LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2020–2021–2022–2023–2024

MINUTES OF PROCEEDINGS

No 124

THURSDAY, 6 JUNE 2024

1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms Burch) took the Chair and made the following acknowledgement of country in the Ngunnawal language:

Dhawura nguna, dhawura Ngunnawal.
Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.
Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

This is Ngunnawal Country.
Today we are gathering on Ngunnawal country.
We always pay respect to Elders, female and male, and Ngunnawal country.

The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 SUB JUDICE CONVENTION—APPLICATION—STATEMENT BY SPEAKER—SPEAKER'S RULING

The Speaker made a statement concerning the application of the sub judice convention set out in the continuing resolution 10 of the Assembly. The Speaker ruled that notice No 2, Assembly business was out of order, as a paragraph of the motion was in breach of continuing resolution 10, and that the notice be removed from the *Notice Paper.*

Dissent from Speaker's ruling moved: Ms Lee (Leader of the Opposition) moved—That the Speaker's ruling be dissented from.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 8	NOES, 15	
Peter Cain	Andrew Barr	Laura Nuttall
Leanne Castley	Yvette Berry	Marisa Paterson
Ed Cocks	Andrew Braddock	Michael Pettersson
Elizabeth Kikkert	Joy Burch	Shane Rattenbury
Nicole Lawder	Tara Cheyne	Chris Steel
Elizabeth Lee	Jo Clay	Rachel Stephen-Smith
James Milligan	Emma Davidson	Rebecca Vassarotti
Mark Parton	Mick Gentleman	

And so it was negatived.

3 A.C.T. PLANNING SYSTEM GOVERNANCE REVIEW—A.C.T. PLANNING SYSTEM REVIEW AND REFORM PROJECT—INDEPENDENT REVIEW—ASSEMBLY RESOLUTION OF 31 MAY 2023—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Mr Barr (Chief Minister) made a ministerial statement concerning the ACT Planning System Governance Review, in response to Assembly resolution of 31 May 2023 concerning an independent review of the ACT Planning System Review and Reform Project, and presented the following papers:

ACT Planning System Governance Review—Final Report, prepared by PEG Consulting.

ACT Planning System Governance Review (in response to ACT Planning System Review and Reform Project—Independent review—Assembly resolution of 31 May 2023)—Ministerial statement, 6 June 2024.

Mr Barr moved—That the Assembly take note of the ministerial statement.

Debate ensued.

Question—put and passed.

4 COMMISSIONER FOR SUSTAINABILITY AND THE ENVIRONMENT ACT—COMMISSIONER FOR SUSTAINABILITY AND THE ENVIRONMENT—A.C.T. STATE OF THE ENVIRONMENT REPORT—2023—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Ms Vassarotti (Minister for the Environment, Parks and Land Management) made a ministerial statement concerning the Government response to the *ACT State of the Environment Report 2023* and presented the following papers:

Commissioner for Sustainability and the Environment Act, pursuant to section 19(3)—Commissioner for Sustainability and the Environment—ACT State of the Environment Report 2023—Government response, dated June 2024.

ACT State of the Environment Report 2023—Government response—Ministerial statement, 6 June 2024.

Ms Vassarotti moved—That the Assembly take note of the ministerial statement.

Debate ensued.

Question—put and passed.

5 DHULWA INDEPENDENT OVERSIGHT BOARD—REPORT 4—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Ms Davidson (Minister for Mental Health) made a ministerial statement concerning the fourth report of the Dhulwa Independent Oversight Board and presented the following papers:

Dhulwa Independent Oversight Board—Report 4—

Report, dated 7 February 2024.

Ministerial statement, 6 June 2024.

Ms Davidson moved—That the Assembly take note of the ministerial statement.

Question—put and passed.

6 CONTINUING RESOLUTION 6A—ETHICS AND INTEGRITY ADVISER—AMENDMENT

Ms Burch (Speaker), pursuant to notice, moved—That continuing resolution 6A be amended at paragraph (6), by omitting “3 months” and substituting “6 months”.

