

2004–2005

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

MINUTES OF PROCEEDINGS

No. 5

TUESDAY, 15 FEBRUARY 2005

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional owners. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **BOXING DAY TSUNAMI VICTIMS**

Mr Stanhope (Chief Minister) moved—That this Assembly expresses its profound sorrow at the devastating loss of life in the Boxing Day tsunami in Asia and tenders its heartfelt sympathy and condolences to the families and friends of the many thousands of victims of this tragedy.

Mr Smyth (Leader of the Opposition), Mr Quinlan (Treasurer), Dr Foskey, Mr Stefaniak, Ms MacDonald, Mr Mulcahy, Mrs Dunne, Mrs Burke and Mr Seselja addressed the Assembly in support of the motion and all Members present having stood, in silence—

Question—passed.

3 **DEATH OF MR ADAM DUNNING**

Mr Stanhope (Chief Minister) moved—That this Assembly expresses its sympathies over the death of Protective Service Officer and Australian Peacekeeper, Adam Dunning, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

Mr Smyth (Leader of the Opposition), Mr Hargreaves (Minister for Police and Emergency Services), Mr Seselja and Dr Foskey addressed the Assembly in support of the motion and all Members present having stood, in silence—

Question—passed.

4 **DEATH OF MR CHARLIE PAHLMAN**

Mr Stanhope (Chief Minister) moved—That this Assembly expresses its deep regret at the death of Charlie Pahlman, Deputy Director of the ACT Council of Social Service and Greens candidate for Molonglo in the 2004 ACT election and a committed social justice advocate and a very respected and valuable member of the Canberra community, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

Dr Foskey, Mr Smyth (Leader of the Opposition) and Mrs Burke addressed the Assembly in support of the motion and all Members present having stood, in silence—

Question—passed.

5 DEATH OF MR JOHN JOSEPH DAINER

Mr Stanhope (Chief Minister) moved—That this Assembly expresses its deep regret at the death of John Joseph Dainer, who, before his retirement held the position of Special Magistrate in the ACT Magistrates Court and had a distinguished career in the Royal Australian Air Force, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

Mr Smyth (Leader of the Opposition), Mr Hargreaves (Minister for Police and Emergency Services) and Mr Stefaniak addressed the Assembly in support of the motion and all Members present having stood, in silence—

Question—passed.

6 LEAVE OF ABSENCE

Mr Hargreaves (Minister for Disability, Housing and Community Services) moved—That leave of absence be given to Mr Corbell (Minister for Health) for this sitting.

Question—put and passed.

7 LEAVE OF ABSENCE

Mrs Dunne moved—That leave of absence be given to Mr Pratt for this sitting.

Question—put and passed.

8 MINISTERIAL ARRANGEMENTS

Mr Stanhope (Chief Minister) informed the Assembly of the absence of Mr Corbell (Minister for Health and Minister for Planning) and advised the Assembly that questions without notice normally directed to Mr Corbell could be directed to Mr Stanhope.

9 QUESTIONS

Questions without notice were asked.

10 QUESTIONS ON NOTICE NOS. 50 AND 51—ANSWERS—MOTION TO TAKE NOTE OF FAILURE TO PROVIDE EXPLANATION

Mrs Dunne, pursuant to standing order 118A, asked Mr Stanhope (Minister for Environment) for an explanation concerning the answers to questions on notice Nos. 50 and 51.

Mrs Dunne, pursuant to standing order 118A(c), moved—That the Assembly takes note that the Minister for Environment has failed to answer questions on notice Nos. 50 and 51 and has not provided a satisfactory explanation for the lateness of the answers.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 6

Mrs Burke
Mrs Dunne
Mr Mulcahy
Mr Seselja
Mr Smyth

Mr Stefaniak

NOES, 9

Mr Berry
Dr Foskey
Ms Gallagher
Mr Gentleman
Mr Hargreaves

Ms MacDonald
Ms Porter
Mr Quinlan
Mr Stanhope

And so it was negatived.

11 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Legislation Act, pursuant to subsection 228(1)—Schedule of relevant committees to be consulted in relation to appointments made by Ministers to statutory offices, dated 7 December 2004.

