

2001-2002

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 43

THURSDAY, 12 DECEMBER 2002

- 1 The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed the Speaker 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 **JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2002 (NO 2)**

Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the law relating to justice and community safety, and for other purposes.

Paper: Mr Stanhope presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Stanhope moved - That this Bill be agreed to in principle.

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

- 3 **SECURITY INDUSTRY BILL 2002**

Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to provide for the licensing and regulation of people in the security industry, and for other purposes.

Paper: Mr Stanhope presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Stanhope moved - That this Bill be agreed to in principle.

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

4 LEGISLATION (GAY, LESBIAN AND TRANSGENDER) AMENDMENT BILL 2002

Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend various Territory laws in relation to same sex relationships and transgender people, and for other purposes.

Paper: Mr Stanhope presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Stanhope moved - That this Bill be agreed to in principle.

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

5 DUTIES AMENDMENT BILL 2002 (NO 2)

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Duties Act 1999*, and for other purposes.

Paper: Mr Quinlan presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Quinlan 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.

6 TAXATION (GOVERNMENT BUSINESS ENTERPRISES) BILL 2002

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act about the payment of tax, and amounts equivalent to tax, by government business enterprises, and for other purposes.

Paper: Mr Quinlan presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Quinlan 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.

7 COMMUNITY BASED SENTENCES (TRANSFER) BILL 2002

Mr Quinlan (Minister for Police, Emergency Services and Corrections), pursuant to notice, presented a Bill for an Act relating to the interstate transfer of community based sentences, and for related purposes.

Paper: Mr Quinlan presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Quinlan 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.

8 CEMETERIES AND CREMATORIA BILL 2002 (NO 2)

Mr Quinlan (Deputy Chief Minister) on behalf of Mr Wood (Minister for Urban Services), pursuant to notice, presented a Bill for an Act about cemeteries and crematoria, and for other purposes.

Paper: Mr Quinlan presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Quinlan moved - That this Bill be agreed to in principle.

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

9 HAWKERS BILL 2002

Mr Quinlan (Deputy Chief Minister) on behalf of Mr Wood (Minister for Urban Services), pursuant to notice, presented a Bill for an Act to regulate the activities of hawkers in public places, and for other purposes.

Paper: Mr Quinlan presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Quinlan moved - That this Bill be agreed to in principle.

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

10 ACTION AUTHORITY AMENDMENT BILL 2002

Mr Corbell (Minister for Planning), pursuant to notice, presented a Bill for an Act to amend the *ACTION Authority Act 2001*, and for other purposes.

Paper: Mr Corbell presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Corbell moved - That this Bill be agreed to in principle.

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

11 CRIMES (INDUSTRIAL MANSLAUGHTER) AMENDMENT BILL 2002

Mr Corbell (Minister for Industrial Relations), pursuant to notice, presented a Bill for an Act to amend the *Crimes Act 1900*.

Paper: Mr Corbell presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Corbell moved - That this Bill be agreed to in principle.

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

12 LEGAL AFFAIRS – STANDING COMMITTEE – REFERENCE – CRIMES (INDUSTRIAL MANSLAUGHTER) AMENDMENT BILL 2002

Mr Corbell (Minister for Industrial Relations), by leave, moved – That, notwithstanding the provisions of standing order 174,

- (1) the Crimes (Industrial Manslaughter) Amendment Bill 2002 be referred to the Standing Committee on Legal Affairs for inquiry and report by 1 April 2003; and
- (2) on the Committee presenting its report on the Bill to the Assembly the resumption of debate on the question “That this Bill be agreed to in principle” be set down as an order of the day for the next sitting.

Debate ensued.

Question – put and passed.

13 ADMINISTRATION AND PROCEDURE – STANDING COMMITTEE – REFERENCE – LEGISLATIVE ASSEMBLY I.T. SERVICE PROVIDER, VOLUNTEERS AND CODE OF CONDUCT

Ms Dundas, pursuant to notice, moved – That, notwithstanding Standing Order 16, the Standing Committee on Administration and Procedure inquire and report on each of the following:

- (1) the role of InTACT as the Legislative Assembly IT service provider;
- (2) the status of volunteers working in members’ offices; and
- (3) the appropriateness of a code of conduct for members and their staff.

Debate ensued.

Question – put and passed.

14 HEALTH – STANDING COMMITTEE – REPORT NO. 2 – INQUIRY INTO THE GENE TECHNOLOGY BILL 2002 – PUBLICATION OF REPORT – REPORT NOTED

Ms Tucker (Chair) presented the following report:

Health – Standing Committee - Report No. 2 – *Inquiry into the Gene Technology Bill 2002*, dated 12 December 2002, together with a copy of the relevant extracts of the minutes of proceedings –

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

Question – put and passed.

Ms Tucker moved – That the report be noted.

Debate ensued.

Question – put and passed.

