explanatory Statement, Local Government Bill 2019 (Serial 107), <https://parliament.nt.gov.au/committees/spsc/107-2019>, p.1

expand the use of video conferencing in court and enhance the protections for vulnerable witnesses in sexual and domestic violence proceedings. ... The Bill also makes consequential amendments to the *Bail Act 1982*, *Police Administration Act 1978* and *Sentencing Act 1995* to make sure the current statutory requirements for physical appearance before the court under this legislation are satisfied by the use of a communication link.<sup>49</sup>

- 3.92 The Committee held a public briefing with representatives from the Department of the Attorney-General and Justice on 23 September 2019. The Committee received three submissions to its inquiry, all of which supported the Bill and welcomed the introduction of additional protections for vulnerable people within the justice system. However, clarification was sought regarding the anticipated operation and implementation of the proposed amendments to the *Domestic and Family Violence Act 2008* (NT) as set out in clauses 10 and 11 of the Bill.
- 3.93 Following consideration of the advice subsequently received from the Department, the Committee formed the view that while challenges may arise in the implementation of the proposed model of cross-examination by unrepresented defendants, it provides an appropriate balance between protecting vulnerable witnesses from trauma and eliciting the best evidence possible, and ensuring procedural fairness for the defendant. As such, the Committee recommended that the Assembly pass the Bill.
- 3.94 Pursuant to Standing Order 200(4), the Committee presented its report to the Speaker on 31 October 2019 for subsequent tabling in the Assembly on 26 November 2019. The Committee's report, copies of submissions, tabled papers and transcripts from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/102-2019>.

### ***National Disability Insurance Scheme (Worker Clearance) Bill 2019***

- 3.95 On 16 October 2019 the Assembly referred the National Disability Insurance Scheme (Worker Clearance) Bill 2019 (Serial 110) to the Committee for inquiry and report by 11 February 2020.
- 3.96 The purpose of this Bill was to implement the Northern Territory's obligations as set out in the *Intergovernmental Agreement on Nationally Consistent Worker Screening for the Disability Insurance Scheme* (IGA). In doing so, the Bill sought to establish a nationally consistent worker screening process for employees of National Disability Insurance Scheme (NDIS) service providers who provide NDIS supports and services for NDIS participants in the Northern Territory and provide for:
- the application, assessment, and ongoing national monitoring for NDIS Worker Screening Clearances in the NT; and
  - information collection, use, storage and disclosure; and

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<sup>49</sup> Explanatory Statement, *Evidence and Other Legislation Amendment Bill 2019 (Serial 102)*, <https://parliament.nt.gov.au/committees/spsc/102-2019>, p.1

- the ongoing monitoring of a cleared worker's criminal history and other relevant information to provide a greater level of protection for participants.<sup>50</sup>
- 3.97 On 30 October 2019 the Committee held a public briefing with representatives from the Department of Health. The Committee received two submissions to its inquiry, both of which supported the intent and objects of the Bill. However, clarification was sought regarding aspects of the worker screening application assessment process and the interpretation of key terms used in the Bill.
- 3.98 Following consideration of the evidence and advice provided by the Department of Health, the Committee was satisfied that the Bill complied with the requirements of the IGA which seek to ensure that those persons who pose an unacceptable risk or are proven to have harmed vulnerable people are prohibited from having more than incidental contact with people with disability when working for a registered NDIS provider.
- 3.99 While the Committee recommended that the Assembly pass the Bill, to ensure that it was drafted in a sufficiently clear and precise manner and incorporated definitions that are consistent across the Territory's statute book, the Committee recommended that the definition of 'criminal intelligence' be amended to align it with the definition in section 6 of the *Serious Crime Control Act 2009*.
- 3.100 The Committee tabled its report in the Assembly on Tuesday 26 November 2019. In responding to the report the Minister for Disabilities, the Hon Natasha Fyles MLA, advised that the Government accepted the Committee's recommended amendment.<sup>51</sup> The Committee's report, associated minutes of proceedings, subsequent response from the Government, copies of submissions, tabled papers and transcripts from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/110-2019>.

### ***Marine Pollution Legislation Amendment Bill 2019***

- 3.101 On 17 October 2019 the Assembly referred the Marine Pollution Legislation Amendment Bill 2019 (Serial 109) to the Committee for inquiry and report by 11 February 2020.
- 3.102 This Bill sought to amend the *Marine Pollution Act 1999* and associated Regulations to:
- Improve the administrative operation of the legislation and opportunities to pursue offences against ships suspected of causing marine pollution in Territory coastal waters.<sup>52</sup>
- 3.103 On 30 October 2019 the Committee held a public briefing with representatives from the Department of Environment and Natural Resources. The Committee received

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<sup>50</sup> Explanatory Statement, *National Disability Insurance Scheme (Worker Clearance) Bill 2019 (Serial 110)*, <https://parliament.nt.gov.au/committees/spsc/110-2019>, p.1

<sup>51</sup> Government Response, *Inquiry into the National Disability Insurance Scheme (Worker Clearance) Bill*, 12 February 2020, <https://parliament.nt.gov.au/committees/spsc/110-2019>

<sup>52</sup> Explanatory Statement, *Marine Pollution Legislation Amendment Bill 2019 (Serial 109)*, <https://parliament.nt.gov.au/committees/spsc/109-2019>, p.1

one submission to its inquiry from the Department of Primary Industry and Resources which supported the proposed legislation. Given the nature of the Bill, the Committee also sought advice from its independent legal counsel, Professor Ned Aughterson.

- 3.104 As detailed in the Committee's report, Professor Aughterson identified a potential concern that section 4(1) of the *Marine Pollution Act 1999* may operate to limit the extra-territorial application of the proposed legislation in circumstances where a vessel discharges pollutants outside of Territory coastal waters and those pollutants subsequently enter the Territory's coastal waters. Concern was also raised regarding the meaning of agent of a ship owner in proposed section 8 due to a lack of clarity as to when a person ceases to be an agent and whether a person will be able to be identified as an agent at all relevant times.
- 3.105 Following consideration of the advice provided by the Department, the Committee recommended that the Assembly pass the Bill with the amendments proposed in recommendations 2 and 3. To avoid the risk of limiting the extra-territorial application of the legislation, recommendation 2 proposed that sections 4(1), (2) and (3) of the *Marine Pollution Act 1999* be repealed. Recommendation 3 proposed that subsection 8(2) be amended to identify that, subject to the protections for agents provided by subsections 8(3), (4) and (5), a person will remain an agent of a ship owner for the duration of the voyage and while the ship is in the Territory.
- 3.106 The Committee presented its report to the Speaker on 10 December 2019 for subsequent tabling in the Assembly on 11 February 2020. In responding to the Committee's report the Minister for Environment and Natural Resources, the Hon Eva Lawler MLA advised that the Government accepted all of the Committee's proposed amendments.<sup>53</sup> The Committee's report, associated minutes of proceedings, Government response, copy of submission received, tabled papers and transcripts from the public briefing are available on the Committee's website at: <https://parliament.nt.gov.au/committees/spsc/109-2019>.

## Legislation Scrutiny Committee

- 3.107 Between November 2019 and June 2020, the Assembly referred 12 Bills to the Legislation Scrutiny Committee for inquiry and report. Following is an overview of the outcome of those inquiries.