Quarterly travel report—Non-Executive MLAs—1 October to 31 December 2004.

12 PRESENTATION OF PAPERS

Mr Stanhope (Chief Minister) presented the following papers:

Executive contracts

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:

Alan Galbraith, dated 10 December 2004.
Anthony Kevin Curtis, dated 22 December 2004.
Dorte Ekelund, dated 6 October 2004.
Jacqui Lavis, dated 10 January 2005.
Megan Cahill, dated 23 January 2005.
Roderick John Nicholas, dated 18 November 2004.
Russell Watkinson, dated 30 November 2004.

Short-term contracts:

Brett Phillips.
David Collett, dated 13 January 2005.
Diane Spooner.
Geoff Keogh, dated 1 December 2004.
Gerard Ryan, dated 21 December 2004.
Greg Ellis, dated 22 December 2004.
Helen Strauch, dated 10 January 2005.
John Paget, dated 13 October 2004.
Martin d'Este, dated 12 January 2005.
Stephen Ryan, dated 13 December 2004.

Sue Marriage, dated 20 December 2004.

Susan Hall, dated 20 December 2004.

Susan Killion, dated 1 February 2005.

Tony Bartlett, dated 7 December 2004.

Tony Gill, dated 19 October 2004.

Schedule C variations:

Robyn Calder, dated 1 and 6 December 2004.

Tom Elliott, dated 23 December 2004 and 3 January 2005.

Schedule D variations:

Aidan O'Leary, dated 5 January 2005.

Gerard Ryan, dated 11 January 2005.

Greg Kent, dated 25 January 2005.

Julie McKinnon, dated 20 January 2005.

Julie McKinnon, dated 8 December 2004.

Meredith Whitten, dated 23 December 2004.

Michael Bateman, dated 6 December 2004.

Philip Hextel, dated 23 December 2004.

Remuneration Tribunal Determinations

Remuneration Tribunal Act, pursuant to section 12—Determinations, together with statements for:

Chief Executive and Executive—Salary Packaging—Determination No. 166, dated 30 November 2004.

Chief Magistrate, Magistrates and Special Magistrates—Determination No. 162, dated 30 November 2004.

Commissioner for Public Administration—Determination No. 164, dated 30 November 2004.

Full-time Holders of Public Office—

Salary Packaging—Determination No. 167, dated 30 November 2004.

Small Business Commissioner—Determination No. 168, dated 30 November 2004.

Master of the Supreme Court—Determination No. 161, dated 30 November 2004.

Part-time Holders of Public Office—

Commissioner for Surveys—Determination No. 165, dated 30 November 2004.

Determination No. 163, dated 30 November 2004.

President of the Administrative Appeals Tribunal—Determination No. 169, dated 30 November 2004.

President of the Court of Appeal—Determination No. 160, dated 30 November 2004.

13 LEGISLATION PROGRAM—AUTUMN 2005—PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following paper:
Legislation Program—Autumn 2005, dated February 2005—
and, by leave, made a statement in relation to the paper.

14 PRESENTATION OF PAPER

Mr Stanhope (Minister for Environment) presented the following paper:
National Environment Protection Council Act—National Environment Protection Council—Annual Report 2003-2004.

15 PRESENTATION OF PAPER

Mr Stanhope (Minister for Arts, Heritage and Indigenous Affairs) presented the following paper:
Cultural Facilities Corporation Act, pursuant to subsection 29(3)—Cultural Facilities Corporation—Quarterly report—First quarter 2004-2005—1 July to 30 September 2004.

16 PRESENTATION OF PAPERS

Mr Quinlan (Treasurer) presented the following papers:
Budget 2004-2005—Mid-year review.
Financial Management Act, pursuant to section 26—Consolidated Financial Management Report for the financial quarter and year-to-date ending 31 December 2004.
Capital Works Program 2004-05—Progress report—September quarter.

17 PRESENTATION OF PAPER

Mr Quinlan (Minister for Economic Development) presented the following paper:
Australian Capital Tourism Corporation Act, pursuant to subsection 28(2)—Australian Capital Tourism Corporation—Quarterly report—October to December 2004.

