BUDGET PROTOCOLS FOR THE OFFICE OF THE LEGISLATIVE ASSEMBLY
1. **PREAMBLE**

1.1 This document establishes: the principles to which the parties commit; the responsibilities of the participants in the budgetary process; and the protocols to be observed in developing and considering budget appropriations for the Office of the Legislative Assembly (the Office).

1.2 It gives further effect to the separation of powers doctrine while at the same time acknowledging and supporting the financial initiative of the Executive (the right of the Executive to develop and frame appropriations for consideration by the Legislature).
2. PARTIES

2.1 The following parties endorse and commit to this agreement:

- **The ACT Legislature**
  Represented by Vicki Dunne MLA, Speaker of the Legislative Assembly for the Australian Capital Territory

- **The ACT Executive**
  Represented by Katy Gallagher MLA, Chief Minister for the ACT
3. **TERM OF EFFECT**

3.1 The protocols, in the form of an agreement, will have effect upon signing by each party and will be tabled in the Assembly by the Speaker.

3.2 The agreement will remain in effect in the form tabled unless otherwise discontinued or amended by mutual agreement of the parties.

3.3 The agreement may be discontinued by written agreement of the parties. Where the agreement is discontinued, the Assembly will be notified on the first sitting day following its discontinuation.

3.4 The agreement may be amended with the written agreement of the parties. Where the agreement is amended, a copy of the agreement, as amended, will be tabled in the Assembly on the first sitting day following the amended agreement having been agreed and signed by the parties.

3.5 The parties agree that a review will be conducted in 2016 to assess whether the agreement is working effectively, with details of the reviewer, the scope and the timing to be agreed between the parties at the beginning of the 2016 calendar year.
4. **SCOPE OF EFFECT**

4.1 Nothing in the agreement purports to take precedence over, or to limit any rights or obligations arising from: the standing orders; legislation; or resolutions of the Assembly.

4.2 Where a conflict with the agreement arises, it will be resolved in favour of the relevant standing order, legislation, or resolution of the Assembly.

4.3 The agreement should be read in conjunction with the following:

- *Legislative Assembly (Office of the Legislative Assembly) Act 2012*
- *Financial Management Act 1996*
- *Public Sector Management Act 1994*
- *Standing Orders and Continuing Resolutions of the Assembly*
5. STATEMENT OF PRINCIPLES

5.1 The parties commit to advance the separation of powers doctrine as it relates to the mutually independent status of the legislative and executive branches of government in the ACT’s form of parliamentary democracy. The parties recognise that each branch has distinct roles and responsibilities that will not be encroached by one another.

5.2 The parties agree that the doctrine will be given due recognition at all stages of the development and consideration of the annual budget and appropriation bill for the Office of the Legislative Assembly and any additional appropriation.

5.3 The parties acknowledge and support the principle of the financial initiative of the Executive – the exclusive right of executive arm of government to develop and frame appropriation bills for consideration by the legislative arm of government.

5.4 The parties acknowledge that, while the executive government is entitled to frame a budget appropriation bill as it sees fit, the recommended appropriation for the Office of the Legislative Assembly will, as a matter of fundamental principle, be regarded as a statement of the Legislature’s resource requirements and priorities.

5.5 The parties acknowledge that there will be occasions in which the demands of government policy have the potential to conflict with the roles and functions of an effective legislature. Where these conflicts – potential or otherwise – arise, the parties agree to ensure that the Legislature can perform its accountability, representative and legislative roles effectively.

5.6 The parties recognise and support the independent status of the Legislative Assembly and the Office of the Legislative Assembly in its capacity as the Legislature’s primary source of administrative and procedural advice and support.

