

2004–2005

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 33

THURSDAY, 25 AUGUST 2005

- 1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

- 2 **PETITION**

The Clerk announced that the following Member had lodged a petition for presentation:

Ms Porter, from 21 residents, requesting that the Assembly remove Horse Farms ACT and its current management from the acceptable list of businesses applying for the forthcoming tender for ongoing management of the ACT horse paddocks.

- 3 **LEAVE OF ABSENCE**

Mr Corbell (Manager of Government Business) moved—That leave of absence be given to Mr Hargreaves for the remainder of this sitting week.

Question—put and passed.

- 4 **LAND (PLANNING AND ENVIRONMENT) ACT—VARIATION NO. 237 TO THE TERRITORY PLAN—DEAKIN, SECTION 12 BLOCKS 9, 13 AND 19—EMBASSY MOTEL REDEVELOPMENT—PROPOSED RESIDENTIAL USE—MOTION TO REJECT**

Dr Foskey, pursuant to notice, moved—That this Assembly, in accordance with subsection 29(4) of the Land (Planning and Environment) Act, rejects Variation No. 237 to the Territory Plan, Deakin, Section 12 Blocks 9, 13 and 19—Embassy Motel redevelopment—Proposed residential use.

Debate ensued.

Dr Foskey addressing the Assembly—

It being 45 minutes after the commencement of Assembly business—

Ordered—That the time allotted to Assembly business be extended by 30 minutes.

Debate continued.

Question—put.

The Assembly voted—

AYES, 6		NOES, 7	
Mrs Burke	Mr Smyth	Mr Berry	Ms Porter
Dr Foskey	Mr Stefaniak	Mr Corbell	Mr Quinlan
Mr Pratt		Mr Gentleman	Mr Stanhope
Mr Seselja		Ms MacDonald	

And so it was negatived.

5 **SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS' BUSINESS**

Mr Berry moved—That so much of the standing orders be suspended as would prevent notice No. 6, Private Members' business, relating to a Code of Conduct for Members, being called on forthwith.

Question—put and passed, with the concurrence of an absolute majority.

6 **CODE OF CONDUCT—MEMBERS OF THE A.C.T. LEGISLATIVE ASSEMBLY**

Mr Berry, pursuant to notice, moved—That the Code of Conduct for Members, as detailed below, prepared by the Standing Committee on Administration and Procedure (Fifth Assembly) be adopted as a resolution of continuing effect:

Code of Conduct for all Members of the Legislative Assembly for the Australian Capital Territory

Preamble

Members of the Legislative Assembly acknowledge their diversity of background and personal beliefs and that of Australian society, and maintain their loyalty to the Commonwealth of Australia and the people of the Australian Capital Territory.

In so doing, Members agree to respect and uphold the law, not discredit the institution of Parliament, and maintain their commitment to the public good through personal honesty and integrity in all their dealings.

Duties as Members of the Assembly

Members should avoid any decision or action which may depreciate the reputation of the Assembly and, endeavour to reasonably adhere to the Assembly's code of conduct to ensure that their personal conduct meets generally accepted standards and does not discredit or call into question their office or the Assembly.

Members acknowledge that they have an obligation to electors to make decisions on their behalf and as such place emphasis on their dedication to this obligation. As elected representatives, Members will act honestly in all their dealings to maintain the public trust placed in them.

Code of Conduct

Conflict of interest

Members have an obligation to use the influence conferred upon them in the public's interest and not for personal gain.

Notwithstanding the provisions set out in section 15 of the *Australian Capital Territory (Self-Government) Act 1988* and standing order 156 of the Legislative Assembly, Members are individually responsible for preventing personal conflicts of interest or the perception of a conflict of interest, and must endeavour to arrange their private affairs to prevent such conflicts arising or take all reasonable steps to resolve any conflict that does arise.

- (i) A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private interest or will improperly and dishonestly further the private interest of another person.
- (ii) A conflict of interest does not exist where the Member or other person benefits only as a member of the general public, or a broad class of persons.

Disclosure of pecuniary interests

The actions and decisions taken by Members are accountable through the Assembly to the people of the Australian Capital Territory. Members' actions and decisions should be transparent and bolster public confidence in the Assembly and the legislative process. In accordance with this transparency, Members are required to disclose their pecuniary interests pursuant to the resolution of the Assembly "Declaration of Private Interests of Members" agreed to on 7 April 1992 (as amended 27 August 1998 and 17 March 2005).