18 PRESENTATION OF PAPERS

Mr Hargreaves (Minister for Disability, Housing and Community Services), on behalf of the Minister for Health, presented the following papers:
Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—
November 2004.
December 2004.
The Canberra Hospital—Information Bulletin—Patient Activity Data—
November 2004.
December 2004.

19 HEALTH—STANDING COMMITTEE—REPORT 9—THE ALLIED HEALTH CARE NEEDS OF PEOPLE IN RESIDENTIAL AGED CARE—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER

Mr Hargreaves (Minister for Disability, Housing and Community Services), on behalf of the Minister for Health, presented the following paper:

Health—Standing Committee—Report 9—The allied health care needs of people in residential aged care (*presented 19 August 2004*)—Government response, dated February 2005—

and moved—That the Assembly takes note of the paper.

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

20 PRESENTATION OF PAPER

Mr Hargreaves (Minister for Disability, Housing and Community Services), on behalf of the Minister for Planning, presented the following paper:

Land (Planning and Environment) Act, pursuant to subsection 29(1)—Approval of Variation No. 243 to the Territory Plan—Aged care facility Monash—Part block 3, block 2 section 50 and block 1 section 53 Monash, dated 2 February 2005, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

21 INQUIRIES ACT—BOARD OF INQUIRY INTO DISABILITY SERVICES—IMPLEMENTATION OF THE GOVERNMENT RESPONSE—FOURTH AND FINAL SIX MONTHLY REPORT—PAPER—MOTION TO TAKE NOTE OF PAPER

Mr Hargreaves (Minister for Disability, Housing and Community Services) presented the following paper:

Inquiries Act—Board of Inquiry into Disability Services—Implementation of the Government response to the recommendations of the Report of the Board of Inquiry into Disability Services—Fourth and final six monthly report, dated September 2004—

and moved—That the Assembly takes note of the paper.

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

22 PRESENTATION OF PAPERS

Mr Hargreaves (Minister for Disability, Housing and Community Services) presented the following papers:

Performance reports

Financial Management Act, pursuant to section 30A—Quarterly departmental performance reports for the December quarter 2004-2005 for the following department or agencies:

ACT Emergency Services Authority, dated February 2005.

ACT Health, February 2005.

ACT Workcover, dated January 2005.

Attorney-General's Portfolio within Department of Justice and Community Safety.

Chief Minister's Department, dated January 2005.

Disability, Housing and Community Services, dated January 2005.

Economic Development, Business, Tourism and Sport Portfolios within the Chief Minister's Department, dated January 2005.

Education and Training, dated January 2005.

Office for Children, Youth and Family Support, dated January 2005.

Planning Portfolio within ACT Planning and Land Authority.

Planning Portfolio within Urban Services.

Police and Emergency Services' Portfolio within Department of Justice and Community Safety.

Treasury, dated January 2005.

Urban Services Portfolio.

Petition—Out of order

Petition which does not confirm with the standing orders—

Castieau Street, Higgins—Speed humps—Mr Stefaniak (76 citizens).

Revised explanatory statements

Revised explanatory statements—

Civil Law (Sale of Residential Property) Act—Civil Law (Sale of Residential Property) Amendment Regulations 2004 (No. 1)—Subordinate Law SL2004-48.

Legislative Assembly (Members' Staff) Act—

Legislative Assembly (Members' Staff) Members' Hiring Arrangements Approval 2004 (No. 1)—Disallowable Instrument DI2004-230.

Legislative Assembly (Members' Staff) Office-holders' Hiring Arrangements Approval 2004 (No. 1)—Disallowable Instrument DI2004-231.

Long Service Leave (Building and Construction Industry) Act—

Long Service Leave (Building and Construction Industry) Board Appointment 2004 (No. 1)—Disallowable Instrument DI2004-213.

Long Service Leave (Building and Construction Industry) Board Appointment 2004 (No. 3)—Disallowable Instrument DI2004-215.