### ***Justice Legislation Amendment (Domestic and Family Violence) Bill 2019***

- 3.108 On 28 November 2019 the Assembly referred the Justice Legislation Amendment (Domestic and Family Violence) Bill 2019 (Serial 113) to the Committee for inquiry and report by 24 March 2020.
- 3.109 Amending the *Bail Act 1992*, the *Criminal Code Act 1983*, the *Domestic and Family Violence Act 2007* and the *Sentencing Act 1995*, the primary purpose of this Bill was to enhance responses to domestic and family violence in the Northern Territory and

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<sup>53</sup> Government Response, *Inquiry into the Marine Pollution Legislation Amendment Bill 2019*, 20 February 2020, <https://parliament.nt.gov.au/committees/spsc/109-2019>

improve the safety of victims, increase the accountability of defendants, and provide greater impetus for defendants to change their behaviour.<sup>54</sup>

- 3.110 The Committee received eight submissions to its inquiry. While all of the submissions supported the policy intent of the proposed legislation, clarification was sought regarding the intended operation of a number of the proposed amendments. One of the primary concerns raised by submitters was that the proposed amendments to section 23 (Order regarding tenancy agreement) of the *Domestic and Family Violence Act 2007* would have limited effect in the absence of consequential amendments to the *Residential Tenancies Act 1999*. Concerns were also raised regarding the implementation of *Part 2.11A Rehabilitation programs*.
- 3.111 On 9 December the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice. The Committee also held a public hearing on 2 March 2020 with eight witnesses appearing. Following consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with one legislative amendment as set out in recommendation 4. To ensure that the Bill was unambiguous and drafted in a sufficiently clear and precise manner, the Committee recommended that section 85B of the *Domestic and Family Violence Act 2007* be amended to include a definition of ‘violent offences’.
- 3.112 The Committee also made four recommendations for the Government’s consideration. Recommendations 2 and 5 proposed that, as part of the Government’s review of the *Domestic and Family Violence Act 2007* and subsequent development of further amendments to the *Residential Tenancies Act 1999* regarding domestic violence related tenancy issues, consideration be given to the scope and operation of section 22 (Premises access order) and section 23 (Order regarding tenancy agreement), taking into account issues raised by stakeholders to this inquiry.
- 3.113 In light of stakeholder concerns, recommendation 3 proposed that the Government review the operation of proposed *Part 2.11A Rehabilitation programs* and present a report to the Legislative Assembly as soon as practicable after the end of its first year of operation. Finally, recommendation 6 proposed that, as part of the Government’s review of the victims of crime financial assistance scheme, consideration be given to the inclusion of the new offence of ‘Choking, strangling or suffocating in a domestic relationship’ as a compensable violent act within Schedule 1 of the Victims of Crime Assistance Regulations 2007.
- 3.114 The Committee presented its report to the Speaker on 18 March 2020 for subsequent tabling in the Assembly on 24 March 2020. In responding to the Committee’s report the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted all of the Committee’s recommendations.<sup>55</sup> The Committee’s report, associated minutes of proceedings, Government response,

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<sup>54</sup> Explanatory Statement, *Justice Legislation Amendment (Domestic and Family Violence) Bill 2019*, <https://parliament.nt.gov.au/committees/LSC/113-2019>, p.1

<sup>55</sup> Government Response, *Inquiry into the Justice Legislation Amendment (Domestic and Family Violence) Bill 2019*, 25 June 2020, <https://parliament.nt.gov.au/committees/LSC/113-2019>

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submissions and transcripts are available on the Committee's website at <https://parliament.nt.gov.au/committees/LSC/113-2019>.

### **Ports Legislation Amendment Bill 2019**

- 3.115 On 28 November 2019 the Assembly referred the Ports Legislation Amendment Bill 2019 (Serial 114) to the Committee for inquiry and report by 24 March 2020.
- 3.116 The Bill amended the *Ports Management Act 2015* and the Ports Management Regulations 2015 to provide a regulatory framework for the control, management and operation of all designated ports in the Northern Territory. The Committee did not receive any submissions on the Bill, however, the Committee's independent legal advisor raised a number of concerns about the Bill which were referred to the Department of Infrastructure, Planning and Logistics for comment.
- 3.117 Following consideration of the Department's response, the Committee recommended the Assembly pass the Bill with two amendments. While the Bill allowed for the regional harbourmaster to delegate any of their powers and functions under the Act, the Committee recommended that it be amended to require that the delegation must be in writing and limited to a person employed in an Agency. Inconsistencies were also identified in the Bill between the protections afforded to people with a known interest or a registered interest in a vessel sold by a port operator or a regional harbourmaster. The Committee recommended an amendment to provide protections to people that are consistent with the pre-sale notification requirements.
- 3.118 The Committee presented its report to the Speaker on 4 March 2020 for subsequent tabling in the Assembly on 24 March 2020. In responding to the Committee's report, the Minister for Infrastructure, Planning and Logistics, the Hon Eva Lawler MLA, advised that the Government accepted both of the proposed amendments as recommended by the Committee.<sup>56</sup> The Committee's report, associated minutes of proceedings, Government Response, public briefing transcript, Department's comments on the independent legal advice and the Committee's report are available at <https://parliament.nt.gov.au/committees/LSC/114-2019>.

### **Licensing (Director-General) Repeal Bill 2019**

- 3.119 On 28 November 2019 the Assembly referred the Licensing (Director-General) Repeal Bill 2019 (Serial 115) to the Committee for inquiry and report by 24 March 2020.
- 3.120 In accordance with recommendation 2.2.6 of the *Alcohol Policies and Legislation Review*<sup>57</sup>, the position of Director of Liquor Licensing was created through the *Liquor Act 2019*. Consequent to the implementation of this recommendation, the Bill sought to repeal the *Licensing (Director-General) Act 2014* and amend the references to the Director-General as established under that Act as the relevant office holder for the

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<sup>56</sup> Government Response, *Inquiry into the Ports Legislation Amendment Bill 2019*, 24 June 2020, <https://parliament.nt.gov.au/committees/LSC/114-2019>

<sup>57</sup> Trevor Riley, *Alcohol Policies and Legislation Review*, Northern Territory Government, Darwin NT, October 2017, p.12

exercise of powers and functions under the *Associations Act 2003*, the *Co-operatives (National Uniform Legislation) Act 2015*, the *Gaming Control Act 1993*, the *Gaming Machine Act 1995*, the *Kava Management Act 1998*, the *Private Security Act 1995*, the *Racing and Betting Act 1983*, the *Tobacco Control Act 2002*, the *Totalisator Licensing and Regulation Act 2000* and associated subordinate legislation.<sup>58</sup>

3.121 As noted in the Explanatory Statement:

Where required, a new statutory office holder relevant to the legislation is established and references to the Director-General are replaced with references to the new statutory office holder.

The powers and functions of the Director-General found within the *Licensing (Director-General) Act 2014* such as the ability to appoint a delegate, the provisions of annual reports and the approval of forms, along with power to review decisions of delegates of the Director-General are retained by including specific provision in the Acts to be exercised by the new statutory office holders.<sup>59</sup>

3.122 As the Committee did not receive any submissions and had no matters to bring to the attention of the Assembly, the Committee presented its 'No Issues' report to the Speaker on 14 February 2020 for subsequent tabling in the Assembly on 18 February 2020. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/115-2019>.

### ***Petroleum Legislation Miscellaneous Amendments Bill 2019***

3.123 On 28 November 2019 the Assembly referred the Petroleum Legislation Miscellaneous Amendments Bill 2019 (Serial 116) to the Committee for inquiry and report by 24 March 2020.

3.124 The Bill sought to amend the *Petroleum Act 1984* and the Petroleum (Environment) Regulations 2016 to give effect to several of the recommendations made by the *Scientific Inquiry into Hydraulic Fracturing in the Northern Territory*. Specifically, the amendments required the Minister to consider the principles of ecologically sustainable development when making certain decisions under the Act and Regulations; to give public notice of proposed land releases (allowing public submissions); and to empower regulations to be made regarding land access, compensation and environmental securities.<sup>60</sup>

3.125 On 9 December 2019 the Committee held a public briefing with representatives from the Department of Primary Industry and Resources and a public hearing with 12 witnesses appearing on 2 March 2020. The Committee received 10 submissions to its inquiry representing a broad cross-section of views from industry, environmentalists and pastoralists. A number of submitters considered that the drafting of the proposed amendments did not meet the standards set by the relevant recommendations from the *Scientific Inquiry into Hydraulic Fracturing in the Northern*

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<sup>58</sup> Explanatory Statement, *Licensing (Director-General) Repeal Bill 2019 (Serial 115)*, <https://parliament.nt.gov.au/committees/LSC/115-2019>, p.1

<sup>59</sup> Explanatory Statement, *Licensing (Director-General) Repeal Bill 2019 (Serial 115)*, <https://parliament.nt.gov.au/committees/LSC/115-2019>, p.1

<sup>60</sup> Explanatory Statement, *Petroleum Legislation Miscellaneous Amendments Bill 2019 (Serial 116)*, <https://parliament.nt.gov.au/committees/LSC/116-2019>, p.1

*Territory*. In particular, concern was expressed at the inclusion of provisions on compensation (section 81) and land access agreements (section 118) in the regulations rather than the Act.