5.7 The parties acknowledge that the Office of the Assembly is not subject to the direction of the Executive and is not, therefore, bound by policies, procedures and other governance arrangements promulgated by the Executive or its officers in the ACT public service, unless otherwise provided for by law.
6. **BUDGET RESPONSIBILITIES**

**THE SPEAKER**

6.1 Pursuant to s20 of the *Financial Management Act 1996*, the parties acknowledge that the Speaker is responsible for:

- consulting with the Standing Committee on Administration and Procedure on the *recommended appropriation* (s20(a)) for the Office;
- approving the *recommended appropriation and draft budget* (s20(b)) for the Office of the Legislative Assembly; and
- transmitting the *recommended appropriation and the draft budget* to the Treasurer according to the timetable agreed with Treasury as part of the budget process.

6.2 Where the Speaker seeks to advance an Assembly Budget Proposal on behalf of the Office, the parties agree that the Speaker shall be given the opportunity to make an oral submission to the Budget Cabinet Committee on the *recommended appropriation*.

**THE CLERK**

6.3 The parties agree that the Clerk, supported by the Office, is responsible for:

- providing advice to the Speaker and the Standing Committee on Administration and Procedure on the funding requirements of the Office;
- preparing information and analysis for the Speaker to assist in quantifying the *recommended appropriation and draft budget* for the Office;
- preparing any Assembly Budget Proposals forming part of the *recommended appropriation and draft budget* for the consideration of the Speaker;
- providing sufficient and timely information to the Executive to allow technical and other adjustments to the Office’s annual budget to be made and to allow year to year comparisons to be made in relation to the Office’s financial statements; and
- appearing before the Budget Cabinet Committee to assist in the Speaker’s oral submission on the *recommended appropriation*.

**THE STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE**

6.4 Pursuant to s20 of the *Financial Management Act 1996*, the parties acknowledge that the Standing Committee on Administration and Procedure will be consulted in relation to the *recommended appropriation* that is to be transmitted to the Treasurer by the Speaker.

6.5 The parties acknowledge that the Standing Committee on Administration has a consultative, although not determinative, role in the development of the *recommended appropriation* transmitted by the Speaker to the Treasurer.
THE TREASURER

6.6 The parties agree that the Treasurer is responsible for receiving the *recommended appropriation* from the Speaker and transmitting the *recommended appropriation* to all members of the Cabinet for the consideration of the Budget Cabinet Committee.

6.7 The Treasurer is also required to present a statement of reasons to the Assembly where the appropriation for the Office of the Legislative Assembly is less than the *recommended appropriation* sought by the Speaker.

BUDGET CABINET COMMITTEE

6.8 The parties agree that the Budget Cabinet Committee is responsible for deciding the amount of funding to be included in the appropriation bill for the Office, including whether or not Assembly Budget Proposals will be funded via appropriation.
Clerk conveys Office's budget requirements to the Speaker

Speaker determines the **proposed** recommended appropriation

Speaker consults (s20(a) FM Act) with Standing Committee on Administration and Procedure on the **proposed** recommended appropriation

Speaker determines the **recommended** appropriation (s20(a) FM Act)

Does the recommended appropriation contain any Assembly Budget Proposals (ABPs)?

**NO**

Recommended appropriation consists only of baseline + technical adjustments (i.e. no ABPs)

**YES**

Recommended appropriation consists of baseline + technical adjustments + ABP/s (provided in concept brief form)

Speaker makes oral submission on **recommended appropriation** before BCC

Budget Cabinet Committee (BCC) approves **recommended appropriation**

BCC approves ABP/s on the basis of concept brief alone

BCC requests business case analysis for ABP/s

BCC rejects ABP/s

Office prepares business case, Speaker transmits to Treasurer

BCC approves ABP/s

BCC rejects ABP/s

Speaker transmits draft budget (s20(b) FM Act) to Treasurer containing **recommended appropriation**

Treasurer drafts and tables appropriation bill for the Office containing **recommended appropriation**

Assembly considers Appropriation (Office of the Legislative Assembly) Bill

Speaker transmits draft budget (s20(b) FM Act) to Treasurer less funding for rejected ABP/s

Treasurer drafts and tables appropriation bill in accordance with the draft budget provided by the Speaker (i.e. recommended appropriation less funding for rejected ABP/s)

Treasurer presents to the Assembly a statement of reasons for departing from the recommended appropriation (s20AA(2) FM Act)
8. BUDGET PROTOCOLS

8.1 The parties commit to and will abide by the following protocols in relation to the development and consideration of the budget for the Office of the Legislative Assembly.