Receipt of any gifts, payments, fees or rewards

Members must register all gifts, payments, fees or rewards valued at more than \$250 received from official sources, or at more than \$100 where received from other than official sources. This does not include gifts, payments, fees or rewards received by Members, the Member's spouse, immediate family or personal friends in a purely personal capacity, unless it may pose a conflict of interest. Registration should be made in accordance with the Member's Statement of Registrable Interests.

Advocacy/bribery

In accordance with the provisions of section 14 of the *Australian Capital Territory (Self-Government) Act 1988*, Members must not solicit, accept or receive any remuneration, benefit or profit in exchange for services rendered in the Assembly or one of its committees other than the remuneration and allowances provided for pursuant to section 73 of the Act.

Use of confidential information

Members are reminded of their obligations pursuant to the standing orders concerning the publication of confidential information.

Members in the course of their duties often are also the recipients of information which is either confidential or unavailable to the general public. Members are privileged to receive this information. It is provided to assist them in their decision making for the benefit of the Territory. The status of this information should not be compromised.

Members are not to misuse any confidential information received, particularly for personal gain or the personal gain of others.

Conduct as employers

Members will observe the obligations placed on them as employers with respect to the terms and conditions of those who work for them. Members should extend these obligations to consultants (however employed or recruited). Members need to be aware of the requirements of the following policies: occupational health and safety; discrimination, harassment and bullying; equal employment opportunity; acceptable use of information technology and any other relevant policies and legislation.

Members should make employment decisions that are in the best interests of the Member and the Assembly. Members are advised to carefully consider the implications of employing persons in close relationships where there may be perceived conflicts of interest.

Members must ensure that their staff are aware of and abide by the relevant codes of conduct applicable to Members' staff.

Members must ensure that, where relevant, their staff also comply with the Members' Code of Conduct and that they are aware that they are obliged to support the Member's compliance with the code.

Use of entitlements

Members have a personal duty to ensure that entitlements and allowances of office pursuant to Remuneration Tribunal Determinations and as summarised in the Members' Guide are used appropriately in the service of the people of the Australian Capital Territory and not for personal gain.

Members should familiarise themselves with the entitlements available and must ensure the accuracy of all claims made in accordance with the guidelines outlined in the Members' Guide. Members should be aware that items purchased using a Member's allowance remain the property of the Assembly.

Use of public resources/property or services

Members must ensure that the resources provided to them at public expense as Members of the Legislative Assembly for the Australian Capital Territory, are only used for legitimate parliamentary and electorate purposes. Members must not misuse or permit the misuse by any other person or body of these resources.

Members shall not misuse monies allocated for official purposes.

Continuing support

This code of conduct has been established to assist Members as they serve and represent the people of the Australian Capital Territory. The Legislative Assembly respectfully requests that former Members support the spirit of this code as private citizens.

This resolution have effect from the date of its passage in the Assembly and continue in force unless and until amended or repealed by this or a subsequent Assembly.

Debate ensued.

Dr Foskey, by leave, moved the following amendments together:

- (1) in the section "**Conduct as employers**"—First paragraph—After "obligations to", insert "contractors and";
- (2) in the section "**Conduct as employers**"—End of section—Add the following new paragraph:

“Members must accept responsibility for the actions and decisions of staff in the performance of their work or duties.”;

- (3) in the section “**Conduct as employers**”—End of section—Add the following new paragraph:

“Members must ensure that staff members declare their position when participating or raising questions at public meetings, consultations and community events, and in the media.”; and

- (4) after the section “**Conduct as employers**”, insert the following new section:

“Conduct toward Assembly staff

It is expected that Members and their staff will extend professional courtesy and respect to all staff of the Assembly. Members should ensure that through their own conduct and that of their staff, reasonable employment conditions for all building occupants are maintained.

If problems or concerns with the performance or conduct of an Assembly staff member arise, these should be dealt with through appropriate policies and procedures.”.

Debate continued.

Ordered—That the question be divided.

Amendment No. (1) agreed to.

Amendment No. (2) negatived.

Amendment No. (3) negatived.

Amendment No. (4) agreed to.

Question—That the motion, as amended, viz:

“That the Code of Conduct for Members, as detailed below, prepared by the Standing Committee on Administration and Procedure (Fifth Assembly) be adopted as a resolution of continuing effect:

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- (i) A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private interest or will improperly and dishonestly further the private interest of another person.
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be agreed to—put and passed.