- 3.126 Following consideration of the evidence received and the advice of the Department, the Committee recommended that the Assembly pass the Bill with five legislative amendments. Recommendation 2 proposed that notices inviting applications for exploration permits must be published online, while recommendation 3 proposed removal of the ability of the NT Civil and Administrative Tribunal (NTCAT) to review its own decisions in relation to compensation disputes. Recommendation 4 sought to clarify that setbacks from petroleum related structures or activities apply to a range of habitable dwellings as specified in recommendation 10.2 of the *Scientific Inquiry into Hydraulic Fracturing in the Northern Territory*.
- 3.127 Consistent with requirements under the *Native Title Act 1993* (Cth), recommendation 5 sought to ensure that written approvals to undertake prohibited operations must be sought from the registered native title claimants as well as registered native title body corporates. Finally, recommendation 6 proposed that interference with authorised activities conducted under a petroleum title be classified as an offence.
- 3.128 The Committee presented its report to the Speaker on 18 March 2020 for subsequent tabling in the Assembly on 24 March 2020. In responding to the report, the Minister for Primary Industry and Resources, the Hon Paul Kirby MLA, advised the Assembly that the Government accepted all of the Committee's proposed amendments.<sup>61</sup>
- 3.129 The Committee's report, associated minutes of proceedings, subsequent response from the Government, submissions, transcripts and table papers are available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/116-2019>

### ***Sexual Offences (Evidence and Procedure) Amendment Bill 2019***

- 3.130 On 28 November 2019 the Assembly referred the Sexual Offences (Evidence and Procedure) Amendment Bill 2019 (Serial 117) to the Committee for inquiry and report by 24 March 2020.
- 3.131 The primary purpose of this Bill was to amend the *Sexual Offences (Evidence and Procedure) Act 1983* to enable complainants of sexual offences to consent to being identified in a publication, statement or representation provided that consent is provided in writing; the complainant is an adult at the time of giving consent; and the proposed publication, statement or representation does not identify, directly or indirectly, another complainant unless that other complainant has also given consent.<sup>62</sup>
- 3.132 The Committee received ten submissions to its inquiry, all of which supported the intent of the Bill. However, several issues were raised regarding the drafting of the proposed amendments. In particular, concern was raised by a number of submitters

<sup>61</sup> Government Response, *Inquiry into the Petroleum Legislation Miscellaneous Amendments Bill 2019*, 24 March 2020, <https://parliament.nt.gov.au/committees/LSC/116-2019>

<sup>62</sup> Explanatory Statement, *Sexual Offences (Evidence and Procedure) Amendment Bill 2019 (Serial 117)*, <https://parliament.nt.gov.au/committees/LSC/117-2019>, p.1

regarding the extent to which the Bill achieved its objectives of modernising the legislation, bringing the Northern Territory “into line with other jurisdictions”, and “giving the survivor a voice, autonomy and control in a situation where control has been taken away from them” as stated by the Minister in introducing the Bill.<sup>63</sup>

3.133 On 9 December the Committee held a public briefing with representatives from the Department of the Attorney-General and Justice. The Committee also held a public hearing on 2 March 2020 with nine witnesses appearing. Following consideration of the evidence received and the advice of the Department, the Committee recommended that the Assembly pass the Bill with the amendments proposed in recommendations 2 – 6.

3.134 To summarise, recommendation 2 proposed that the monetary penalty for the offence of disclosing a complainant’s identity be increased to more accurately reflect comparable offence provisions in other jurisdictions. Consistent with other jurisdictions, recommendations 3 and 5 proposed amendments to remove the restriction on a complainant’s ability to consent to the publication of their identity at any time in proposed section 6(2)(a), and the blanket prohibition on the disclosure of a defendant’s identity in proposed section 7. Recommendations 4 and 6 sought to ensure that the Bill was unambiguous and drafted in a sufficiently clear and precise manner.

3.135 The Committee presented its report to the Speaker on 18 March 2020 for subsequent tabling in the Assembly on 24 March 2020. In responding to the report, the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised the Assembly that while the Government did not support recommendations 3 and 4, they accepted recommendations 2 and 6. In relation to recommendation 5, the Attorney-General advised that the Government supported the recommendation in principle, subject to consultation with key stakeholders.<sup>64</sup> The Committee’s report, associated minutes of proceedings, subsequent response from the Government, submissions, tabled papers and transcripts are available on the Committee’s website at <https://parliament.nt.gov.au/committees/LSC/117-2019>.

### **Treaty Commissioner Bill 2020**

3.136 On 12 February 2020 the Assembly referred the Treaty Commissioner Bill 2020 (Serial 119) to the Committee for inquiry and report by 5 May 2020.

3.137 As noted in the Explanatory Statement:

the purpose of this Bill is to implement the contents of the “Barunga Agreement”, a Memorandum of Understanding between the four Northern Territory Land Councils (Northern Land Council, Central Land Council, Tiwi Land Council and Anindilyakwa Land Council) and the Northern Territory Government, signed at

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<sup>63</sup> Hon Nicole Manison MLA, Treasurer, *Draft Daily Hansard – Thursday 28 November 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/755088>, p.8

<sup>64</sup> Government Response, *Inquiry into the Sexual Offences (Evidence and Procedure) Amendment Bill 2019*, 24 June 2020, <https://parliament.nt.gov.au/committees/LSC/117-2019>

the Barunga Festival in June 2018 by the four Land Council Chairs and the Chief Minister.<sup>65</sup>

- 3.138 As the Committee did not receive any submissions and had no matters to bring to the attention of the Assembly, the Committee presented its 'No Issues' report to the Speaker on 18 March 2020 for subsequent tabling in the Assembly on 24 March 2020. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/119-2020>.

### **Planning Amendment Bill 2020**

- 3.139 On 13 February 2020 the Assembly referred the Planning Amendment Bill 2020 (Serial 118) to the Committee for inquiry and report by 5 May 2020.

- 3.140 As noted in the Explanatory Statement, the primary purpose of this Bill was to:

support implementation of the Government's planning reform commitments to increase transparency and accountability within the planning system and to deliver better development outcomes.<sup>66</sup>

- 3.141 In presenting the Bill the Minister for Infrastructure, Planning and Logistics, the Hon Eva Lawler MLA, noted that the amendments would provide a number of benefits including an increased emphasis on sustainable development; more certainty regarding changes to land use; improved stakeholder and community engagement; clarification and simplification of planning processes; the updating of enforcement measures and, overall, a more modern and effective planning system.<sup>67</sup>

- 3.142 The Committee received 15 submissions to its inquiry, with the majority of submissions recommending amendments. Key points of contention raised in submissions from community members and environmental organisations included climate change, sustainable development, and amenity. Technical issues were also identified with a number of the proposed amendments. Following consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the amendments proposed in recommendations 2 to 17.

- 3.143 The majority of the recommendations were technical in nature and aimed to ensure that the proposed amendments were unambiguous and drafted in sufficiently clear and precise manner. More specifically, recommendation 2 proposed that the Bill be amended to include a definition of "sustainable development" to ensure its meaning is clearly understood while recommendation 3 proposed that section 2A(j) be amended to ensure consistency with the definition of amenity provided in section 3 of the Act.

- 3.144 Recommendation 5 aimed to ensure that rights and liberties are protected in relation to proposed section 75C which created an offence relating to the clearing of native vegetation. As noted by the Committee, this term is not defined in the Act, with the

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<sup>65</sup> Explanatory Statement, *Treaty Commissioner Bill 2020 (Serial 119)*, <https://parliament.nt.gov.au/committees/LSC/119-2020>, p.1

<sup>66</sup> Explanatory Statement, *Planning Amendment Bill 2020 (Serial 118)*, <https://parliament.nt.gov.au/committees/LSC/118-2020>, p.1

<sup>67</sup> The Hon Eva Lawler MLA, Minister for Infrastructure, Planning and Logistics, *Draft - Daily Hansard Day 3 – 13 February 2020*, <http://hdl.handle.net/10070/756093>, p.9

subsequent effect that a person could be subject to criminal liability in circumstances where the indicia of the offence are not clear. Recommendation 7 proposed that section 135B be amended to remove any reference to the Minister issuing directions on how to interpret the Act. The Committee considered that while it is appropriate for a Minister to provide guidance on how to administer and apply processes under the Act, interpretation is a matter for the courts.

- 3.145 The Committee presented its report to the Speaker on 5 May 2020 for subsequent tabling in the Assembly on 23 June 2020. In responding to the report the Minister advised that the Government accepted all of the Committee's recommendations with the exception of recommendations 2, 5 and 8.<sup>68</sup> The Committee's report, associated minutes of proceedings, subsequent response from the Government, submissions and tabled papers are available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/118-2020>.

