



# LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019–2020

## MINUTES OF PROCEEDINGS

No 126

**TUESDAY, 18 FEBRUARY 2020**

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- 1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms J. Burch) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.
- 2 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE (LEGISLATIVE SCRUTINY ROLE)—SCRUTINY REPORT 39—STATEMENT BY CHAIR**  
Mrs Jones (Chair) presented the following report:  
Justice and Community Safety—Standing Committee (Legislative Scrutiny Role)—Scrutiny Report 39, dated 17 February 2020, together with a corrigendum to the Report and a copy of the extracts of the relevant minutes of proceedings—  
and, by leave, made a statement in relation to the report.
- 3 **HEALTH, AGEING AND COMMUNITY SERVICES—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR**  
Ms Cody (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments for the period 1 July to 31 December 2019 by the Standing Committee on Health, Ageing and Community Services.
- 4 **PLANNING AND URBAN RENEWAL—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR**  
Ms Le Couteur (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments for the period 1 July to 31 December 2019 by the Standing Committee on Planning and Urban Renewal.



**5 HYDROTHERAPY SERVICES IN THE A.C.T.—UPDATE—MINISTERIAL STATEMENT—PAPER NOTED**

Ms Stephen-Smith (Minister for Health) made a ministerial statement concerning progress on arrangements for the provision of hydrotherapy in the south of Canberra and presented the following paper:

Hydrotherapy in the ACT—Update—Ministerial statement, 18 February 2020.

Ms Stephen-Smith moved—That the Assembly take note of the paper.

Debate ensued.

Question—put and passed.

**6 ECONOMIC DEVELOPMENT AND TOURISM—STANDING COMMITTEE—CONSIDERATION OF STATUTORY APPOINTMENTS—STATEMENT BY CHAIR—PAPER**

Mr Hanson (Chair), pursuant to standing order 246A and Continuing Resolution 5A, made a statement concerning consideration of statutory appointments by the Standing Committee on Economic Development and Tourism during the periods 1 January to 30 June and 1 July to 31 December 2019.

*Paper:* Mr Hanson, pursuant to Continuing Resolution 5A, presented the following paper:

Economic Development and Tourism—Standing Committee—Schedule of Statutory Appointments—9<sup>th</sup> Assembly—Periods 1 January to 30 June and 1 July to 31 December 2019.

**7 HERITAGE AMENDMENT BILL 2019**

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.

Mrs Jones drew the attention of the Speaker to the fact that a quorum of Members was not present.

The bells having been rung, and a quorum formed—

Debate continued.

*Paper:* Mr Gentleman (Minister for the Environment and Heritage) presented a revised explanatory statement to the Bill.

Mr Gentleman, by leave, was granted an extension of time.

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.

**8 UNIT TITLES LEGISLATION AMENDMENT BILL 2019**

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.

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*Detail Stage*

Clauses 1 to 23, by leave, taken together and agreed to.

*New clause—*

On the motion of Ms Le Couteur, new clause 23A (her amendment No 1—see [Schedule 1](#)) was inserted in the Bill.

Clause 24 agreed to.

Ms Le Couteur was granted leave to move the following amendment that had not been considered or reported on by the Scrutiny Committee.

*New clause—*

On the motion of Ms Le Couteur, new clause 24A (her amendment No 2—see [Schedule 1](#)) was inserted in the Bill.

Clause 25 agreed to.

Ms Le Couteur was granted leave to move the following amendment that had not been considered or reported on by the Scrutiny Committee.

*New clauses—*

On the motion of Ms Le Couteur, new clauses 25A and 25B (her amendment No 3—see [Schedule 1](#)) were inserted in the Bill.

Clauses 26 to 42, by leave, taken together and agreed to.

Ms Le Couteur was granted leave to move the following amendment that had not been considered or reported on by the Scrutiny Committee.

*New clauses—*

On the motion of Ms Le Couteur, new clauses 42A and 42B (her amendment No 4—see [Schedule 1](#)) were inserted in the Bill.

Clauses 43 to 54, by leave, taken together and agreed to.

Mr Gentleman (Minister for Planning and Land Management) was granted leave to move amendments that had not been circulated in accordance with standing order 178A and, pursuant to standing order 182A(b), were minor or technical in nature.

*New clause—*

On the motion of Mr Gentleman, new clause 54A (his amendment No 1—see [Schedule 2](#)) was inserted in the Bill.

*Paper:* Mr Gentleman presented a supplementary explanatory statement to the Government amendments.