Question—put and passed.

7 JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE—REPORT 28—INQUIRY INTO IMMEDIATE TRAUMA SUPPORT SERVICES IN THE A.C.T.—REPORT NOTED

Mr Cain (Chair) presented the following report:

Justice and Community Safety—Standing Committee—Report 28—*Inquiry into immediate trauma support services in the ACT,* dated 29 May 2024, together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

Question—put and passed.

8 PUBLIC SECTOR MANAGEMENT AMENDMENT BILL 2024

Mr Barr (Chief Minister), pursuant to notice, presented a Bill for an Act to amend the *Public Sector Management Act 1994*.

Paper: Mr Barr presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

Mr Barr moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Cain) and the resumption of the debate made an order of the day for the next sitting.

9 HEALTH LEGISLATION AMENDMENT BILL 2024

Ms Stephen-Smith (Minister for Health), pursuant to notice, presented a Bill for an Act to amend legislation about health, and for other purposes.

Paper: Ms Stephen-Smith presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

Ms Stephen-Smith moved—That this Bill be agreed to in principle.

Debate adjourned (Ms Castley) and the resumption of the debate made an order of the day for the next sitting.

10 CRIMES (DISCLOSURE) LEGISLATION AMENDMENT BILL 2024

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.

11 VICTIMS OF CRIME (FINANCIAL ASSISTANCE) AMENDMENT BILL 2024

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.

12 QUESTIONS

Questions without notice being asked—

Paper: Ms Lee (Leader of the Opposition), by leave, presented the following paper:

Disability parking—Copy of a social media post, dated 29 March 2024, including photos (x5).

Questions continued.

13 PRESENTATION OF PAPERS

Mr Gentleman (Manager of Government Business), pursuant to standing order 211, presented the following papers:

Aboriginal and Torres Strait Islander Elected Body Act, pursuant to subsection 10B(3)—ACT Aboriginal and Torres Strait Islander Elected Body—Report from hearings April 2024—Twelfth Report to the ACT Government.

Auditor-General Act, pursuant to subsection 21(1)—Auditor-General’s Report No 1/2024—Urban Tree Management—Government response, date 6 June 2024.

Children and Young People Act, pursuant to subsection 727S(5)—ACT Children and Young People Death Review Committee—Annual Report—2023, dated 29 April 2024.

Education and Care Services National Law as applied by the law of the States and Territories—

Education and Care Services National Amendment Regulations 2024 (2024 No 143), dated 3 May 2024, together with an explanatory statement.

Education and Care Services National Further Amendment Regulations 2024 (2024 No 144), dated 3 May 2024, together with an explanatory statement.

Health and Community Wellbeing—Standing Committee—Report 11—Report of the Inquiry into a recovery plan for nursing and midwifery workers—Government response, dated June 2024.

Justice and Community Safety—Standing Committee—Report 24—Inquiry into the Parentage (Surrogacy) Amendment Bill 2023—Government response, dated June 2024.

Justice and Community Safety—Standing Committee—Report 25—Inquiry into Sexual, Family and Personal Violence Amendment Bill 2023—Government response, dated June 2024.

University of Canberra Act, pursuant to section 36—University of Canberra—Annual Report—2023, dated April 2024.

Subordinate legislation (including explanatory statement unless otherwise stated)

Legislation Act, pursuant to section 64—

Financial Management Act—Financial Management (Transfer of Funds from Capital Injection to Other Appropriations) Direction 2024 (No 2)—Disallowable Instrument DI2024-105 (LR, 5 June 2024).