RECOMMENDED APPROPRIATION

8.2 Prior to the end of a given financial year (typically prior to the end of the second quarter), the Speaker will transmit the recommended appropriation to the Treasurer for the subsequent financial year.

8.3 In any given year, the recommended appropriation, in relation to both the Territorial and Controlled entities administered by the Office, is taken to mean:

a) Base funding

\[ + \]

b) Technical adjustments

\[ + \]

c) Funding for any Assembly Budget Proposals

8.4 Given precise quanta are not available at the time that the recommended appropriation is provided to the Treasurer, the recommended appropriation will not generally contain a specific amount in relation to: a) Base funding + b) Technical adjustments.

BASE FUNDING

8.5 The Office’s base funding refers to the funding appropriated to the Office in the current financial year in which a recommended appropriation is transmitted for the subsequent year and includes:

- ‘Government Payment for Outputs’ (Controlled Entity)
- ‘Payments on Behalf of the Territory’ (Territorial Entity)
- ‘Capital Upgrades Funding’ (Territorial)
- ‘Capital Injection Funding’ (Controlled)

TECHNICAL ADJUSTMENTS TO THE BUDGET

8.6 Technical adjustments refer to accounting and other technical adjustments such as consumer price indexation or adjustments arising from changes to applicable Australian Accounting Standards.

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1 Where the name of these revenue sources changes in the future ACT Treasury nomenclature, equivalence should be drawn between these terms (as they were applied in the 2012-13 budget papers) and any new terms.
ASSEMBLY BUDGET PROPOSALS

8.7 An Assembly Budget Proposal is any proposal advanced by the Speaker in relation to the Territorial or Controlled entities administered by the Office seeking additional appropriation, above and beyond the Office’s base budget.

8.8 All Assembly Budget Proposals will relate to:

- the effective performance of the roles and functions outlined in s6 of the Legislative Assembly (Office of the Legislative Assembly) Act 2012; and/or
- the effective performance of the legislative, representative and accountability related functions of the Legislature and its members.

8.9 Assembly Budget Proposals will typically be developed in two stages: 1. the concept stage; and 2. the business case stage (where required).

Concept brief stage

8.10 Prior to the end of a financial year (generally prior to the conclusion of the second quarter of a given financial year), the Speaker will transmit to the Treasurer any Assembly Budget Proposals for the subsequent year in the form of a concept brief.

8.11 Concept briefs will provide sufficient financial information and relevant supporting evidence such that would allow due and proper consideration by Budget Cabinet Committee, including relevant information in relation to:

- the underlying policy rationale for a proposal and a proposal’s capacity to support the effective performance of the roles and functions of the Legislature, MLAs, and the Office;
- the estimated financial impacts of a proposal, including any out-year effects; and
- any risk management or cost-benefit analyses undertaken in relation to a proposal.

8.12 Upon receipt of an Assembly Budget Proposal from the Speaker, the Treasurer will circulate the proposal to members of the Cabinet and list the proposal on the agenda of the Budget Cabinet Committee.

8.13 Where the Speaker has one or more Assembly Budget Proposals to advance, the parties agree that the Speaker is entitled to be heard by the Budget Cabinet Committee in relation to the recommended appropriation of the Office.

8.14 The parties agree that the Executive, through Cabinet, will give due and proper consideration to the recommended appropriation including any Assembly Budget Proposals advanced by the Speaker.