### ***Transport Legislation Amendment Bill 2020***

- 3.146 On 13 February 2020 the Assembly referred the Transport Legislation Amendment Bill 2020 (Serial 120) to the Committee for inquiry and report by 5 May 2020.

- 3.147 The primary purpose of this Bill was to amend eleven pieces of Northern Territory transport related legislation as a consequence of the repeal of the *Motor Vehicle Standards Act 1989* (Cth) and its replacement by the *Road Vehicle Standards Act 2018* (Cth). As noted in the Explanatory Statement, the proposed amendments sought to:

ensure that current, nationally consistent arrangements relating to registering vehicles, driver licence classes, regulating vehicle standards, and providing motor accident compensation can continue upon commencement of the new Cth Law.<sup>69</sup>

- 3.148 As the Committee did not receive any submissions and had no matters to bring to the attention of the Assembly, the Committee presented its 'No Issues' report to the Speaker on 18 March 2020 for subsequent tabling in the Assembly on 24 March 2020. The Committee's report and associated documentation is available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/120-2020>.

### ***Liquor Amendment Bill 2020***

- 3.149 On 13 February 2020 the Assembly referred the Liquor Amendment Bill 2020 (Serial 124) to the Committee for inquiry and report by 24 March 2020.

- 3.150 The purpose of the Bill was to amend the provisions in the *Liquor Act 2019* regarding substitution of premises to allow the Liquor Commission to approve substitution of premises where the proposed premises are yet to be constructed or still under construction, and to remove the 'like for like' requirement for substitution of premises.

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<sup>68</sup> Government Response, *Inquiry into the Planning Amendment Bill 2020*, <https://parliament.nt.gov.au/committees/LSC/118-2020>

<sup>69</sup> Explanatory Statement, *Transport Legislation Amendment Bill 2020 (Serial 120)*, <https://parliament.nt.gov.au/committees/LSC/120-2020>, p.1

- 3.151 The Committee received eight submissions to the inquiry with only one submitter supporting the intent of the Bill. The primary concerns expressed by submitters that did not support the Bill related to the removal of the 'like for like' requirement, which they considered provided the opportunity to circumvent the five year moratorium on new takeaway licences by enabling existing licence holders to substitute for a larger premises and increase the volume of alcohol available for sale in the Territory. Submitters noted that the proposed amendments were contrary to the recommendations from the Riley Review regarding substitution of premises.
- 3.152 A number of submitters proposed amendments to the Bill and the Committee sought advice from the Department of the Attorney-General and Justice on the impact these would have on the operation of the Act. In their response to the Committee, the Department outlined why the amendments proposed by submitters were not recommended by the Department. After consideration of the evidence provided by submitters and the Department, the Committee recommended that the Assembly pass the Bill with no amendments.
- 3.153 The Committee presented its report to the Speaker on 20 March 2020 for subsequent tabling in the Assembly on 24 March 2020. The Committee's report, associated minutes of proceedings, submissions and tabled papers are available on the Committee's website at <https://parliament.nt.gov.au/committees/LSC/124-2020>.

### **Judicial Commission Bill 2020**

- 3.154 On 13 February 2020 the Assembly referred the Judicial Commission Bill 2020 (Serial 125) to the Committee for inquiry and report by 5 May 2020.
- 3.155 This Bill sought to "establish a formal statutory framework to deal with complaints about the capacity or conduct of a judicial officer or an ordinary member of the Northern Territory Civil and Administrative Tribunal [NTCAT]."<sup>70</sup>
- 3.156 The Committee received six submissions to its inquiry, all of which were generally supportive of the Bill and welcomed its introduction. However, a number of concerns were raised regarding the drafting and intended operation of various aspects of the Bill. For the most part these concerns were addressed by the advice provided by the Department of the Attorney-General and Justice. Following consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the amendments proposed in recommendations 2 to 7.
- 3.157 To avoid the potential for a conflict of interest to arise, recommendation 2 proposed that, following consultation with the heads of jurisdiction, clause 10 be amended to clarify the procedure to be adopted regarding appointment of an acting member of the Judicial Commission where an ex officio member is the subject of a complaint. Recommendations 3, 4 and 5 sought to address inconsistencies in provisions regarding the requirement to give reasons for the dismissal of complaints, and the

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<sup>70</sup> Explanatory Statement, *Judicial Commission Bill 2020 (Serial 125)*, <https://parliament.nt.gov.au/committees/LSC/125-2020>, p.1

power to refuse to disclose information to a complainant if it would be contrary to the public interest.

3.158 Recommendation 6 proposed that clause 52 be amended to provide that judicial officers and ordinary members of NTCAT who are the subject of a complaint and elect to represent themselves, may examine or cross-examine a witness in proceedings before an investigation panel. Finally, to ensure that the Bill was unambiguous and drafted in a sufficiently clear and precise manner, recommendation 7 proposed that clause 68(2)(b) be amended to clarify that the exceptions to the non-admissibility of responses in a civil or criminal proceeding is limited to those offences in Part IV of the *Criminal Code Act 1983* (NT) which are directly related to the purposes of the Bill, namely the upholding of judicial accountability and protection of the administration of justice.

3.159 The Committee presented its report to the Speaker on 5 May 2020 for subsequent tabling in the Assembly on 23 June 2020. In responding to the Committee's report, the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted all of the proposed amendments as recommended by the Committee.<sup>71</sup> The Committee's report, associated minutes of proceedings, Government response, submissions, and tabled papers are available on the Committee's website at <https://parliament.nt.gov.au/committees/LSC/125-2020>.

### ***Return to Work Legislation Amendment Bill 2020***

3.160 On 19 February 2020 the Assembly referred the Return to Work Legislation Amendment Bill 2020 (Serial 123) to the Committee for inquiry and report by 5 May 2020.

3.161 The purpose of this Bill was to amend the *Return to Work Act 1986* and Return to Work Regulations 1986. The Bill included administrative and technical amendments which sought to reverse a number of changes made to the legislation in 2015 and improve the operation of the NT workers' compensation scheme.<sup>72</sup> As noted in the Explanatory Statement, the Bill proposed the following key amendments:

- *revision to the definition of a worker;*
- *provision that post-traumatic stress disorder for first responder police officers, firefighters and ambulance officers be a deemed disease;*
- *expansion of the number of diseases under the fire fighters presumptive legislation;*
- *removal of the cap on normal weekly earnings for payments made after 26 weeks of incapacity; and*

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<sup>71</sup> Government Response, *Inquiry into the Judicial Commission Bill 2020 (Serial 125)*, 23 June 2020, <https://parliament.nt.gov.au/committees/LSC/125-2020>

<sup>72</sup> Explanatory Statement, *Return To Work Legislation Amendment Bill 2020 (Serial 123)*, Explanatory Statement, *Return to Work Legislation Amendment Bill 2020 (Serial 123)*, <https://parliament.nt.gov.au/committees/LSC/123-2020>, p.1

- *provision that the legislation covers injuries incurred on the way to or from work.*<sup>73</sup>
- 3.162 The Committee received 12 submissions to its inquiry, with the majority recommending amendments to specific sections of the Bill. Primary concerns highlighted by submitters related to the journey to and from work; removal of the weekly benefits cap for long-term incapacity; removal of requirement that rehabilitation or workplace based return to work programs be provided by an accredited vocational rehabilitation provider; and the definition of first responder for the purpose of making post-traumatic stress disorder (PTSD) a deemed disease. Several submitters also raised issues that were outside the scope of the Bill, including the overall design of the scheme itself and the five year cap on compensation for workers with injuries assessed as below 15% permanent impairment.
- 3.163 Following consideration of the evidence received, the Committee recommended that the Assembly pass the Bill with the amendments proposed in recommendations 2 and 3. Both of these recommendations were of a technical nature and aimed to ensure that the proposed amendments were unambiguous and drafted in sufficiently clear and precise manner. The Committee also made a further recommendation for Government action, with recommendation 4 proposing that in any future reforms to the *Return to Work Act 1986* (NT), the Government review the limits on compensation that currently apply to workers who suffer a permanent impairment at a percentage of the whole person of less than 15%.
- 3.164 The Committee presented its report to the Speaker on 5 May 2020 for subsequent tabling in the Assembly on 23 June 2020. In responding to the Committee's report, the Attorney-General and Minister for Justice, the Hon Natasha Fyles MLA, advised that the Government accepted both of the proposed legislative amendments as recommended by the Committee.<sup>74</sup> The Committee's report, associated minutes of proceedings, Government response, submissions and tabled papers are available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/123-2020>.