Clauses 55 to 86, by leave, taken together and agreed to.

Clause 87—

On the motion of Mr Parton, his amendment No 1 (see [Schedule 3](#)) was made.

*Paper:* Mr Parton, by leave, presented a supplementary explanatory statement to his amendments.

Clause 87, as amended, agreed to.

*New clause—*

On the motion of Mr Parton, new clause 87A (his amendment No 2—see [Schedule 3](#)) was inserted in the Bill.

Clauses 88 to 92, by leave, taken together and agreed to.

Clause 93—

Ms Le Couteur was granted leave to move the following amendment that had not been considered or reported on by the Scrutiny Committee.

On the motion of Ms Le Couteur, her amendment No 5 (see [Schedule 1](#)) was made.

Clause 93, as amended, agreed to.

Clauses 94 to 103, by leave, taken together and agreed to.

Clause 104—

On the motion of Mr Gentleman, by leave, his amendments Nos 2 and 3 (see [Schedule 2](#)) were made together.

Clause 104, as amended, agreed to.

Clauses 105 to 112, by leave, taken together and agreed to.

Clause 113—

On the motion of Ms Le Couteur, her amendment No 6 (see [Schedule 1](#)) was made.

Clause 113, as amended, agreed to.

Clauses 114 to 133, by leave, taken together and agreed to.

*New clause—*

On the motion of Ms Le Couteur, new clause 133A (her amendment No 7—see [Schedule 1](#)) was inserted in the Bill.

Clause 134—

On the motion of Mr Gentleman, his amendment No 4 (see [Schedule 2](#)) was made.

Clause 134, as amended, agreed to.

Clauses 135 and 136, by leave, taken together and agreed to.

Clause 137—

On the motion of Ms Le Couteur, her amendment No 8 (see [Schedule 1](#)) was made.

Clause 137, as amended, agreed to.

Clauses 138 and 139, by leave, taken together and agreed to.

Schedule 1—

Ms Le Couteur was granted leave to move the following amendment that had not been considered or reported on by the Scrutiny Committee.

On the motion of Ms Le Couteur, her amendment No 9 (see [Schedule 1](#)) was made.

Schedule 1, as amended, agreed to.

Title agreed to.

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

## 9 LEAVE OF ABSENCE TO MEMBERS

Mrs Jones moved—That leave of absence be granted to Mr Wall and Ms Lawder today for personal reasons.

Question—put and passed.

## 10 QUESTIONS

Questions without notice were asked.

## 11 PRESENTATION OF PAPERS

Mr Gentleman (Manager of Government Business) presented the following papers:

Administrative Arrangements—Administrative Arrangements 2020 (No 1)—Notifiable Instrument NI2020-106, dated 12 February 2020.

Annual Reports (Government Agencies) Act, pursuant to section 13—Annual reports—Chief Minister, Treasury and Economic Development Directorate—Corrigenda—

2017-2018, dated February 2020.

2018-2019 (Volume 1), dated February 2020.

Auditor-General's reports—Government responses—Copy of letter to the Auditor-General from the Treasurer, dated 17 February 2020, concerning Report Nos 9/2019—2018-19 Financial Audit—Financial Results and Audit Findings, and 10/2019—Financial Results and Audit Findings.

Electricity Feed-in (Renewable Energy Premium) Act—

Pursuant to section 13—

*Electricity Feed-in (Renewable Energy Premium) Act 2008*—Review, dated October 2018.

Government response to the findings of the Review and Audit of the Small and Medium Feed-in Tariff Scheme, dated October 2019.

Internal Audit of the Small and Medium Feed-in Tariff Scheme Reporting Data—Final Report, dated September 2019.

Crimes (Sentence Administration) Act, pursuant to subsection 81(1)—Intensive Correction Orders Review Report, dated November 2019.

Planning and Development Act, pursuant to subsection 242(2)—Statement of leases granted for the period 1 October to 31 December 2019, dated February 2020.

*Rail Safety National Law (South Australia) Act 2012*—Rail Safety National Law National Regulations (Application of Law) Variation Regulations 2019 (No 238 of 2019), together with an explanatory statement.

**Subordinate legislation (including explanatory statements unless otherwise stated)**

Legislation Act, pursuant to section 64—

Court Procedures Act—Court Procedures (Fees) Determination 2020 (No 1)—Disallowable Instrument DI2020-13 (LR, 31 January 2020).