14 TAX REFORM AND HOUSING AFFORDABILITY

Ms Lee (Leader of the Opposition), pursuant to notice, moved—That this Assembly:

(1) notes:

(a) in the 2012-13 ACT Budget, Treasurer Andrew Barr, promised that his tax reform would “make housing more affordable for Canberrans – whether they are buying or renting”;

(b) Mr Barr announced that his tax reform would ensure the ACT Government’s tax system is “fairer, simpler and more efficient”, by focusing on stamp duty, land tax, payroll tax, insurance taxes and general rates;

(c) Mr Barr promised that the tax reform would be “revenue neutral” and that stamp duty would be abolished by 2031-32;

(d) when comparing the “actual outcomes” of the first 10 years of the tax reform it is revealed that revenue from:

(i) payroll tax has increased by more than 225 percent;

(ii) general rates have increased by more than 250 percent; and

(iii) land tax has increased by more than 260 percent; and

(e) the ACT Government collected more in residential stamp duty in 2022-23 than both residential and commercial stamp duty in 2012-13;

(2) further notes:

(a) in 2012-13, Australian Bureau of Statistics (ABS) data showed that the ACT was one of the lowest taxing state and local governments at $3,228 per capita, compared to the national average of $3,356 per capita;

(b) the latest taxation revenue data from the ABS shows that in 2022-23, the ACT was the second highest taxing jurisdiction per capita in the country, at $5,610 per capita; and

(c) despite being the second highest taxing jurisdiction per capita in 2022-23, the ACT Government has racked up more than $11 billion in borrowings with an interest bill of more than $334 million as well as a deficit of more than $772 million; and

(3) calls on the ACT Government to admit and apologise that its tax reform:

(a) has failed in its aim to be revenue neutral;

(b) continues to be a significant burden on Canberrans during a cost-of-living crisis; and

(c) has failed to make housing more affordable for Canberrans.

Mr Barr (Treasurer) moved the following amendment: Omit all text after paragraph (1)(c), substitute:

"(d) since June 2012:

(i) the population of the ACT has increased from approximately 377,000 to an estimated 469,000, a population growth of 25 percent;

(ii) the nominal Gross State Product (GSP) of the ACT has increased from approximately $29 billion to $51 billion, an increase of 74 percent, forming part of more than three decades of unbroken economic growth; and

(iii) residential dwellings have increased from approximately 148,000 to around 198,000, a 34 percent increase;

(e) the substantial growth in the ACT's population, economic production and number of households has contributed to a commensurate increase in total own-source revenue streams such as payroll tax, general rates and land tax, received by the ACT Government;

(f) since 2012, as part of the tax reform program, the ACT Government has:

(i) abolished stamp duty for eligible first home buyers, making it easier for young people and those on low incomes to own their own home;

(ii) cut stamp duty rates for all residential property transactions;

(iii) fully phased out insurance duty; and

(iv) removed stamp duty for around 80 percent of commercial transactions;

(2) further notes that through this taxation reform process:

(a) the proportion of stamp duty of ACT own-source revenue has reduced from 20 percent in 2012 to approximately 10 percent in 2023-24;

(b) from being a roughly equivalent proportion of own-source taxation revenue in 2012, stamp duty in the ACT now comprises significantly less than the proportion received in Victoria and NSW; and

(c) reports undertaken by Treasury, the National Centre for Social and Economic Modelling and the Centre of Policy Studies in 2020 ahead of the third phase of tax reform, found that it remained broadly revenue neutral (with a small reduction in revenue), and was resulting in an increase in GSP, real investment, real household consumption, employment and wages, and dwelling turnover as the disincentive to move to more appropriate housing was reduced;

(3) finally notes:

(a) that according to the Australian Bureau of Statistics, the ACT's tax take per capita is broadly in line with both NSW and Victoria and reflects our strong economic growth, while tax levied by the Territory is only 5.1 percent of GSP – below NSW, Victoria, Queensland, South Australia and Tasmania;

(b) the ACT's 20-year tax reform agenda is successfully adding a stabilising factor to the ACT Budget, significantly improving our ability to forecast revenue off a stable base; and

(c) the current five-year stage of taxation reform set the average residential rates increase at 3.75 percent per annum, which has been below the national rate of inflation for most of the last two years; and

(4) calls on the ACT Government to continue to:

(a) focus its ongoing stamp duty cuts to improve housing affordability to help owner-occupiers and first home buyers enter the residential property market, and allow people to move into homes suitable to their needs; and

(b) regularly monitor the tax reform process to confirm it remains broadly revenue neutral across commercial and residential conveyance duties and general rates, while delivering fiscal and economic benefits for the Australian Capital Territory and its residents.".