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2004 (No. 1)—Disallowable Instrument DI2004-246.

University of Canberra Act—University of Canberra (Courses and Awards) Amendment Statute 2004 (No. 2)—Disallowable Instrument DI2004-232.

Subordinate legislation (including explanatory statements, unless otherwise stated)

Legislation Act, pursuant to section 64—

Civil Law (Sale of Residential Property) Act—Civil Law (Sale of Residential Property) Amendment Regulation 2004 (No. 2)—Subordinate Law SL2004-64 (LR, 23 December 2004).

Court Procedures Act—

Attorney General (Fees) Amendment Determination 2004 (No. 4)—Disallowable Instrument DI2004-273 (without explanatory statement) (LR, 23 December 2004).

Court Procedures Regulation 2004—Subordinate Law SL2004-63 (LR, 23 December 2004).

Dangerous Substances Act—

Dangerous Substances (Asbestos Assessment Task Force) Appointment 2004 (No. 1)—Disallowable Instrument DI2004-271 (LR, 22 December 2004).

Dangerous Substances (Asbestos Assessment Task Force) Appointment 2004 (No. 2)—Disallowable Instrument DI2004-272 (LR, 22 December 2004).

Dangerous Substances (General) Regulation 2004—Subordinate Law SL2004-56 (LR, 14 December 2004).

Electricity (Greenhouse Gas Emissions) Act—Electricity (Greenhouse Gas Emissions) Regulation 2004—Subordinate Law SL2004-60 (LR, 20 December 2004).

Emergencies Act—Emergencies (Strategic Bushfire Management Plan) 2005—Disallowable Instrument DI2005-1 (LR, 13 January 2005).

Gungahlin Drive Extension Authorisation Act—Gungahlin Drive Extension Authorisation Regulation 2004—Subordinate Law SL2004-55 (LR, 13 December 2004).

Health Act—Health (Interest Charge) Determination 2004 (No. 1)—Disallowable Instrument DI2004-260 (LR, 29 November 2004).

Health Professionals Act—Health Professionals Amendment Regulation 2004 (No. 1)—Subordinate Law SL2004-52 (LR, 17 November 2004).

Legal Aid Act—Legal Aid (Review Committee—Panel Member) Appointment 2005—Disallowable Instrument DI2005-4 (LR, 24 January 2005).

Liquor Act—

Liquor Amendment Regulation 2004 (No. 2)—Subordinate Law SL2004-57 (LR, 14 December 2004).

Liquor Licensing Board Appointment 2004—Disallowable Instrument DI2004-268 (LR, 20 December 2004).

Liquor Licensing Standards Manual Amendment 2004 (No. 1)—Disallowable Instrument DI2004-261 (LR, 20 December 2004).

Public Place Names Act—Public Place Names (Gungahlin) Determination 2004 (No. 4)—Disallowable Instrument DI2004-269 (LR, 20 December 2004).

Public Sector Management Act—

Public Sector Management Amendment Standard 2004 (No. 8)—Disallowable Instrument DI2004-267 (LR, 17 December 2004).

Public Sector Management Amendment Standard 2005 (No. 1)—Disallowable Instrument DI2005-2 (LR, 17 January 2005).

Road Transport (Driver Licensing) Act—Road Transport (Driver Licensing) Amendment Regulation 2004 (No. 1)—Subordinate Law SL2004-59 (LR, 16 December 2004).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2004 (No. 13)—Disallowable Instrument DI2004-259 (LR, 29 November 2004).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2004 (No. 14)—Disallowable Instrument DI2004-265 (LR, 20 December 2005).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2004 (No. 15)—Disallowable Instrument DI2004-266 (LR, 20 December 2004).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2005 (No. 1)—Disallowable Instrument DI2005-6 (LR, 27 January 2005).

Road Transport (Safety and Traffic Management) Regulation 2000—Road Transport (Safety and Traffic Management) Parking Authority Declaration 2005 (No. 1)—Disallowable Instrument DI2005-3 (LR, 20 January 2005).

Supreme Court Act—

Supreme Court Amendment Rules 2004 (No. 4)—Subordinate Law SL2004-53 (LR, 2 December 2004).