Legal Aid Act—Legal Aid (Commission President) Appointment 2020—Disallowable Instrument DI2020-12 (LR, 30 January 2020).

Public Health Act—Public Health (Novel Coronavirus—Temporary Notifiable Condition) Declaration 2020—Disallowable Instrument DI2020-14 (LR, 3 February 2020).

Public Unleased Land Act—Public Unleased Land (Fees) Determination 2020 (No 1)—Disallowable Instrument DI2020-11 (LR, 30 January 2020).

Road Transport (Safety and Traffic Management) Act—Road Transport (Safety and Traffic Management) Amendment Regulation 2020 (No 1)—Subordinate Law SL2020-4 (LR, 6 February 2020).

**12 CRIMES (SENTENCE ADMINISTRATION) ACT—INTENSIVE CORRECTION ORDERS REVIEW REPORT—PAPER NOTED**

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, moved—That the Assembly take note of the following paper:

Crimes (Sentence Administration) Act, pursuant to subsection 81(1)—Intensive Correction Orders Review Report.

Debate ensued.

Question—put and passed.

**13 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—VOLUNTEERING**

The Assembly was informed that Ms Cheyne, Ms Cody, Mr Coe (Leader of the Opposition), Mrs Dunne, Mr Gupta, Mr Hanson, Mrs Kikkert, Ms Lawder, Ms Le Couteur, Ms Lee, Mr Milligan, Mr Parton, and Mr Pettersson 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 Mr Milligan be submitted to the Assembly, namely, “The importance of recognising and valuing volunteering across the ACT”.

Discussion ensued.

Discussion concluded.

**14 ADJOURNMENT**

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

Debate ensued.

Mrs Kikkert, by leave, was granted an extension of time.

Debate continued.

Question—put and passed.

And then the Assembly, at 4.08 pm, adjourned until tomorrow at 10 am.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting, except Mr Wall\*.

\*on leave

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**Tom Duncan**  
Clerk of the Legislative Assembly

## SCHEDULES OF AMENDMENTS

### Schedule 1

#### UNIT TITLES LEGISLATION AMENDMENT BILL 2019

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Amendments circulated by Ms Le Couteur

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1

**Proposed new clause 23A**

**Page 22, line 14—**

*insert*

#### **23A New section 9 (1) (g) (iv)**

*insert*

- (iv) if the unit is an adaptable housing dwelling—drawings and plans demonstrating compliance with Australian Standard AS 4299-1995 (Adaptable Housing);
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2

**Proposed new clause 24A**

**Page 22, line 17—**

*insert*

#### **24A New section 9 (2) (aa)**

*insert*

- (aa) a document mentioned in subsection (1) (g) (iv) is not required for a unit that is an off-the-plan purchase; and
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3

**Proposed new clauses 25A and 25B**

**Page 22, line 26—**

*insert*

#### **25A New part 3A**

*insert*

### **Part 3A Adaptable housing**

#### **23A Meaning of *adaptable housing dwelling***

In this Act:

*adaptable housing dwelling* means a dwelling that complies with Australian Standard AS 4299-1995 (Adaptable Housing).



**23B Adaptable housing—advertising**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for the sale of a unit; and
  - (b) the unit is an adaptable housing dwelling; and
  - (c) the advertisement does not contain a statement that the unit is an adaptable housing dwelling.
- Maximum penalty: 5 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.

**25B Dictionary, new definition of *adaptable housing dwelling****insert**adaptable housing dwelling*—see section 23A.

4

**Proposed new clauses 42A and 42B  
Page 41, line 1—***insert***42A New section 11AAA***insert***11AAA Adaptable housing—advertising**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for the lease of a unit; and
  - (b) the unit is an adaptable housing dwelling; and
  - (c) the advertisement does not contain a statement that the unit is an adaptable housing dwelling.
- Maximum penalty: 5 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.

**42B Section 12 (4), new definitions***insert**adaptable housing dwelling* means a dwelling that complies with Australian Standard AS 4299-1995 (Adaptable Housing).*unit*—see the *Unit Titles Act 2001*, dictionary.