15 PUBLIC ACCOUNTS – STANDING COMMITTEE – REPORT NO. 2 – AUDITOR-GENERAL'S REPORT NO 8, 2001 – RELOCATION TO BRINDABELLA BUSINESS PARK – PUBLICATION OF REPORT – REPORT NOTED

Mr Smyth (Chair) presented the following report:

Public Accounts – Standing Committee - Report No. 2 – *Auditor-General's Report No 8, 2001 – Relocation to Brindabella Business Park*, dated 6 December 2002, together with a copy of the relevant extracts of the minutes of proceedings –

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

Question – put and passed.

Mr Smyth moved – That the report be noted.

Question – put and passed.

16 PUBLIC ACCOUNTS – STANDING COMMITTEE – INQUIRY – AUDITOR-GENERAL'S REPORT NO 6 OF 2002 – ANNUAL MANAGEMENT REPORT FOR THE YEAR ENDED 30 JUNE 2002 – STATEMENT BY CHAIR - PAPER

Mr Smyth (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts resolved that a statement be made regarding the Auditor-General's Report No 6 of 2002 entitled *Annual Management Report for the Year Ended 30 June 2002* –

and, by leave, presented the following paper:

Public Accounts – Standing Committee – Auditor-General's Report No 6 of 2002 – *Annual Management Report for the Year Ended 30 June 2002* – Statement to the Assembly, dated 6 December 2002.

17 PUBLIC ACCOUNTS – STANDING COMMITTEE – INQUIRY – AUDITOR-GENERAL'S REPORT NO 9 OF 2001 – FINANCIAL ADMINISTRATION OF TRAINING GRANT PROGRAM – STATEMENT BY CHAIR - PAPER

Mr Smyth (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts resolved that a statement be made regarding the Auditor-General's Report No 9 of 2001 entitled *Financial Administration of Training Grant Program* –

and, by leave, presented the following paper:

Public Accounts – Standing Committee – Auditor-General's Report No 9 of 2001 – *Financial Administration of Training Grant Program* – Statement to the Assembly, dated 6 December 2002.

18 REFERENCE TO COMMITTEE PROCEEDINGS AND OFFENSIVE WORDS – STATEMENT BY SPEAKER

Mr Speaker made a statement concerning the subject matter of the matter of public importance proposed for discussion by Mrs Dunne which covered matters raised in a report of the Auditor-General presented the preceding day. Though the report stood referred to the Public Accounts Committee for inquiry, the Speaker advised that to prohibit reference to its

contents until the Committee reported, especially in relation to a report of that nature, could unnecessarily stifle comments on matters in the public interest. He asked Members to bear in mind the fact that the Committee would be inquiring into the report and not to refer to the proceedings of the Committee which had not been reported to the Assembly.

The Speaker also reminded Members of the practice of the Assembly that a charge against another Member or a reflection on his or her conduct can only be done by way of a substantive motion which admits of a distinct vote of the Assembly.

19 QUESTIONS

Questions without notice were asked.

Questions having concluded –

Mr Humphries, by leave, asked a question without notice of the Attorney-General.

20 CHIEF MINISTER'S DEPARTMENT ANNUAL REPORT 2001-2002 – CORRIGENDUM – PAPER AND STATEMENT BY MINISTER

Mr Stanhope (Chief Minister) presented the following paper:

Chief Minister's Department Annual Report 2001-2002 – Corrigendum –

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

21 PUBLIC TRUSTEE – TRUST ACCOUNT FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2002 – PAPER AND STATEMENT BY MINISTER

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

Public Trustee – Trust Account Financial Statements for the year ended 30 June 2002, including the audit report, dated 26 September 2002 –

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

22 GAY, LESBIAN, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE IN THE A.C.T. : AN ISSUES PAPER – STATEMENT BY MINISTER

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

Gay, Lesbian, Bisexual, Transgender and Intersex People in the ACT: An Issues Paper, dated December 2002 –

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

23 MENTAL HEALTH SERVICES – INVESTIGATION INTO RISK OF HARM TO CLIENTS – PAPER – PUBLICATION OF PAPER – STATEMENT BY MINISTER

Mr Stanhope (Minister for Health) presented the following paper:

Investigation into Risk of Harm to Clients of Mental Health Services – Report to the Minister for Health prepared by the Community and Health Services Complaints Commissioner, dated November 2002 –

and, by leave, moved – That the paper be authorised for publication.

Question – put and passed.

Mr Stanhope, by leave, made a statement in relation to the paper.

24 MENTAL HEALTH SERVICES – INVESTIGATION INTO RISK OF HARM TO CLIENTS – PRELIMINARY GOVERNMENT RESPONSE – PAPER – PUBLICATION OF PAPER

Mr Stanhope (Minister for Health) presented the following paper:

Investigation into Risk of Harm to Clients of Mental Health Services – Preliminary Government Response, dated December 2002 –

and, by leave, moved – That the paper be authorised for publication.

Question – put and passed.