### **Firearms Legislation Amendment Bill 2020**

- 3.165 On 19 February 2020 the Assembly referred the Firearms Legislation Amendment Bill 2020 (Serial 121) to the Committee for inquiry and report by 5 May 2020.
- 3.166 Introduced as a private member's Bill by the Hon Kezia Purick MLA, Member for Goyder, the primary purpose of the Bill was to create a new type of firearms licence that would permit the possession and use of .50 calibre firearms for training and recreational shooting at an approved firearms range.<sup>75</sup>
- 3.167 The Committee received three submissions to its inquiry. The NT Firearms Council supported the Bill, while the Department of Tourism, Sport and Culture and NT Police

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<sup>73</sup> Explanatory Statement, *Return To Work Legislation Amendment Bill 2020* (Serial 123), <https://parliament.nt.gov.au/committees/LSC/123-2020>, p.1

<sup>74</sup> Government Response, *Inquiry into the Return to Work Legislation Amendment Bill 2020*, <https://parliament.nt.gov.au/committees/LSC/123-2020>

<sup>75</sup> Explanatory Statement, *Firearms Legislation Amendment Bill 2020* (Serial 121), <https://parliament.nt.gov.au/committees/LSC/121-2020>, p.1

considered that the Bill was inconsistent with the *National Firearms Agreement*, and lacked sufficient safeguards to create an appropriate regulatory framework for using .50 calibre firearms for recreational shooting.

- 3.168 Following consideration of the evidence, the Committee acknowledged that the question of the Bill's compliance with the *National Firearms Agreement* is a complex issue and that the classification and regulation of firearms is, in part, a matter of government policy. Consequently, the Committee did not draw a conclusion on how the Bill interacts with the *National Firearms Agreement*. The Committee did, however, conclude that the Bill as drafted was not fit for purpose, and considered that any rewrite would need to be developed in consultation with NT Police and other relevant authorities. As such, the Committee recommended that the Assembly not pass the Bill.
- 3.169 The Committee presented its report to the Speaker on 5 May 2020 for subsequent tabling in the Assembly on 23 June 2020. The Committee's report, associated minutes of proceedings, submissions and tabled papers are available on the Committee's website at: <https://parliament.nt.gov.au/committees/LSC/121-2020>.

## 4 Petition Referrals

### Introduction

- 4.1 Pursuant to Sessional Order 17, after a petition has been read in the Assembly, any Member may move that the petition be referred to a scrutiny committee for consideration as to whether the petition should be debated.<sup>76</sup>
- 4.2 During the reporting period, seven petitions were referred to the Committee. Following is an overview of the Petitions referred and the outcome of the Committee's considerations.

### Petition No. 36

- 4.3 On 7 August 2019, the Assembly referred Petition No. 36 to the Committee to consider whether the petition should be debated.
- 4.4 From 1,112 petitioners, this petition called on the Government to fix the serious car parking problem at the Alice Springs hospital as a matter of priority. It requested that the NT Government build a multi-story car park by 2021 and provide a system in which the elderly, sick and disabled are given priority to all car parks within close proximity to the Alice Springs hospital.
- 4.5 The Committee considered the petition at its meeting of 15 August 2019 and subsequently notified the Clerk that it was of the view that the Assembly should debate the petition. However, as the report was not adopted, the petition was not debated in the Assembly.
- 4.6 In accordance with Standing Order 123, on 4 September 2019 the Speaker advised the Assembly that a response to the petition had been received from the Minister for Health, the Hon Natasha Fyles MLA. In responding to petitioners the Minister noted that:

On 9 July 2019, the Northern Territory Government announced a commitment to construct a new multi-storey car park at the Alice Springs Hospital. The site is being prepared on the Alice Springs Hospital campus with the demolition of the old Public Health Pathology building this year. Construction of the multi-storey car park will commence in 2020. Central Australia Health Service introduced new parking arrangements for the Alice Springs Hospital precinct on 19 August 2019 to ensure safer and reliable access to car parking, for all users including the elderly, sick, people with disabilities and staff.

Priority access parking for the elderly, sick or disabled has been introduced closest to the main clinical areas. There are 24 easily identified disabled car parks available on the ASH campus. New 15 minute limits have been placed on the car parks in the drop off/pick up Ref: 16/149-0289.0002 zone at the front entrance of the hospital. Designated staff parking areas have been clearly marked. These car parking measures will be monitored by contracted security guards.<sup>77</sup>

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<sup>76</sup> Legislative Assembly of the Northern Territory, *Thirteenth Assembly – Sessional Orders – As adopted 20 March 2018*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>, p.14

<sup>77</sup> Legislative Assembly of the Northern Territory, *Thirteenth Assembly Petitions, Petition 36 – Fix parking problem at Alice Springs hospital*, [https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0003/719346/Petition-36-database-form.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0003/719346/Petition-36-database-form.pdf)

## Petition No. 38

- 4.7 On 7 August 2019 the Assembly referred Petition No. 38 to the Committee for consideration as to whether it should be debated.
- 4.8 From 994 petitioners, this petition opposed changes within the Youth Justice and Related Legislation Amendment Act 2019 and called on the Parliament to toughen property crime laws in the Northern Territory.<sup>78</sup>
- 4.9 The Committee considered the petition at its meeting of 15 November 2019 and subsequently notified the Clerk that it was of the view that the Assembly should debate the petition. The petition was debated in the Assembly on 19 September 2019.<sup>79</sup>
- 4.10 In accordance with Standing Order 123, on 15 October 2019 the Speaker advised the Assembly that a response to the petition had been received from the Minister for Territory Families, the Hon Dale Wakefield MLA. In responding to petitioners, the Minister noted that:

The Royal Commission into the Protection and Detention of Children in the Northern Territory was clear that children and young people need responses from Government that change their behaviour. The Youth Justice and Related Legislation Amendment Bill 2019 makes responses to young people who have offended more timely, targeted and effective. It is based on research and evidence and empowers police and the courts to use their professional judgement more efficiently to achieve better outcomes for the community.<sup>80</sup>

## Petition No. 39

- 4.11 On 13 August 2019, the Assembly referred Petition No. 39 to the Committee to consider whether the petition should be debated.
- 4.12 The 22 petitioners called on the Government to request that a scrutiny committee investigate the transfer of the land comprising the Darwin Waterfront Precinct back to Darwin City Council.<sup>81</sup> The Committee considered the petition at its meeting of 15 August 2019 and subsequently notified the Clerk that it was of the view that the Assembly should debate the petition. However, as the report was not adopted, the petition was not debated in the Assembly.<sup>82</sup>
- 4.13 In responding to the petition, the Minister for Tourism, Culture and Sport, the Hon Lauren Moss MLA, advised that while the Government did not support the idea of transferring management and control of the Waterfront precinct to the Darwin City

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<sup>78</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 38 – Opposition to changes within the Youth Justice and Related Legislation Amendment Act 2019*,

<https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>79</sup> Daily Hansard, *Thursday 19 September 2019*,

<https://www.territorystories.nt.gov.au/jspui/handle/10070/754523>, pp.89-90

<sup>80</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 38 – Opposition to changes within the Youth Justice and Related Legislation Amendment Act 2019*,

<https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>, p.2

<sup>81</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 39 – Transfer of the Darwin Waterfront Precinct land back to the Darwin City Council* <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>82</sup> Daily Hansard, *Tuesday 17 September 2019*, <http://hdl.handle.net/10070/754521>, p.11

Council at this point in the development life of the precinct.<sup>83</sup> The Minister further noted that:

Municipal incorporation was always intended to be revisited once full development of the Waterfront is achieved. Voting rights for residents can also continue to be explored in consultation with the NT Electoral Commission ... however, the original justification for creating the Waterfront Corporation management model has not changed ...<sup>84</sup>

## Petition No. 41

- 4.14 On 19 September 2019 the Assembly referred Petition No. 41 to the Committee for consideration as to whether it should be debated.
- 4.15 This submission from residents of Katherine called on the Government to negotiate a sustainable funding model to ensure the on-going operational viability of the Katherine Museum.<sup>85</sup> The Committee considered the petition at its meeting of 30 September 2019 and subsequently notified the Clerk that it was of the view that the Assembly should debate the petition. The petition was debated in the Assembly on 17 October 2019.<sup>86</sup>