7 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 3—REPORT ON 2003-2004 ANNUAL AND FINANCIAL REPORTS—PUBLICATION OF REPORT—REPORT NOTED

Dr Foskey (Deputy Chair) presented the following report:

Public Accounts—Standing Committee—Report 3—*Report on 2003-2004 Annual and Financial Reports*, dated 24 August 2005, together with a copy of the extracts of the relevant minutes of proceedings—

and, by leave, moved—That the report be authorised for publication.

Question—put and passed.

Dr Foskey moved—That the report be noted.

Debate ensued.

Question—put and passed.

8 AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) ACT 1988—APPLICATION OF SECTION 15

Dr Foskey, by leave, moved—That this Assembly:

- (1) noting the provisions of section 15 of the Australian Capital Territory (Self-Government) Act 1988 and those of standing order 156 which provide that the Assembly may decide how those provisions may be applied;
- (2) decides that, notwithstanding that Dr Foskey has a residential tenancies agreement with the ACT Government, it is in the public interest to allow Dr Foskey to participate in any future discussion, or vote on a question, in relation to the Justice and Community Safety Legislation Amendment Bill 2005 (No. 2).

Question—put and passed.

9 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2005 (NO. 2)

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Leave granted to dispense with the detail stage.

Question—That this Bill be agreed to—put and passed.

10 MINISTERIAL ARRANGEMENTS

Mr Stanhope (Chief Minister) informed the Assembly of the absence of Mr Hargreaves (Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) and advised the Assembly that questions without notice normally directed to Mr Hargreaves could be directed to Mr Stanhope.

11 QUESTIONS

Questions without notice were asked.

12 PAPER

Mr Stanhope (Chief Minister), having added to an answer to a question taken on notice from Mr Smyth (Leader of the Opposition) during question time today, presented the following paper:

Policing in Civic—Extract from *Hansard*, 24 August 2005.

13 PRESENTATION OF PAPER

Mr Stanhope (Attorney-General) presented the following paper:

ACT Criminal Justice Statistical Profile—June quarter 2005.

14 PRESENTATION OF PAPER

Mr Stanhope (Minister for Arts, Heritage and Indigenous Affairs) presented the following paper:

Cultural Facilities Corporation Act, pursuant to subsection 24(8)—Cultural Facilities Corporation—Business Plan—2005-2006.

15 PRESENTATION OF PAPER

Mr Quinlan (Treasurer) presented the following paper:

Territory-owned Corporations Act, pursuant to subsection 19(3)—Statement of Corporate Intent—ACTEW Corporation Ltd—2005/06 to 2008/09.

16 PRESENTATION OF PAPERS

Mr Corbell (Minister for Health) presented the following papers:

ACT Mental Health Strategy and Action Plan 2003-2008—Progress Report—July 2005, dated August 2005.

Health—Standing Committee—Report 8—A pregnant pause: the future for maternity services in the ACT (Fifth Assembly)—Government response, dated August 2005.

17 PAPER—OUT OF ORDER PETITION

Mr Corbell (Manager of Government Business) presented the following paper:

Petition which does not conform with the standing orders—Alternative low-cost accommodation for students—Currong Apartments—Mrs Burke (144 signatures).

18 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—TOLERANCE AND RESPECT WITHIN CANBERRA COMMUNITY

The Assembly was informed that Ms Porter and Mr Pratt had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Ms Porter be submitted to the Assembly, namely, “The importance of maintaining tolerance and respect within the Canberra community, particularly in times of unease and confusion resulting from international terrorism.”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

19 PUBLIC SECTOR MANAGEMENT AMENDMENT BILL 2005 (NO. 3)

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Bill, by leave, taken as a whole—

Mr Smyth (Leader of the Opposition), by leave, moved his amendments Nos. 1 and 2 together (*see* [Schedule 1](#)).

Question—put.

The Assembly voted—

AYES, 6

Mrs Burke	Mr Smyth
Dr Foskey	Mr Stefaniak
Mr Pratt	
Mr Seselja	

NOES, 7

Mr Berry	Ms Porter
Mr Corbell	Mr Quinlan
Ms Gallagher	Mr Stanhope
Mr Gentleman	

And so it was negatived.

Bill, as a whole, agreed to.

Question—That this Bill be agreed to—put and passed.