25 MENTAL HEALTH CLINICAL TREATMENT AND CARE SERVICES IN THE A.C.T. – DEPARTMENTAL REVIEW OF THE QUALITY FRAMEWORK – PAPER – PUBLICATION OF PAPER

Mr Stanhope (Minister for Health) presented the following paper:

Departmental Review of the Quality Framework in Mental Health Clinical Treatment and Care Services in the ACT, dated October 2002 – Prepared by the Mental Health Policy Unit, Mental Health ACT, ACT Health –

and, by leave, moved – That the paper be authorised for publication.

Question – put and passed.

26 PRESENTATION OF PAPER

Mr Stanhope (Minister for Health), pursuant to order, presented the following paper:

Bulk Billing Services – General Practitioners – Report to the Legislative Assembly for the ACT, dated December 2002.

27 COMMISSION OF AUDIT – REPORT (NO 2) ON THE STATE OF THE TERRITORY’S FINANCES – PAPER – PUBLICATION OF PAPER

Mr Quinlan (Treasurer) presented the following paper:

Commission of Audit – Report (No 2) on the State of the Territory’s Finances – ACT Forests, ACTION and Australian International Hotel School, dated December 2002 –

and, by leave, moved – That the paper be authorised for publication.

Question – put and passed.

28 AFFORDABLE HOUSING IN THE A.C.T.: STRATEGIES FOR ACTION – PAPERS AND STATEMENT BY MINISTER – MOTION TO TAKE NOTE OF PAPERS

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

Affordable Housing Taskforce –

Consulting the Community on Housing Affordability – Background Paper No. 1, dated December 2002.

Affordable housing: Towards an Appropriate Assistance Strategy – Background Paper No. 2, dated December 2002.

The role of Land and Planning Mechanisms in Providing Affordable Housing – Background Paper No. 3, dated December 2002.

Affordable Housing in the Australian Capital Territory – Strategies for Action – Report of the Ministerial Taskforce on Affordable Housing, dated December 2002.

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

Mr Wood moved – That the Assembly takes note of the papers.

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

29 LEGAL AFFAIRS – STANDING COMMITTEE – REPORT NO. 3 – THE OPERATION OF THE DANGEROUS GOODS ACT 1975 WITH PARTICULAR REFERENCE TO FIREWORKS – GOVERNMENT RESPONSE – MOTION TO TAKE NOTE OF PAPER

Mr Corbell (Minister for Industrial Relations) presented the following paper:

Legal Affairs – Standing Committee – Report No. 3 – *The Operation of the Dangerous Goods Act 1975 with particular reference to fireworks (presented 27 June 2002)* – Government response, dated 12 December 2002 –

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

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

30 LAND (PLANNING AND ENVIRONMENT) ACT – VARIATIONS (NOS 181 AND 174) TO THE TERRITORY PLAN AND PLANNING AND ENVIRONMENT – STANDING COMMITTEE – REPORT NO 4 – DRAFT VARIATION NO 174 – GOVERNMENT RESPONSE – PAPERS AND STATEMENT BY MINISTER

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

Land (Planning and Environment) Act, pursuant to section 29 – Variations to the Territory Plan, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required for:

Variation No. 181 to the Territory Plan relating to the Territory Plan Pearce Section 27 Block 3 (former child care centre);

Variation No. 174 to the Territory Plan relating to Narrabundah Blocks 2, 3, 14 and 15 Section 124 (Hungarian-Australian Club).

Planning and Environment – Standing Committee – Report No 4 – Draft variation No. 174 relating to Narrabundah Blocks 2, 3, 14 and 15 Section 124 – Hungarian-Australian Club Site and Community Facility Land) (*presented 14 May 2002*) – Government response -

and, by leave, made a statement in relation to Variation No 174 to the Territory Plan.

31 PRESENTATION OF PAPERS

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

Petitions – Out of order

Petitions which do not conform with the standing orders –

Posh Pots retail outlet - Mitchell – Mrs Dunne (2523 citizens).

Retail trade of fireworks in the ACT – Ms Tucker (9935 citizens).

Subordinate legislation (including explanatory statements, unless otherwise stated)

Land (Planning and Environment) Act – Criteria For The Direct Grant Of Crown Leases 2002 (No 1) – Disallowable Instrument DI2002-218 (LR, 11 December 2002).

32 WATER REGULATIONS – STATEMENT BY MINISTER

Mr Quinlan (Deputy Chief Minister), by leave, made a statement concerning water regulations.

33 MATTER OF PUBLIC IMPORTANCE – DISCUSSION – A.C.T. HOUSING – TREASURER'S ADVANCE

The Assembly was informed that Mrs Dunne, Mr Humphries, Mr Pratt, Mr Smyth (Leader of the Opposition) and Mr Stefaniak 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 Mrs Dunne be submitted to the Assembly, namely, "The legality of the Treasurer's advance of \$10 million to ACT Housing in June 2002."

Discussion ensued.

Ms Dundas addressing the Assembly –

Adjournment negatived: It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

Mr Wood (Manager of Government Business) requiring the question to be put forthwith without debate –

Question – put and negatived.

Discussion continued.

The time for discussion having expired –

Discussion concluded.