8.15 The Budget Cabinet Committee will consider any Assembly Budget Proposals and determine whether proposal/s:

a) are agreed to on the basis of the concept brief alone; or
b) require further analysis in the form of a business case for further consideration by the Budget Cabinet Committee; or

c) are not agreed to.

8.16 Following the Cabinet having made its decision in relation to paragraph 8.15 the Treasurer will write to the Speaker advising of the Cabinet’s decision.

Business case stage

8.17 Where the Cabinet agrees that an Assembly Budget Proposal will be further considered in the form of a business case, the Speaker will transmit to the Treasurer a more detailed analysis of any proposal.

8.18 The Budget Cabinet Committee will give due and proper consideration to the additional analysis and determine whether:

a) the proposal is agreed to; or

b) the proposal is not agreed to.

8.19 Following the Cabinet having made its decision in relation to paragraph 8.18 the Treasurer will write to the Speaker advising of the Cabinet’s decision.

DRAFT BUDGET

8.20 Following the receipt of the Budget Cabinet Committee’s consideration of the recommended appropriation for the Office, the Office will prepare a draft budget (pursuant to s20(b)) of the FM Act) for the Speaker’s approval.

8.21 Where the recommended appropriation is agreed to by the Budget Cabinet Committee, the draft budget will be drafted consistent with that decision.

8.22 Where the recommended appropriation is not agreed to by the Budget Cabinet Committee, the Speaker will transmit a draft budget which does not contain any funding that has been not approved by the Budget Cabinet Committee.

8.23 Pursuant to s20AA of the FM Act, where the amount contained in Appropriation (Office of the Legislative Assembly) Bill is less than that sought in the recommended appropriation, the Treasurer is required to ‘present to the Legislative Assembly a statement of reasons for departing from the recommended appropriation’.

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9. **OWN SOURCE REVENUE**

9.1 The parties agree that any own source revenue generated by the Office will be retained by the Office.
10. **OFFICE TO RETAIN UNSPENT GPO APPROPRIATION**

10.1 Any funds appropriated as Government Payment for Outputs not expended during the course of a financial year (except in relation to payments for superannuation), will be retained by the Office the following year.

10.2 The Office will invest any surplus and may draw down on any investment balance to meet expenditure requirements or current and future liabilities.
11. **BUDGET PROCESS REQUIREMENTS**

11.1 The parties recognise that the administrative arrangements that apply to the development and consideration of budgets for executive government agencies are not always well-suited for application to the Legislature.

11.2 The Office and the Treasury will develop dedicated budget process arrangements, including timetabling requirements, and associated pro forma so that the Office is not required to explain how its budget proposals align with government policy.
12. TERRITORIAL ENTITY FUNDING IN AN ELECTION YEAR

12.1 In determining the amount appropriated with respect to Payment for Expenses on behalf of Territory in a financial year in which a Territory election occurs, the Executive will give due consideration to the potential for abnormally high liabilities being incurred by the Office in meeting the costs associated with termination payments and paying out employee entitlements.
13. **FUNDING EMPLOYEE LIABILITIES**

13.1 Where the total amount of employee entitlements paid, or required to be paid, by the Office in a given financial year exceeds the amount appropriated for the Office in relation to employee entitlements for the financial year, the parties agree that the Office will be given the same consideration by the Executive as that given to other Territory entities with respect to appropriation for accrued employee entitlements pursuant to s16A of the *Financial Management Act 1996*. 
14. SAVINGS PROPOSALS

14.1 The parties agree that, although the Executive has historically not applied any across-the-board savings proposals to the Assembly, it may decide to do so in the future. Should there be such a proposal, the parties agree that the Executive will consult with the Speaker who, in turn, will consult with the Standing Committee on Administration and Procedure.

Vicki Dunne MLA
Speaker
On behalf of the Legislative Assembly for the ACT
24 June 2014

Katy Gallagher MLA
Chief Minister
On behalf of the ACT Executive
24 June 2014