Supreme Court Amendment Rules 2004 (No. 5)—Subordinate Law SL2004-54 (LR, 9 December 2004).

Taxation Administration Act—

Taxation Administration (Amounts payable—Home Buyer Concession Scheme) Determination 2004 (No. 5)—Disallowable Instrument DI2004-262 (LR, 23 December 2004).

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2004 (No. 6)—Disallowable Instrument DI2004-263 (LR, 23 December 2004).

Taxation Administration (Levy) Determination 2005 (No. 1)—Disallowable Instrument DI2005-7 (LR, 27 January 2005).

Taxation Administration Regulation 2004—Subordinate Law SL2004-62 (LR, 23 December 2004).

Utilities Act 2000 and Utilities (Electricity Restrictions) Regulation 2004—Utilities (Electricity Restriction Scheme) Approval 2004 (No. 1)—Disallowable Instrument DI2004-270 (LR, 21 December 2004).

Utilities Act—Utilities (Electricity Restrictions) Regulations 2004—Subordinate Law SL2004-61 (LR, 21 December 2004).

23 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—WATER CATCHMENT QUALITY—ROLE OF NATIVE VEGETATION

The Assembly was informed that Mrs Dunne, Dr Foskey and Ms MacDonald 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 Dr Foskey be submitted to the Assembly, namely, “The role of native vegetation in managing catchments for water quality.”.

Discussion ensued.

Discussion concluded.

24 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—REPORT 2—STATEMENT BY CHAIR

Mr Stefaniak (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 2, dated 14 February 2005, together with the relevant minutes of proceedings—

and, by leave, made a statement in relation to the report.

25 HEALTH RECORDS (PRIVACY AND ACCESS) AMENDMENT BILL 2005

Ms Gallagher (Minister for Education and Training), on behalf of the Minister for Health, by leave, presented a Bill for an Act to amend the *Health Records (Privacy and Access) Act 1997*.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 February 2005.

Title read by Clerk.

Ms Gallagher moved—That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth—Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

26 DANGEROUS SUBSTANCES (ASBESTOS) AMENDMENT BILL 2005

Ms Gallagher (Minister for Industrial Relations), by leave, presented a Bill for an Act to amend the *Dangerous Substances (Asbestos) Amendment Act 2004*.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 14 February 2005.

Title read by Clerk.

Ms Gallagher moved—That this Bill be agreed to in principle.

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

27 GOVERNMENT PROCUREMENT AMENDMENT BILL 2004

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

Clauses 1 to 5, by leave, taken together and agreed to.

Proposed new clauses—

Mr Mulcahy moved his amendment No. 1 (*see* [Schedule 1](#)), which inserts new clauses 6 and 7 in the Bill.

Debate continued.

Question—put.

The Assembly voted—

AYES, 7

NOES, 8

Mrs Burke

Mr Seselja

Mr Berry

Ms MacDonald

Mrs Dunne

Mr Smyth

Ms Gallagher

Ms Porter

Dr Foskey

Mr Stefaniak

Mr Gentleman

Mr Quinlan

Mr Mulcahy

Mr Hargreaves

Mr Stanhope

And so it was negatived.

Title agreed to.

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

28 REVENUE LEGISLATION REPEAL BILL 2004

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.

29 ADJOURNMENT

Mr Hargreaves (Minister for Disability, Housing and Community Services) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.58 p.m. adjourned until tomorrow at 10.30 a.m.

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

*On leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

GOVERNMENT PROCUREMENT AMENDMENT BILL 2004

Amendment circulated by Mr Mulcahy

1

Proposed new clauses 6 and 7

Page 3, line 4—

insert

6 **Effect of other disclosure laws** **Section 41**

omit

This

substitute

- (1) This

7 **New section 41 (2)**

insert

- (2) To remove any doubt, this part does not affect the power of a committee of the Legislative Assembly to send for papers and records.

Note Under the Standing Orders of the Legislative Assembly, order 239, a committee of the Legislative Assembly has ‘power to send for persons, papers and records’.