Papers: Mr Stanhope (Chief Minister) presented the following papers:

ACT Housing – Compliance with BCA Fire Standards –

Copies of correspondence from:

Chief Executive, Urban Services to Under Treasurer, Department of Treasury, dated 30 May 2002.

Under Treasurer, Department of Treasury to Chief Executive, Department of Urban Services, dated 4 June 2002.

Copy of legal opinion from ACT Government Solicitor, to Mr Alan Franklin, Housing, Policy and Planning, Department of Urban Services, dated 23 May 2002.

34 COUNCIL OF AUSTRALIAN GOVERNMENTS MEETING – CANBERRA – DECEMBER 2002 – MINISTERIAL STATEMENT

Mr Stanhope (Chief Minister), by leave, made a ministerial statement concerning the Council of Australian Government's meeting held in Canberra on 6 December 2002.

35 SITTING PATTERN – 2003

Mr Wood (Manager of Government Business), pursuant to notice, moved – That, unless

(1) the Speaker, or in the absence of the Speaker the Deputy Speaker, fixes an alternative day or hour of meeting:

- (a) on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, or
- (b) having consulted with Members following the receipt of advice from the Chief Minister that a place of a Senator for the Australian Capital Territory had become vacant before the expiration of his or her term of service; or

(2) the Assembly otherwise orders.

The Assembly shall meet as follows for 2003:

February	18	19	20
March	4	5	6
	11	12	13
April	1	2	3
May	6	7	8
June	17	18	19
	24	25	26
August	19	20	21
	26	27	28
September	23	24	25
October	21	22	23
November	18	19	20
	25	26	27
December	9	10	11

Debate ensued.

Question – put and passed.

36 LEAVE OF ABSENCE TO MEMBERS

Mr Corbell (Minister for Planning) moved - That leave of absence from 13 December 2002 to 17 February 2003 inclusive be given to all Members.

Question - put and passed.

37 PLANNING AND LAND BILL 2002

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

Detail stage

Consideration resumed on clauses 24 to 36, as amended –

On the motion of Mr Corbell (Minister for Planning) his amendment No 16 (*see* [Schedule 1](#)) was made.

On the motion of Mr Corbell his amendment No 17 (*see* [Schedule 1](#)) was made, after debate.

On the motion of Mr Corbell his amendment No 18 (*see* [Schedule 1](#)) was made.

Question – That clauses 24 to 36, as amended, be agreed to – put.

The Assembly voted –

Ayes, 11

Noes, 6

Mr Berry
Mr Corbell
Mrs Cross
Ms Dundas
Ms Gallagher
Mr Hargreaves

Ms MacDonald
Mr Quinlan
Mr Stanhope
Ms Tucker
Mr Wood

Mr Cornwell
Mrs Dunne
Mr Humphries
Mr Pratt
Mr Smyth
Mr Stefaniak

And so it was resolved in the affirmative.

Clauses 37 to 72, by leave, taken together and debated –

On the motion of Mr Corbell, by leave, his amendments Nos 19 and 20 (*see* [Schedule 1](#)) were made together.

On the motion of Mrs Dunne her amendment No 10 (*see* [Schedule 2](#)) was made, after debate.

On the motion of Mr Corbell, by leave, his amendments Nos 21 and 22 (*see* [Schedule 1](#)) were made together, after debate.

On the motion of Mr Corbell, by leave, his amendments Nos 23 and 24 (*see* [Schedule 1](#)) were made together, after debate.

On the motion of Mr Corbell his amendment No 25 (*see* [Schedule 1](#)) was made, after debate.

Mrs Dunne moved her amendment No 11 (*see* [Schedule 2](#)).

Debate ensued.

Amendment negatived.

On the motion of Mr Corbell his amendment No 26 (*see* [Schedule 1](#)) was made.

On the motion of Mrs Dunne her amendment No 12 (*see* [Schedule 2](#)) was made, after debate.

On the motion of Mr Corbell, by leave, his amendments Nos 27 and 28 (*see* [Schedule 1](#)) were made together.

Proposed new clause –

Mrs Dunne moved her amendment No 13 (*see* [Schedule 2](#)) to insert a new clause 50A in the Bill.

Debate ensued.

Amendment negatived.

On the motion of Mr Corbell his amendment No 29 (*see* [Schedule 1](#)) was made, after debate.

On the motion of Mr Corbell his amendment No 30 (*see* [Schedule 1](#)) was made.

On the motion of Mr Corbell his amendment No 31 (*see* [Schedule 1](#)) was made, after debate.

Question – That clauses 37 to 72, as amended, be agreed to – put.

The Assembly voted –

Ayes, 11

Noes, 6

Mr Berry
Mr Corbell
Mrs Cross
Ms Dundas
Ms Gallagher
Mr Hargreaves

Ms MacDonald
Mr Quinlan
Mr Stanhope
Ms Tucker
Mr Wood

Mr Cornwell
Mrs Dunne
Mr Humphries
Mr Pratt
Mr Smyth
Mr Stefaniak

And so it was resolved in the affirmative.

Clause 73 agreed to.