## Petition No. 42

- 4.16 On 16 October 2019 the Assembly referred Petition No. 42 to the Committee for consideration as to whether it should be debated.
- 4.17 From 562 petitioners, this petition called on the Government to support the rights of vapers to vape with and without nicotine in Australia.<sup>87</sup> The Committee considered the petition at its meeting of 17 October 2019 and subsequently advised the Clerk that it was of the view that the Assembly should debate the petition. The petition was debated in the Assembly on 28 November 2019.<sup>88</sup> In accordance with Standing Order 123, on 26 November 2019 the Speaker advised the Assembly that a response to the petition had been received from the Minister for Health, the Hon Natasha Fyles MLA.
- 4.18 While noting that the *Tobacco Control Act 2002* (NT) was recently amended to include provisions to regulate electronic cigarettes and accessories as if they are a tobacco product, the Minister advised that the main purpose of the amendments was to ensure that electronic cigarettes and associated accessories cannot be purchased

<sup>83</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 39 – Transfer of the Darwin Waterfront Precinct land back to the Darwin City Council* <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>, p.2

<sup>84</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 39 – Transfer of the Darwin Waterfront Precinct land back to the Darwin City Council* <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>, p.3

<sup>85</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 41 – Save Katherine Museum*, <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>86</sup> Daily Hansard, *Thursday 17 October 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/754881>, pp.62-4

<sup>87</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 42 – Support Vapers Rights*, <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>88</sup> Daily Hansard, *Thursday 28 November 2019*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/755088>, pp.61-2

by underage persons. However, the Minister also noted that persons over the age of 18 years are still able to purchase these products from their local retailer and people are free to use these products anywhere in the community where smoking is permitted. The Minister's response can be found at: <https://parliament.nt.gov.au/business/petitions-and-responses>.

## **Petition No. 43**

- 4.19 On 27 November 2019 the Assembly referred Petition No. 43 to the Committee for consideration as to whether it should be debated.
- 4.20 From 6410 petitioners, this petition called for all unconventional oil and gas activities in the Northern Territory to be banned.<sup>89</sup> The Committee considered the petition at its meeting of 28 November 2019 and subsequently advised the Clerk that it considered that the Assembly should debate the petition. The petition was debated in the Assembly on 13 February 2020.<sup>90</sup> In accordance with Standing Order 123, on 11 February 2020 the Speaker advised the Assembly that a response to the petition had been received from the Chief Minister, the Hon Michael Gunner MLA.
- 4.21 While acknowledging community concerns regarding the emerging oil and gas industry in the Northern Territory, the Chief Minister noted that the Northern Territory Government had accepted all 135 recommendations from the independent scientific inquiry into hydraulic fracturing; many of which will mitigate the identified risks of hydraulic fracturing. The Minister's response can be found at: <https://parliament.nt.gov.au/business/petitions-and-responses>.

## **Petition No. 44**

- 4.22 On 27 November 2019 the Assembly referred Petition No. 44 to the Committee for consideration as to whether it should be debated.
- 4.23 This petition registered the opposition of 46 petitioners to the proposed change of service provider for outside school hours care (OHSC) at Woodroffe Primary School. Petitioners requested that the Minister initiate an investigation into the Woodroffe Primary School Council's compliance with their contract with Territory Children Pty Ltd for the provision of OHSC, and liaise with the School Council with the aim of ensuring there is no change to the service provider until parents have been consulted and their feedback considered.<sup>91</sup>
- 4.24 The Committee considered the petition at its meeting of 28 November 2019 and subsequently advised the Clerk that it was of the view that the Assembly should

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<sup>89</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 43 – Ban all unconventional oil and gas extraction in the Northern Territory*, <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>90</sup> Daily Hansard, *Thursday 13 February 2020*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/756093>, pp. 67-8

<sup>91</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 43 – Proposed change of service provider for outside school hours care at Woodroffe Primary School*, <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

debate the petition. However, as the report was not adopted, the petition was not debated in the Assembly.<sup>92</sup>

- 4.25 In accordance with Standing Order 123, on 13 February 2020 the Speaker advised the Assembly that a response to the petition had been received from the Minister for Education, the Hon Selena Uibo MLA. The Minister advised that a departmental review of Woodroffe Primary School Council's compliance with their contract with Territory Children Pty Ltd for the provision of OHSC had not substantiated any compliance issues and noted that the council had acted in accordance with its agreement.
- 4.26 The Minister further noted that during the expression of interest process, the Woodroffe Primary School Council had sought and received feedback from the school community and the Northern Territory Council of Government School Organisations. This feedback was considered and included the capacity of potential lessees to deliver inclusive services to Woodroffe Primary School students. The Minister also pointed out that the School Council's decision does not preclude Territory Children Pty Ltd from operating an OHSC service from an alternate location, or prevent the families of Woodroffe Primary School students from choosing to utilise such services. A copy of the Minister's response can be found at: <https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>.

## Petition No. 46

- 4.27 On 23 June 2020 the Assembly referred Petition No. 46 to the Committee for consideration as to whether it should be debated.
- 4.28 From 8,385 petitioners, this petition called on the Government to honour the recommendations of the Legislation Scrutiny Committee and immediately repeal sections 65A and 65B regarding the keeping of pets from the *Residential Tenancies Act 1999* as amended by the Residential Tenancies Legislation Amendment Bill 2020 and revert to the former wording
- 4.29 The Committee considered the petition at its meeting of 6 July 2020. While the Committee was of the view that the Assembly should debate the petition and advised the Clerk accordingly, it was acknowledged that this was unlikely to occur given that the Assembly was due to prorogue on 30 July 2020 and no further sittings had been scheduled in the intervening period.

## Petition No. 47

- 4.30 On 23 June 2020 the Assembly referred Petition No. 47 to the Committee for consideration as to whether it should be debated.

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<sup>92</sup> Daily Hansard, *Tuesday 11 February 2020*, <https://www.territorystories.nt.gov.au/jspui/handle/10070/756091>, p.20

- 4.31 This petition registered the opposition of 50 Coda Road residents to the proposed location of a Youth Work Immersion Centre and Training Camp for at-risk youth in the Bynoe area.<sup>93</sup>
- 4.32 The Committee considered the petition at its meeting of 6 July 2020. While the Committee was of the view that the Assembly should debate the petition and advised the Clerk accordingly, it was acknowledged that this was unlikely to occur given that the Assembly was due to prorogue on 30 July 2020 and no further sittings had been scheduled in the intervening period.

## **Petition No. 48**

- 4.33 On 24 June 2020 the Assembly referred Petition No. 49 to the Committee for consideration as to whether it should be debated.
- 4.34 From 10,052 petitioners, this petition requested that the Darwin City Council and the NT Government protect the Deckchair Cinema by honouring the agreement that they made to green the Cenotaph car park in the Darwin City Deal and not make the site available for redevelopment by the RSL club.<sup>94</sup>
- 4.35 The Committee considered the petition at its meeting of 6 July 2020. While the Committee was of the view that the Assembly should debate the petition and advised the Clerk accordingly, it was acknowledged that this was unlikely to occur given that the Assembly was due to prorogue on 30 July 2020 and no further sittings had been scheduled in the intervening period.

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<sup>93</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 47 – Youth Work Immersion and Training Camp for at-risk youth in Bynoe location*  
<https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

<sup>94</sup> Legislative Assembly of the Northern Territory, 13<sup>th</sup> Assembly Petitions, *Petition 48 – Ensure that the Deckchair Cinema is protected for the people of Darwin to enjoy for many years*,  
<https://parliament.nt.gov.au/business/petitions-and-responses/13th-assembly>

## 5 Committee Statistics

### Introduction

- 5.1 In accordance with Sessional Order 12.5(1), following the first reading of a bill, other than an annual appropriation bill, the Member in charge of the Bill is to immediately move either:
- (a) a motion referring the Bill to a particular scrutiny committee for report by a particular date; or
  - (b) “that the Bill be declared urgent”.
  - (c) “that the seconding reading of the Bill be made an order of the day for the first Assembly meeting after 30 days have elapsed.”
- 5.2 As noted in Table 1 below, of the 34 Bills introduced during the reporting period 28 were referred to scrutiny committees, and six were dealt with on urgency. The Committee notes that all six Bills dealt with on urgency related to emergency legislation introduced as a consequence of the COVID-19 pandemic.