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 5
**Clause 93****Proposed new section 108 (3) (f)****Page 68, line 17—***omit proposed new section 108 (3) (f), substitute*

- (f) prohibiting or restricting the installation, operation or maintenance of sustainability infrastructure in or on the common property or a unit; or

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 6
**Clause 113****Page 84, line 13—***omit clause 113, substitute*


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**113 First annual general meeting—developer to deliver records**  
**Schedule 3, section 3.4 (c)**
*substitute*

- (c) any plans, specifications, diagrams or drawings that relate to the design or service of the units or common property of the units plan, including the development approval and any condition to which the approval is subject;
- (ca) the developer's maintenance schedule for the common property;

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 7
**Proposed new clause 133A****Page 90, line 7—***insert*


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**133A Dictionary, definition of *sustainability infrastructure***
*substitute**sustainability infrastructure—*

- (a) means infrastructure or equipment that—
    - (i) if installed in relation to a units plan—
      - (A) improves the environmental sustainability of the units; or
      - (B) reduces the environmental impact of the owners corporation and the units owners; and
    - (ii) if installed in relation to a unit—
      - (A) improves the environmental sustainability of the unit; or
      - (B) reduces the environmental impact of the unit; and
  - (b) includes related utility service connections and equipment.
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**8****Clause 137****Proposed new schedule 1, section 1.4 (3)****Page 96, line 10—***insert*

- (3) However, if the structure is sustainability infrastructure, the owners corporation's permission must not be unreasonably withheld.

**Examples—permission not unreasonably withheld**

- safety considerations
- structural considerations

**Example—permission unreasonably withheld**external appearance of a unit or the units plan

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**9****Schedule 1****Proposed new section 2 (a)****Page 100, line 13—***omit proposed new section 2 (a), substitute*

- (a) if the building in the units plan is authorised by a development approval—
- (i) identify the development approval; and
  - (ii) include a statement about any condition to which the development approval is subject;
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**Schedule 2****UNIT TITLES LEGISLATION AMENDMENT BILL 2019**

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Amendments circulated by the Minister for Planning and Land Management

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**1****Proposed new clause 54A  
Page 48, line 2—***insert***54A Owners corporation—establishment  
New section 8 (1A)***insert*

- (1A) To remove any doubt, an owners corporation continued in existence under this Act is established under this section.

*Note 1* An owners corporation in existence under the *Unit Titles Act 2001* immediately before the commencement of s 150 (expired) is continued in existence as an owners corporation under that section.

*Note 2* **Establish** includes constitute and continue in existence (see Legislation Act, dict, pt 1, def **establish**).

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**2****Clause 104  
Proposed new section 167 (1)  
Page 78, line 10—***omit*

section 22

*substitute*

this Act

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**3****Clause 104  
Proposed new section 169  
Page 79, line 11—***omit proposed new section 169, substitute***169 Rules**

- (1) This section applies to an owners corporation established before the commencement day.
- (2) On the commencement day—
- (a) the articles or rules of the owners corporation—

- (i) are the default rules under the *Unit Titles (Management) Regulation 2011*, schedule 1; and
  - (ii) are taken to be rules for the owners corporation under this Act; and
- (b) if immediately before the commencement day non-standard rules are in force for the owners corporation—the default rules mentioned in paragraph (a) (i) apply as amended by the non-standard rules.
- (3) A non-standard rule mentioned in subsection (2) (b) that is inconsistent with this Act or another territory law has no effect to the extent of the inconsistency.
  - (4) A unit owner may only apply to the ACAT for a declaration under section 127 (1) in relation to a non-standard rule if, after the second annual general meeting of the owners corporation after the commencement day, the non-standard rule is still in force.
  - (5) This section applies even if the non-standard rule was not registered under the *Land Titles (Unit Titles) Act 1970*, section 27 before the commencement day.
  - (6) This section is subject to section 170.
  - (7) In this section:

*non-standard rule* means an article or rule of the owners corporation other than the default rules as in force immediately before the commencement day.

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4

**Clause 134**

**Proposed new section 4A (a) (iiia)**

**Page 91, line 14—**

*insert*

(iiia) lifts;

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### **Schedule 3**

#### **UNIT TITLES LEGISLATION AMENDMENT BILL 2019**

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Amendments circulated by Mr Parton

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**1**

**Clause 87**

**Proposed new section 100 (3) (a)**

**Page 64, line 11—**

*omit*

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**2**

**Proposed new clause 87A**

**Page 65, line 8—**

*insert*

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**87A New section 100A**

*insert*

**100A Lodgment of insurance claims**

- (1) This section applies to an insurance claim made in relation to a building on the land in relation to a units plan.
- (2) The responsible entity for the units plan must—
  - (a) lodge the insurance claim; and
  - (b) pay any excess payable in relation to the insurance claim.
- (3) In this section:

*responsible entity*—see section 100 (5).

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