Clause 74 –

On the motion of Mr Corbell his amendment No 32 (*see* [Schedule 1](#)) was made.

Clause 74, as amended, agreed to.

Clause 75 –

Mr Corbell moved his amendment No 33 (*see* [Schedule 1](#)).

Debate ensued.

Mrs Dunne moved her amendment to Mr Corbell's proposed amendment No 33 (*see* [Schedule 3](#)).

Debate ensued.

Question – That Mrs Dunne’s amendment to Mr Corbell’s proposed amendment No. 33 be agreed to – put and negatived.

Question – That Mr Corbell’s amendment No 33 be agreed to – put and passed.

Clause 75, as amended, agreed to.

Clause 76 agreed to.

Dictionary agreed to.

Title debated –

Mrs Dunne, by leave, again addressed the Assembly.

Title agreed to.

Question - That this Bill, as amended, be agreed to - put.

The Assembly voted –

Ayes, 11

Noes, 6

Mr Berry
Mr Corbell
Mrs Cross
Ms Dundas
Ms Gallagher
Mr Hargreaves

Ms MacDonald
Mr Quinlan
Mr Stanhope
Ms Tucker
Mr Wood

Mr Cornwell
Mrs Dunne
Mr Humphries
Mr Pratt
Mr Smyth
Mr Stefaniak

And so it was resolved in the affirmative – Bill, as amended, agreed to.

38 PAPER

Mr Speaker presented the following paper:

Sub judice convention – Matter of public importance raised by Mrs Cross – Advice from the Clerk, dated 12 December 2002.

39 PLANNING AND LAND (CONSEQUENTIAL AMENDMENTS) BILL 2002

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

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Schedule 1 –

Amendments 1.1 to 1.4 agreed to.

Amendment 1.5 –

On the motion of Mr Corbell (Minister for Planning) his amendment No 1 (*see [Schedule 4](#)*) was made.

Amendment 1.5, as amended, agreed to.

Amendment 1.6 –

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

Amendment 1.6, as amended, agreed to.

Amendments 1.7 to 1.89, by leave, taken together and agreed to.

Amendment 1.90 –

Ms Dundas moved her amendment No. 1 (*see* [Schedule 5](#)).

Debate ensued.

Amendment negatived.

On the motion of Mr Corbell his amendment No 3 (*see* [Schedule 4](#)) was made, after debate.

Amendment 1.90, as amended, agreed to.

Amendment 1.91 agreed to.

Amendment 1.92 –

On the motion of Mr Corbell his amendment No 4 (*see* [Schedule 4](#)) was made.

Amendment 1.92, as amended, agreed to.

Amendments 1.93 to 1.108, by leave, taken together and agreed to.

Amendment 1.109 –

On the motion of Mr Corbell his amendment No 5 (*see* [Schedule 4](#)) was made.

Amendment 1.109, as amended, agreed to.

Amendment 1.110 –

On the motion of Mr Corbell his amendment No 6 (*see* [Schedule 4](#)) was made.

Amendment 1.110, as amended, agreed to.

Amendments 1.111 to 1.145, by leave, taken together and agreed to.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

Schedule 3 –

On the motion of Mr Corbell his amendment No 7 (*see* [Schedule 4](#)) was made.

Schedule 3, as amended, agreed to.

Title agreed to.

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

40 ADMINISTRATIVE APPEALS TRIBUNAL AMENDMENT BILL 2002

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

Detail stage

Clauses 1 to 14, by leave, taken together and agreed to.

Clause 15 –

Mr Corbell (Minister for Planning), by leave, moved Mr Stanhope's (Attorney-General) amendment No 1 (*see* [Schedule 6](#)).

Debate ensued.

Mrs Dunne moved her amendment No 1 to Mr Stanhope's proposed amendment No 1 (*see* [Schedule 7](#)).

Debate ensued.

Amendment negatived.

Question – That Mr Stanhope's amendment No 1 be agreed to – put and passed.

Clause 15, as amended, agreed to.

Title agreed to.

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

41 RETIREMENT OF MRS PLATT AND MR RYDER AND SECONDMENT OF MS ITALIANO – STATEMENT BY SPEAKER

The Speaker made a statement informing the Assembly of the impending retirement of Mrs Shirley Platt, Project Officer, Corporate Services Office and Mr Keith Ryder, Manager of Communications, Hansard and Communications Office and the secondment of Ms Celeste Italiano, House of Representatives.

42 PAPERS

Mr Stanhope (Chief Minister) presented the following papers:

Indemnification of public services and statutory office holders – Answer to question without notice asked by Mrs Cross.

UN Conventions on the Rights of the Child – Answer to question without notice asked of Mr Corbell (Minister for Education, Youth and Family Services) by Ms Dundas and taken on notice on 21 November 2002.

43 ADJOURNMENT

Mr Wood (Manager of Government Business) moved – That the Assembly do now adjourn.

Debate ensued.

Suspension of standing and temporary orders – Adjournment debate: Mr Stefaniak moved – That so much of the standing and temporary orders be suspended as would prevent Members who have not yet spoken to address the Assembly.