Debate continued.

Question—put.

The Assembly voted—

AYES, 15		NOES, 8
Andrew Barr	Laura Nuttall	Peter Cain
Yvette Berry	Suzanne Orr	Leanne Castley
Andrew Braddock	Marisa Paterson	Ed Cocks
Joy Burch	Michael Pettersson	Elizabeth Kikkert
Tara Cheyne	Shane Rattenbury	Nicole Lawder
Jo Clay	Rachel Stephen-Smith	Elizabeth Lee
Emma Davidson	Rebecca Vassarotti	James Milligan
Mick Gentleman		Mark Parton

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

"That this Assembly:

(1) notes:

(a) in the 2012-13 ACT Budget, Treasurer Andrew Barr, promised that his tax reform would "make housing more affordable for Canberrans – whether they are buying or renting";

(b) Mr Barr announced that his tax reform would ensure the ACT Government's tax system is "fairer, simpler and more efficient", by focusing on stamp duty, land tax, payroll tax, insurance taxes and general rates;

(c) Mr Barr promised that the tax reform would be "revenue neutral" and that stamp duty would be abolished by 2031-32;

(d) since June 2012:

(i) the population of the ACT has increased from approximately 377,000 to an estimated 469,000, a population growth of 25 percent;

(ii) the nominal Gross State Product (GSP) of the ACT has increased from approximately $29 billion to $51 billion, an increase of 74 percent, forming part of more than three decades of unbroken economic growth; and

(iii) residential dwellings have increased from approximately 148,000 to around 198,000, a 34 percent increase;

(e) the substantial growth in the ACT's population, economic production and number of households has contributed to a commensurate increase in total own-source revenue streams such as payroll tax, general rates and land tax, received by the ACT Government;

(f) since 2012, as part of the tax reform program, the ACT Government has:

(i) abolished stamp duty for eligible first home buyers, making it easier for young people and those on low incomes to own their own home;

(ii) cut stamp duty rates for all residential property transactions;

(iii) fully phased out insurance duty; and

(iv) removed stamp duty for around 80 percent of commercial transactions;

(2) further notes that through this taxation reform process:

(a) the proportion of stamp duty of ACT own-source revenue has reduced from 20 percent in 2012 to approximately 10 percent in 2023-24;

(b) from being a roughly equivalent proportion of own-source taxation revenue in 2012, stamp duty in the ACT now comprises significantly less than the proportion received in Victoria and NSW; and

(c) reports undertaken by Treasury, the National Centre for Social and Economic Modelling and the Centre of Policy Studies in 2020 ahead of the third phase of tax reform, found that it remained broadly revenue neutral (with a small reduction in revenue), and was resulting in an increase in GSP, real investment, real household consumption, employment and wages, and dwelling turnover as the disincentive to move to more appropriate housing was reduced;

(3) finally notes:

(a) that according to the Australian Bureau of Statistics, the ACT's tax take per capita is broadly in line with both NSW and Victoria and reflects our strong economic growth, while tax levied by the Territory is only 5.1 percent of GSP – below NSW, Victoria, Queensland, South Australia and Tasmania;

(b) the ACT's 20-year tax reform agenda is successfully adding a stabilising factor to the ACT Budget, significantly improving our ability to forecast revenue off a stable base; and

(c) the current five-year stage of taxation reform set the average residential rates increase at 3.75 percent per annum, which has been below the national rate of inflation for most of the last two years; and

(4) calls on the ACT Government to continue to:

(a) focus its ongoing stamp duty cuts to improve housing affordability to help owner-occupiers and first home buyers enter the residential property market, and allow people to move into homes suitable to their needs; and

(b) regularly monitor the tax reform process to confirm it remains broadly revenue neutral across commercial and residential conveyance duties and general rates, while delivering fiscal and economic benefits for the Australian Capital Territory and its residents."—

be agreed to—put and passed.