**Table 1: Bill Referrals**

Serial #*	Title	Scrutiny Committee	Urgent	30 days
97	Burial and Cremation Bill 2019	Social		
98	Transport Legislation Amendment Bill 2019	Economic		
99	Statute Law Revision and Repeals Bill 2019	Social		
100	Water Further Amendment Bill 2019	Economic		
101	Territory Parks and Wildlife Conservation Amendment Bill 2019	Social		
102	Evidence and Other Legislation Amendment Bill 2019	Social		
103	Work Health and Safety (National Uniform Legislation) Amendment Bill 2019	Economic		
104	Mental Health and Related Services Amendment Bill 2019	Social		
105	Sex Industry Bill 2019	Economic		
106	Firearms Legislation Amendment Bill 2019	Economic		
107	Local Government Bill 2019	Social		
108	Criminal Property Forfeiture Amendment Bill 2019	Economic		
109	Marine Pollution Legislation Amendment Bill 2019	Social		
110	National Disability Insurance Scheme (Worker Clearance) Bill 2019	Social		
111	Courts Legislation Amendment Bill 2019	Economic		
112	Residential Tenancies Legislation Amendment Bill 2019	Economic		
113	Justice Legislation Amendment (Domestic and Family Violence) Bill 2019	Legislation		
114	Ports Legislation Amendment Bill 2019	Legislation		
115	Licensing (Director-General) Repeal Bill 2019	Legislation		
116	Petroleum Legislation Miscellaneous Amendments Bill 2019	Legislation		

Serial #*	Title	Scrutiny Committee	Urgent	30 days
117	Sexual Offences (Evidence and Procedure) Amendment Bill 2019	Legislation		
118	Planning Amendment Bill 2020	Legislation		
119	Treaty Commissioner Bill 2020	Legislation		
120	Transport Legislation Amendment Bill 2020	Legislation		
121	Firearms Amendment Bill 2020	Legislation		
123	Return to Work Legislation Amendment Bill 2020	Legislation		
124	Liquor Amendment Bill 2020	Legislation		
125	Judicial Commission Bill 2020	Legislation		
126	Supply (2020-2021) Bill 2020		✓	
127	Emergency Legislation Amendment Bill 2020		✓	
128	Fiscal Integrity and Transparency Amendment Bill 2020		✓	
129	Public and Environmental Health Legislation Amendment Bill 2020		✓	
130	Tenancies Legislation Amendment Bill 2020		✓	
131	Utilities Legislation Amendment Bill 2020		✓	

\* Pursuant to Sessional Order 12.5(4), Serial 122 did not proceed.

## Committee Inquiries

5.3 As highlighted in Table 1 above, 28 Bills were referred to scrutiny committees. During the reporting period the Committees held a total of 43 meetings which included:

- 21 public briefings with Government Agencies;
- 8 public hearings; and
- a total of 126 witnesses appearing before the Committees.

5.4 As noted in Table 2 below, the level of public participation in Committee inquiries varied according to the nature of the Bill under consideration. However, the Committee notes that feedback from those organisations and individuals that made submissions and appeared before the Committee has been extremely positive with a number of people commending the Government on its initiative to 'open Parliament to the people' and provide an opportunity for members of the public to participate in the legislative process.

**Table 2: Submissions Received**

Serial #	Title	No. of Submissions Received
85	Youth Justice and Related Legislation Amendment Bill 2019*	26
91	Hemp Industry Bill 2019*	1
92	Construction Contracts (Security of Payments) Legislation Amendment Bill 2019*	3

Serial #	Title	No. of Submissions Received
93	Education and Care Services (National Uniform Legislation) Amendment Bill 2019*	0
94	Environment Protection Bill 2019*	46
95	Liquor Bill 2019*	18
96	Electoral Legislation Further Amendment Bill 2019*	2
97	Burial and Cremation Bill 2019	8
98	Transport Legislation Amendment Bill 2019	1
99	Statute Law Revision and Repeals Bill 2019	1
100	Water Further Amendment Bill 2019	8
101	Territory Parks and Wildlife Conservation Amendment Bill 2019	0
102	Evidence and Other Legislation Amendment Bill 2019	3
103	Work Health and Safety (National Uniform Legislation) Amendment Bill 2019	14
104	Mental Health and Related Services Amendment Bill 2019	0
105	Sex Industry Bill 2019	46
106	Firearms Legislation Amendment Bill 2019	4
107	Local Government Bill 2019	5
108	Criminal Property Forfeiture Amendment Bill 2019	1
109	Marine Pollution Legislation Amendment Bill 2019	1
110	National Disability Insurance Scheme (Workers Clearance) Bill 2019	2
111	Courts Legislation Amendment Bill 2019	0
112	Residential Tenancies Legislation Amendment Bill 2019	10
113	Justice Legislation Amendment (Domestic and Family Violence) Bill 2019	8
114	Ports Legislation Amendment Bill 2019	0
115	Licensing (Director-General) Repeal Bill 2019	0
116	Petroleum Legislation Miscellaneous Amendments Bill 2019	10
117	Sexual Offences (Evidence and Procedure) Amendment Bill 2019	10
118	Planning Amendment Bill 2020	14
119	Treaty Commissioner Bill 2020	0
120	Transport Legislation Amendment Bill 2020	0
121	Firearms Amendment Bill 2020	3
123	Return to Work Legislation Amendment Bill 2020	12
124	Liquor Amendment Bill 2020	8
125	Judicial Commission Bill 2020	6

\* Outstanding inquiries commenced during 2018-2019 reporting period.

## Reports and Recommendations

5.5 Pursuant to Sessional Order 12.5(2), Bill inquiries and associated reporting timeframes are subject to the following provision:

The date by which the committee must report must not be earlier than the first meeting day of the second set of meetings following the first reading (i.e. the second resumption of meetings after a period of at least two weeks when the Assembly has not met).<sup>95</sup>

- 5.6 As summarised in Table 3 below, of the Bills referred during the reporting period, the Committee met its reporting due dates for all inquiries. Pursuant to Standing Order 200(4), 22 reports were presented to the Speaker out of session prior to the due date; six of which were tabled in the first sittings after introduction of the Bill.

**Table 3: Inquiry Timeframes**

Serial #	Title	Date Referred	Report Due	Report Tabled
85	Youth Justice and Related Legislation Amendment Bill 2019*	20/03/19	06/08/19	16/07/19
91	Hemp Industry Bill 2019*	15/05/19	06/08/19	06/08/19
92	Construction Contracts (Security of Payments) Legislation Amendment Bill 2019*	15/05/19	06/08/19	06/08/19
93	Education and Care Services (National Uniform Legislation) Amendment Bill 2019*	16/05/19	06/08/19	02/07/19
94	Environment Protection Bill 2019*	16/05/19	17/09/19	17/09/19
95	Liquor Bill 2019*	15/05/19	06/08/19	06/08/19
97	Burial and Cremation Bill 2019	07/08/19	15/10/19	08/10/19
98	Transport Legislation Amendment Bill 2019	07/08/19	15/10/19	11/10/19
99	Statute Law Revision and Repeals Bill 2019	14/08/19	15/10/19	01/10/19
100	Water Further Amendment Bill 2019	14/08/19	15/10/19	14/10/19
101	Territory Parks and Wildlife Conservation Amendment Bill 2019	14/08/19	15/10/19	17/09/19
102	Evidence and Other Legislation Amendment Bill 2019	19/09/19	26/11/19	31/10/19
103	Work Health and Safety (National Uniform Legislation) Amendment Bill 2019	19/09/19	26/11/19	26/11/19
104	Mental Health and Related Services Amendment Bill 2019	18/09/19	26/11/19	18/10/19
105	Sex Industry Bill 2019	18/09/19	26/11/19	20/11/19
106	Firearms Legislation Amendment Bill 2019	18/09/19	26/11/19	26/11/19
107	Local Government Bill 2019	18/09/19	26/11/19	31/10/19
108	Criminal Property Forfeiture Amendment Bill 2019	16/10/19	11/02/20	02/12/19
109	Marine Pollution Legislation Amendment Bill 2019	17/10/19	11/02/20	10/12/19
110	National Disability Insurance Scheme (Workers Clearance) Bill 2019	16/10/19	11/02/20	26/11/19
111	Courts Legislation Amendment Bill 2019	16/10/19	11/02/20	02/12/19
112	Residential Tenancies Legislation Amendment Bill 2019	16/10/19	11/02/20	17/12/19

<sup>95</sup> Legislative Assembly of the Northern Territory, *Thirteenth Assembly – Sessional Orders – As adopted 20 March 2018*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>

Serial #	Title	Date Referred	Report Due	Report Tabled
113	Justice Legislation Amendment (Domestic and Family Violence) Bill 2019	28/11/19	24/03/20	18/03/20
114	Ports Legislation Amendment Bill 2019	28/11/19	24/03/20	04/03/20
115	Licensing (Director-General) Repeal Bill 2019	28/11/19	24/03/20	14/02/20
116	Petroleum Legislation Miscellaneous Amendments Bill 2019	28/11/19	24/03/20	18/03/20
117	Sexual Offences (Evidence and Procedure) Amendment Bill 2019	28/11/19	24/03/20	18/03/20
118	Planning Amendment Bill 2020	13/02/20	05/05/20	05/05/20
119	Treaty Commissioner Bill 2020	12/02/20	05/05/20	18/03/20
120	Transport Legislation Amendment Bill 2020	13/02/20	05/05/20	18/03/20
121	Firearms Legislation Amendment Bill 2020	19/02/20	05/05/20	05/05/20
123	Return to Work Legislation Amendment Bill 2020	19/02/20	05/05/20	05/05/20
124	Liquor Amendment Bill 2020	13/02/20	24/03/20	20/03/20
125	Judicial Commission Bill 2020	13/02/20	05/05/20	05/05/20

\* Outstanding inquiries commenced during 2018-2019 reporting period.