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

Debate continued.

Question – put and passed.

And then the Assembly, at 10.12 p.m., adjourned until Tuesday, 18 February 2003 at 10.30 a.m.

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

M J McRAE

Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

PLANNING AND LAND BILL 2002

Amendments circulated by the Minister for Planning

1

Clause 2

Page 2, line 4—

omit clause 2, substitute

2 Commencement

This Act commences on 1 July 2003.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

2

Proposed new clause 4A

Page 3, line 4—

insert

4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

3

Clause 8 (1) (g), proposed new note

Page 5, line 13—

insert

Note Under the *Land (Planning and Environment) Act 1991*, s 160B, the planning and land authority is authorised to grant, on behalf of the

Executive, leases the Executive may grant on behalf of the Commonwealth.

4**Clause 8 (1) (n)****Page 5, line 25—**

omit clause 8 (1) (n), substitute

- (n) to provide administrative support and facilities for the council;
- (o) to ensure community consultation and participation in planning decisions;
- (p) to promote public education and understanding of the planning process, including by providing easily accessible public information and documentation on planning and land use.

5**Clause 8 (3)****Page 6, line 6—**

omit clause 8 (3), substitute

- (3) The authority must exercise its functions—
 - (a) in a way that has regard to sustainable development; and
 - (b) taking into consideration the statement of planning intent.

Note For the meaning of *sustainable development*, see s 73. The statement of planning intent is dealt with in s 13.

6**Clause 9****Page 6, line 11—**

omit clause 9, substitute

9 Authority to comply with directions

The authority must comply with any directions given to the authority under this Act or another Territory law.

Note The authority may be given directions by the Minister under s 11.

7**Clause 11 (3) and (4)****Page 7, line 12—**

omit clause 11 (3) and (4), substitute

- (3) The Minister must—
 - (a) present a copy of a direction to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and

- (b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the direction to the members of the Legislative Assembly within the 14 days.
- (4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the copy of the direction should have been presented or given to members.
- (5) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

8

Clause 13 (2)

Page 8, line 8—

omit clause 13 (2), substitute

- (2) The Minister must—
 - (a) present a copy of the statement of planning intent to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and
 - (b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the statement to members of the Legislative Assembly within the 14 days.

9

Proposed new clause 13 (3)

Page 8, line 10—

insert

- (3) To remove any doubt, the statement of planning intent does not authorise a person to whom the *Land (Planning and Environment Act 1991*, section 8 (Effect of plan) applies to do anything inconsistent with the plan.

Example

The statement of planning intent may include policy material inconsistent with the Territory plan, but the plan would have to be amended before the policy could be implemented.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

10

Clause 16 (a)

Page 8, line 27—

omit clause 16 (a), substitute

- (a) a copy of any direction given to the authority under this Act or another Territory law; and

11**Proposed new clause 18 (1A)****Page 10, line 9—***insert*

- (1A) However, the Executive must not appoint a person under subsection (1) unless satisfied that the person has the management and planning experience or expertise to exercise the functions of the chief planning executive.

12**Clause 21 (3)****Page 11, line 14—***omit*

7 sitting days

substitute

6 sitting days

13**Clause 21 (4) (b)****Page 11, line 22—***omit clause 21 (4) (b), substitute*

- (b) if the Assembly does not pass a resolution mentioned in subsection (3) within the 6 sitting days—at the end of the 6th sitting day.

14**Clause 27 (1), note 2****Page 15, line 6—***omit note 2, substitute*

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3). The appointment of someone other than a public servant for more than 6 months under this section would require consultation and be disallowable (see Legislation Act, s 227).

15**Clause 27 (2) (i)****Page 15, line 21—***omit clause 27 (2) (i), substitute*

- (i) public administration;

(j) engineering.

16

Clause 28 (b)

Page 16, line 4—

before

physical

insert

for

17

Proposed new clause 34 (3)

Page 18, line 4—

insert

- (3) The council must publish the minutes of its proceedings within 7 days after the day the minutes are confirmed by the council.

Example

the council may put the minutes of its proceedings on a website

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

18

Clause 36 (1)

Page 19, line 2—

omit

10 days

substitute

14 days

19

Clause 38 (4) (a)

Page 21, line 2—

omit clause 38 (4) (a), substitute

(a) in accordance with the objectives of the Territory plan; and

20

Clause 38 (4) (b)

Page 21, line 4—

omit

21**Clause 40 (3)****Page 22, line 1—***omit clause 40 (3), substitute*

- (3) If the land agency does something mentioned in subsection (1), the land agency must tell the Minister about doing the thing within 14 days after the day the agency does it.

22**Clause 40 (4) (b)****Page 22, line 6—***omit clause 40 (4) (b), substitute*

- (b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the act; and
- (c) if the statement would not be presented to the Legislative Assembly under paragraph (b) within 14 days after the day the Minister is told about the act—give the statement to members of the Legislative Assembly within the 14 days.