15 VOLUNTARY ASSISTED DYING—ACCESS—LOSS OF CAPACITY

Dr Paterson, pursuant to notice, moved—That this Assembly:

(1) notes that:

(a) voluntary assisted dying (VAD) is an end-of-life choice that should be available to eligible people who are suffering intolerably;

(b) the ACT Government consultation on VAD, and the evidence heard by the ACT Legislative Assembly inquiry into the Voluntary Assisted Dying Bill 2023, highlighted the desire of the ACT community to see legislation start to address the issue of access to VAD following loss of capacity;

(c) there is a gap in all Australian VAD legislation to date, when an individual has gone through all the requests and approval stages to access VAD, and then they lose capacity. They become ineligible;

(d) this gap has two adverse outcomes:

(i) individuals will often choose to end their life earlier than they would like, because they are concerned about losing capacity and becoming ineligible; and

(ii) when an individual does lose capacity and is no longer eligible, this often leaves families very distressed as they can no longer support their loved ones' wishes to access VAD. And the individual is often suffering intolerably, without capacity;

(e) four jurisdictions across the world have models that allow VAD when someone has lost capacity;

(f) to address this gap, Dr Paterson released a consultation draft of amendments on 16 May 2024;

(g) the proposed amendments provide an intersecting point between the Voluntary Assisted Dying Bill 2023 and the *Powers of Attorney Act 2006*;

(h) the amendments are addressed through the ACT Legislative Assembly Scrutiny Committee Report No 42;

(i) the amendments see an individual establish a VAD attorney to become operative as the decision maker in the case of an individual who loses capacity following the final assessment report. There are significant safeguards built into the amendments;

(j) the consultation process received responses from 23 organisations (18 were supportive in principle, and five did not support the amendments), responses from 76 members of the community (70 were in support, and six were opposed) and two consultation sessions were run on 23 May (three attendees) and 28 May (24 attendees);

(k) overall, the feedback was very supportive of the ACT addressing the issue of access to VAD following loss of capacity. However, there were issues and concerns raised with the amendments that simply could not be overcome in the short timeframe of the consultation; and

(l) further consultation is needed on a model that is fit-for-purpose in the ACT to address this gap; and

(2) calls on the ACT Government to:

(a) explore the issue experienced in other VAD jurisdictions of ineligibility due to loss of capacity following the final approval for VAD access;

(b) through this work:

(i) engage a broad range of stakeholders to develop a pathway in the ACT to address this issue; and

(ii) explore models to address where an individual has lost capacity following the final assessment report, this may include Enduring Power of Attorney or Advanced Care Directives; and

(c) report back to the Assembly by the end of May 2025.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 16		NOES, 7
Andrew Barr	Laura Nuttall	Peter Cain
Yvette Berry	Suzanne Orr	Leanne Castley
Andrew Braddock	Marisa Paterson	Ed Cocks
Joy Burch	Michael Pettersson	Elizabeth Kikkert
Tara Cheyne	Shane Rattenbury	Elizabeth Lee
Jo Clay	Rachel Stephen-Smith	James Milligan
Emma Davidson	Rebecca Vassarotti	Mark Parton
Mick Gentleman		
Nicole Lawder		

And so it was resolved in the affirmative.

16 PAPERS PRESENTED ON 6 JUNE 2024—PAPERS NOTED

The Speaker, pursuant to standing order 211A, proposed—That the papers presented under standing order 211 during the presentation of papers in the routine of business today be noted.

Question—put and passed.

17 MEMBERS' STATEMENTS

Members' statements were made.

18 ADJOURNMENT

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

Debate ensued.

Mr Braddock, who had already spoken, by leave, again addressed the Assembly.

Question—put and passed.

And then the Assembly, at 5.51 pm, adjourned until Tuesday, 25 June 2024 at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

Tom Duncan
Clerk of the Legislative Assembly