20 HOTEL SCHOOL (REPEAL) BILL 2005

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Leave granted to dispense with the detail stage.

Question—That this Bill be agreed to—put and passed.

21 HUMAN RIGHTS COMMISSION (CHILDREN AND YOUNG PEOPLE COMMISSIONER) AMENDMENT BILL 2005

The Assembly, according to order, resumed further consideration at the detail stage.

Detail Stage

Clause 14 agreed to.

Clauses 15 to 37, by leave, taken together and agreed to.

Schedule 1—

Mr Stefaniak moved his amendment No. 1 (*see* [Schedule 3](#)).

Debate continued.

Amendment negatived.

Dr Foskey, by leave, moved her amendment No. 5 (*see* [Schedule 2](#))

Debate continued.

Amendment negatived.

Schedule 1 agreed to.

Title agreed to.

Question—That this Bill be agreed to—put.

The Assembly voted—

AYES, 8

Mr Berry

Mr Corbell

Dr Foskey

Ms Gallagher

Mr Gentleman

Ms MacDonald

Ms Porter

Mr Stanhope

NOES, 5

Mrs Burke

Mr Pratt

Mr Seselja

Mr Smyth

Mr Stefaniak

And so it was resolved in the affirmative.

22 PUBLIC ADVOCATE BILL 2005

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

Detail Stage

Bill, by leave, taken as a whole—

On the motion of Dr Foskey, her amendment No. 1 (*see* [Schedule 4](#)) was made, after debate.

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

Question—That this Bill, as amended, be agreed to—put and passed.

23 ADJOURNMENT

Mr Corbell (Manager of Government Business) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.57 p.m., adjourned until tomorrow at 9.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mr Hargreaves* and Mr Mulcahy*.

*On leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

PUBLIC SECTOR MANAGEMENT AMENDMENT ACT 2005 (NO. 3)

Amendments circulated by Mr Smyth (Leader of the Opposition)

1

Clause 14

Proposed new section 30A (2)

Page 10, line 9—

omit

2 years

substitute

12 months

2

Clause 28

Proposed new section 76A (2)

Page 17, line 7—

omit

2 years

substitute

12 months

Schedule 2**HUMAN RIGHTS COMMISSION (CHILDREN AND YOUNG PEOPLE COMMISSIONER) BILL 2005**

Amendments circulated by Dr Foskey

1

Clause 13**Proposed new section 19B (1) (aa)**

Page 7, line 5—

insert

- (aa) to promote the human rights and welfare of children and young people by—
- (i) promoting the provision of education, information and advice to children and young people; and
 - (ii) promoting and monitoring public awareness on issues that affect children and young people; and
 - (iii) conducting and monitoring research into issues that affect children and young people; and
 - (iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect children and young people; and
 - (v) promoting the participation of children and young people in making decisions that affect their lives, as appropriate to their age and maturity;
-

2

Clause 13**Proposed new section 19B (2)**

Page 7, line 8—

omit clause 19B (2), substitute

- (2) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.
-

3

Clause 14
Proposed new section 21 (1) (aa)
Page 8, line 10—
insert

- (aa) to promote the human rights and welfare of people with a disability, older people, people who use community services, and their carers, (the **groups**) by—
- (i) promoting the provision of education, information and advice to the groups; and
 - (ii) promoting and monitoring public awareness on issues that affect the groups; and
 - (iii) conducting and monitoring research into issues that affect the groups; and
 - (iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect the groups; and
 - (v) promoting the participation of people in the groups in making decisions that affect their lives;

4

Clause 14
Proposed new section 21 (2)
Page 8, line 13—
omit proposed new section 21 (2), substitute

- (2) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.

5

Schedule 1
Amendment 1.2
Page 16, line 11—
omit amendment 1.2, substitute

[1.2] Section 5 (2) (n)
omit

Schedule 3**HUMAN RIGHTS COMMISSION (CHILDREN AND
YOUNG PEOPLE COMMISSIONER) BILL 2005**

Amendment circulated by Mr Stefaniak

1

Schedule 1

Part 1.2

Page 16, line 10—

omit

Schedule 4

PUBLIC ADVOCATE BILL 2005

Amendment circulated by Dr Foskey

1
Schedule 1
Proposed new part 1.7A
Page 24, line 12—

insert

Part 1.7A Ombudsman Act 1989

[1.19A] Section 6B (1) (c)

substitute

- (c) the essential services consumer council;
 - (d) the public advocate.
-