23**Clause 41 (3)****Page 22, line 24—***omit clause 41 (3), substitute*

- (3) If the land agency enters into an agreement for a joint venture or trust, the land agency must tell the Minister about the agreement within 14 days after entering into the agreement.

24**Clause 41 (4) (b)****Page 23, line 4—***omit clause 41 (4) (b), substitute*

- (b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the agreement; and
- (c) if the statement would not be presented to the Legislative Assembly under paragraph (b) within 14 days after the day the Minister is told about the agreement—give the statement to members of the Legislative Assembly within the 14 days.

25**Proposed new clause 44 (1A)****Page 25, line 8—***insert*

- (1A) The land agency must prepare a business plan for each financial year.

26**Clause 45 (2)****Page 26, line 6—***omit clause 45 (2), substitute*

- (2) If the Minister accepts a business plan, the Minister must—
- (a) present a copy of the business plan to the Legislative Assembly within 6 sitting days after the day of acceptance; and
 - (b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day of acceptance—give a copy of the business plan to members of the Legislative Assembly within the 14 days.

27**Clause 50 (2)****Page 27, line 19—***omit*

promptly

28**Proposed new clause 50 (2A)****Page 28, line 3—***insert*

- (2A) The land agency must tell the Minister under subsection (2) about a development within 14 days after the day the agency becomes aware of the existence of the development.

29**Clause 58 (2) (e)****Page 32, line 19—***omit clause 58 (2) (e), substitute*

- (e) public administration;
- (f) engineering.

30**Clause 60 (b)****Page 33, line 5—**

before

physical

insert

for

31**Clause 68 (1)****Page 36, line 14—**

omit

10 days

substitute

14 days

32**Clause 74****Page 40, line 22—**

omit clause 74, substitute

74 Abuse of position

(1) An official commits an offence if—

(a) the official—

- (i) exercises an influence that the official has because of the official's position; or
- (ii) engages in conduct in the exercise of a function that the official has because of the official's position; or
- (iii) uses information gained because of the official's position; and

(b) the official does so with the intention of—

- (i) dishonestly obtaining a benefit for the official or someone else; or
- (ii) dishonestly causing a detriment to someone else.

Maximum penalty: imprisonment for 5 years.

(2) A person commits an offence if—

(a) the person has stopped being an official; and

- (b) the person uses information that the person obtained because of the person's position as an official; and
- (c) the person does so with the intention of—
 - (i) dishonestly obtaining a benefit for the person or someone else; or
 - (ii) dishonestly causing a detriment to someone else.

Maximum penalty: imprisonment for 5 years.

- (3) In this section:

dishonestly—a person acts dishonestly if—

- (a) the person's conduct is dishonest according to the standards of ordinary people; and
- (b) the person knows that the conduct is dishonest according to those standards.

official means—

- (a) the chief planning executive; or
- (b) a council member; or
- (c) a land agency board member.

position, in relation to an official, means the position held by the official under this Act.

33

Clause 75 (1)

Page 41, line 15—

omit clause 75 (1), substitute

- (1) The Minister must begin a review of the operation and effectiveness of this Act not later than 31 December 2006.
-

Schedule 2

PLANNING AND LAND BILL 2002

Amendments circulated by Mrs Dunne

1

Clause 8 (1) (e)

Page 5, line 10—

omit

2

Clause 8 (1) (f)

Page 5, line 11—

omit

3

Clause 8 (1) (j)

Page 5, line 16—

omit

4

Clause 8 (1) (n)

Page 5, line 25—

omit

5

Clause 11 (3) and (4)

Page 7, line 12—

omit clause 11 (3) and (4), substitute

(3) The Minister must—

- (a) present a copy of a direction, the proposed direction given to the authority under subsection (2) (a), and any comment on the proposed direction, (the ***relevant material***) to the Legislative Assembly within 6 sitting days after the day the direction is given to the authority; and
 - (b) if the relevant material would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day the direction is given to the authority—give the relevant material to the members of the Legislative Assembly within the 14 days.
- (4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the relevant material should have been presented or given to members.

- (5) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

6

Clause 13

Page 8, line 4—

[oppose the clause]

7

Proposed new clause 15A

Page 8, line 21—

insert

15A Authority to report to relevant committee

- (1) The authority must give the relevant committee of the Legislative Assembly a report on the activities of the authority at least once in every 6-month period.
- (2) In this section:

relevant committee—see section 36 (4).

8

Chapter 3

Page 13, line 1—

omit

9

Chapter 4

Page 20, line 1—

omit

10

Clause 38 (4) (c)

Page 21, line 5—

omit clause 38 (4) (c), substitute

- (c) in accordance with the latest business plan accepted by the Minister.

11

Proposed new clause 44 (1A)

Page 25, line 8—

insert

- (1A) Before the beginning of each financial year, the land agency must prepare a business plan for the year and give it to the Minister.

12**Proposed new clause 47 (4) and (5)****Page 27, line 4—***insert*

- (4) The Treasurer must—
- (a) present a copy of a direction under subsection (1) to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and
 - (b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give a copy of the direction to the members of the Legislative Assembly within the 14 days.
- (4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the copy of the direction should have been presented or given to members.