5.1 As detailed in Chapter 3, the Committee recommended that the Assembly pass all of the Bills referred for inquiry and report with the exception of the Firearms Legislation Amendment Bill 2020 (Serial 121). However, as indicated in Table 4, in many instances the Committee proposed amendments to the Bills to ensure that they had due regard to the rights and liberties of individuals and the institution of Parliament, were unambiguous and drafted in a sufficiently clear and precise manner. Of the 157 proposed amendments and recommendations put forward by the Committee and considered by the Government, 141 or 90% were accepted.

**Table 4: Proposed Amendments and Recommendations**

Serial #	Title	No. of Recommendations Proposed	No. of Recommendations Accepted
85	Youth Justice and Related Legislation Amendment Bill 2019*	7	7
91	Hemp Industry Bill 2019*	1	1
92	Construction Contracts (Security of Payments) Legislation Amendment Bill 2019*	4	2
93	Education and Care Services (National Uniform Legislation) Amendment Bill 2019*	1	1
94	Environment Protection Bill 2019*	14	14
95	Liquor Bill 2019*	22	18
96	Electoral Legislation Further Amendment Bill 2019*	6	6
97	Burial and Cremation Bill 2019	2	Bill Withdrawn 27/11/2019
98	Transport Legislation Amendment Bill 2019	6	6
99	Statute Law Revision and Repeals Bill 2019	2	2

Serial #	Title	No. of Recommendations Proposed	No. of Recommendations Accepted
100	Water Further Amendment Bill 2019	2	2
101	Territory Parks and Wildlife Conservation Amendment Bill 2019	1	1
102	Evidence and Other Legislation Amendment Bill 2019	1	1
103	Work Health and Safety (National Uniform Legislation) Amendment Bill 2019	5	4
104	Mental Health and Related Services Amendment Bill 2019	1	1
105	Sex Industry Bill 2019	6	6
106	Firearms Legislation Amendment Bill 2019	7	6
107	Local Government Bill 2019	1	1
108	Criminal Property Forfeiture Amendment Bill 2019	2	2
109	Marine Pollution Legislation Amendment Bill 2019	3	3
110	National Disability Insurance Scheme (Workers Clearance) Bill 2019	2	2
111	Courts Legislation Amendment Bill 2019	1	1
112	Residential Tenancies Legislation Amendment Bill 2019	8	7
113	Justice Legislation Amendment (Domestic and Family Violence) Bill 2019	6	6
114	Ports Legislation Amendment Bill 2019	3	3
115	Licensing (Director-General) Repeal Bill 2019	1	1
116	Petroleum Legislation Miscellaneous Amendments Bill 2019	6	6
117	Sexual Offences (Evidence and Procedure) Amendment Bill 2019	6	3
118	Planning Amendment Bill 2020	17	14
119	Treaty Commissioner Bill 2020	1	1
120	Transport Legislation Amendment Bill 2020	1	1
121	Firearms Amendment Bill 2020	1	1
123	Return to Work Legislation Amendment Bill 2020	4	4
124	Liquor Amendment Bill 2020	1	1
125	Judicial Commission Bill 2020	7	7

\* Outstanding inquiries commenced during 2018-2019 reporting period.

5.2 Pursuant to Standing Order 201, where a report from a committee recommends that action be taken by the Government, the Clerk is to refer the report to the relevant Minister(s). The Minister(s) is then required to report to the Assembly what action, if any, the Government proposes to take in relation to each recommendation of the Committee within six months of the report being tabled. In accordance with clause

201(4), if a Government response to a committee report has not been tabled within the six month timeframe, the relevant Minister must:

- (a) present to the Assembly at the next available opportunity a signed statement stating the reasons for the delay in presentation of the response, and
- (b) make themselves available to appear at the next reasonably available opportunity following a request by the relevant committee to answer its questions on that statement.<sup>96</sup>

5.3 As detailed in Chapter 3, of the 34 reports tabled by the Committee during the reporting period (28 new Bill referrals and six outstanding inquiries), eight included recommendations for action to be taken by the Government as opposed to recommendations relating to legislative amendments. With the exception of the Government's response in relation to the Youth Justice and Related Legislation Amendment Bill, the Government responded within the required timeframe.

## Petitions

5.4 During the reporting period the Assembly referred seven petitions to the Committee for consideration as to whether they should be debated. As summarised in Table 5 below, the Committee recommended that all of the petitions referred should be debated. However, as indicated, only four of these petitions were subsequently debated in the Assembly.

**Table 5: Petition Referrals**

No.	Title	Date Referred	Recommended Petition be Debated	Petition Debated	Date Response Presented
36	Fix car parking problem at Alice Springs hospital	07/08/19	15/08/19	No	17/09/19
38	Opposition to changes in the Youth Justice and Related Legislation Amendment Act 2019	07/08/19	15/08/19	Yes 19/09/19	15/10/19
39	Transfer land comprising Darwin Waterfront Precinct back to Darwin City Council	13/08/19	15/08/19	No	Response not received
41	Save the Katherine Museum	19/09/19	30/09/19	Yes 17/10/19	Response not received
42	Support Vapers Rights	16/10/19	17/10/19	Yes 28/11/19	26/11/19
43	Ban all unconventional oil and gas extraction in the Northern Territory	27/11/19	28/11/19	Yes 13/02/20	11/02/20
44	Proposed change of service provider for outside school hours care at Woodroffe Primary School	27/11/19	28/11/19	No	13/02/20

<sup>96</sup> Legislative Assembly of the Northern Territory, *Standing Orders – In Force as of 21 April 2016*, <https://parliament.nt.gov.au/business/standing-and-sessional-orders>

No.	Title	Date Referred	Recommended Petition be Debated	Petition Debated	Date Response Presented
46	Request to immediately repeal Sections 65A and 65B from the <i>Residential Tenancies Act</i> and revert to the former wording	23/06/20	06/07/20	No (Parliament prorogued on 30 July 2020)	Time not yet expired
47	Youth Work Immersion and Training Camp for at-risk youth in Bynoe location	23/06/20	06/07/20	No (Parliament prorogued on 30 July 2020)	Time not yet expired
48	Ensure that the Deckchair Cinema is protected for the people of Darwin to enjoy for many years	24/06/20	06/07/20	No (Parliament prorogued on 30 July 2020)	Time not yet expired

## **Appendix A: Standard Procedures for Bill Inquiries**

1. The Committee will call for submissions on the Bill to be due by the Wednesday in the second week before the next sittings of the Assembly;
2. Following the end of a sittings period, the Chair of the Committee will issue a notice listing the Bills on which the Committee is calling for submissions and the date by which submissions are due;
3. Notices calling for submissions will be distributed on the Assembly's website, by email to subscribers of the committee email alert service, by Facebook and Twitter posts, and by email or letter to persons and organisations determined by the Chair following consultation with Committee Members;
4. The Chair will write to the Minister who introduced the Bill to request a contact officer for the Bill and a briefing on the Bill from the responsible Department for Committee Members;
5. After the due date for submissions, the Committee will determine whether and when to hold public hearings and who shall be invited to appear at the hearings;
6. If any Member wishes to amend this standard procedure for a particular Bill, they shall advise the Chair who will then convene a meeting to consider that Bill's inquiry process at the earliest convenient opportunity.

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