13**Proposed new clause 50A****Page 28, line 6—***insert***50A Land agency to report to relevant committee**

- (1) The land agency must give the relevant committee of the Legislative Assembly a report on the activities of the agency at least once in every 6-month period.
- (2) In this section:
relevant committee—see section 36 (4).

14**Clause 75 (1)****Page 41, line 16—***omit*

2007

substitute

2005

Schedule 3

PLANNING AND LAND BILL 2002

Amendment circulated by Mrs Dunne to Mr Corbell's amendment No 33.

Omit

2006

substitute

2005

Schedule 4

PLANNING AND LAND (CONSEQUENTIAL AMENDMENTS) BILL 2002

Amendments circulated by the Minister for Planning

1

Schedule 1

Amendment 1.5

Page 4, line 16—

omit amendment 1.5, substitute

[1.5] Section 9 (5), definition of *defined period*, paragraph (d)

omit

29 (10) (b)

substitute

30A (3) (b)

2

Schedule 1

Amendment 1.6

Page 4, line 21—

omit amendment 1.6, substitute

[1.6] Section 9 (5), new definition of *draft plan variation*

insert

draft plan variation includes a provision of a draft plan variation.

3

Schedule 1

Amendment 1.90

Proposed new section 229B (7A)

Page 35, line 26—

insert

- (7A) The statement under subsection (7) must be accompanied by a copy of the comments of the planning and land council on the application to which the statement relates.

4

Schedule 1**Amendment 1.92****Page 36, line 17—***omit*

subsection (1A)

substitute

subsection (1)

5

Schedule 1**Amendment 1.109****Page 43, line 15—***omit*

6

Schedule 1**Amendment 1.110****Page 43, line 20—***omit amendment 1.110, substitute***[1.110] Section 248***omit*

If the relevant authority who gave an approval is satisfied that the approval contains a formal error, the authority shall—

substitute

If the planning and land authority is satisfied that an approval contains a formal error, the authority must—

7

Schedule 3**Part 3.1****Amendment 3.8****Page 69, line 14—***omit amendment 3.8, substitute***[3.8] Section 74 (2)***omit*

the Minister's

[3.8A] Section 78 (2), (3) and (4)*substitute*

- (2) If the planning and land authority proposes to suspend or cancel the approval of the scheme, the authority must give the trustees of the scheme a written notice—
 - (a) stating the grounds on which the authority proposes to suspend or cancel the approval; and
 - (b) stating the facts that, in the authority's opinion, establish the grounds; and
 - (c) telling the trustees that the trustees may, within a stated reasonable time, give a written response to the authority about the matters in the notice.
 - (3) If, after considering any response given under subsection (2) (c), the planning and land authority is satisfied that the grounds for suspending or cancelling the approval have been established, the authority may, in writing, suspend or cancel the approval.
 - (4) If the planning and land authority suspends or cancels an approval, the authority must give written notice of the suspension or cancellation to the trustees.
-

Schedule 5

PLANNING AND LAND (CONSEQUENTIAL AMENDMENTS) BILL 2002

Amendment circulated by Ms Dundas

1

Schedule 1

Amendment 1.90

Page 34, line 1—

omit amendment 1.90, substitute

[1.90] Section 229A

omit

Schedule 6

ADMINISTRATIVE APPEALS TRIBUNAL AMENDMENT BILL 2002

Amendments circulated by the Attorney-General

1

Clause 15

Proposed new section 49E

Page 7, line 6—

omit proposed new section 49E, substitute

49E Costs in land, planning and environment proceedings

- (1) The tribunal may award costs of an application or part of an application against a party to the application if the party contravenes a tribunal direction.

Examples of contravention of tribunal direction

- 1 failing to provide further information in relation to the proceeding on the application
- 2 failing to provide a list of contentions on which reliance is to be placed at the hearing of the application

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, the tribunal may award costs under subsection (1) only if satisfied that it is in the interests of justice to do so.
- (3) In deciding whether it is in the interests of justice to award costs, the tribunal must consider the following:
- (a) whether the contravention was deliberate or could easily have been avoided;
 - (b) whether (and if so, the extent to which) the contravention has affected the tribunal's ability to hear the proceeding expeditiously;
 - (c) the importance to the community of people being able to afford to bring applications to the tribunal.
- (4) The tribunal may consider any other relevant matter.
- (5) Costs are payable at the prescribed scale of costs set out in the *Supreme Court Rules*, schedule 3 (Costs).

Schedule 7

ADMINISTRATIVE APPEALS TRIBUNAL AMENDMENT BILL 2002

Amendment circulated by Mrs Dunne to the amendment moved by the
Attorney-General

1

Amendment 1

Proposed new section 49E—

omit

against a party to the application if the party contravenes a tribunal
direction.

substitute

against—

- (a) the applicant if the tribunal is satisfied that the application, or
part of the application, is frivolous or vexatious; or
 - (b) a party to the application if the party contravenes a tribunal
direction.
-