



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2008–2009–2010

MINUTES OF PROCEEDINGS

No. 89

THURSDAY, 9 DECEMBER 2010

1 The Assembly met at 10 a.m., pursuant to adjournment. The Speaker (Mr Rattenbury) 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 **PUBLIC SECTOR MANAGEMENT AMENDMENT BILL 2010**

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

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 7 December 2010.

Title read by Clerk.

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

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

3 **DANGEROUS SUBSTANCES AMENDMENT BILL 2010**

Ms Gallagher (Minister for Industrial Relations), pursuant to notice, presented a Bill for an Act to amend the *Dangerous Substances Act 2004* and *Dangerous Substances (General) Regulation 2004*.

Papers: Ms Gallagher presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 7 December 2010.

Title read by Clerk.

Ms Gallagher 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.

4 COURTS LEGISLATION AMENDMENT BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about courts.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 7 December 2010.

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.

5 CRIMES LEGISLATION AMENDMENT BILL 2010

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend legislation about crimes, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 7 December 2010.

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.

6 ELECTRICITY FEED-IN (RENEWABLE ENERGY PREMIUM) AMENDMENT BILL 2010

Mr Corbell (Minister for Energy), pursuant to notice, presented a Bill for an Act to amend the *Electricity Feed-in (Renewable Energy Premium) Act 2008*.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 7 December 2010.

Title read by Clerk.

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

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

7 SITTING PATTERN—2011

Mr Corbell (Manager of Government Business), pursuant to notice, moved—That, unless the Speaker fixes an alternative day or hour of meeting on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, the Assembly shall meet as follows for 2011:

February	15	16	17
March	8	9	10
	29	30	31
April	5	6	7
May	3	4	5
June	21	22	23
	28	29	30
August	16	17	18
	23	24	25
September	20	21	22
October	18	19	20
	25	26	27
November	15	16	17
December	6	7	8

Mrs Dunne moved the following amendment: Insert:

February	8	9	10
September	13	14	15”.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 6

Mr Coe
Mr Doszpot
Mrs Dunne
Mr Hanson
Mr Seselja
Mr Smyth

NOES, 11

Mr Barr
Ms Bresnan
Ms Burch
Mr Corbell
Ms Gallagher
Mr Hargreaves
Ms Hunter
Ms Le Couteur
Ms Porter
Mr Rattenbury
Mr Stanhope

And so it was negatived.

Question—That the motion be agreed to—put and passed.

8 LEAVE OF ABSENCE TO MEMBERS

Mr Corbell (Manager of Government Business) moved—That leave of absence from 10 December 2010 to 14 February 2011 inclusive be given to all Members.

Question—put and passed.

9 SUSPENSION OF STANDING AND TEMPORARY ORDERS—EXTENSION OF ADJOURNMENT DEBATE

Mr Corbell (Manager of Government Business) moved—That so much of the standing and temporary orders be suspended as would prevent the adjournment debate for this sitting continuing past 30 minutes.

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

10 EXECUTIVE BUSINESS—PRECEDENCE

Ordered—That Executive business be called on forthwith.

11 PAYROLL TAX AMENDMENT BILL 2010

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 FAIR TRADING (AUSTRALIAN CONSUMER LAW) AMENDMENT BILL 2010

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—

Mrs Dunne moved—That debate be adjourned.

Question—put.

The Assembly voted—

AYES, 6

Mr Coe
Mr Doszpot
Mrs Dunne
Mr Hanson
Mr Seselja
Mr Smyth

NOES, 11

Mr Barr
Ms Bresnan
Ms Burch
Mr Corbell
Ms Gallagher
Mr Hargreaves
Ms Hunter
Ms Le Couteur
Ms Porter
Mr Rattenbury
Mr Stanhope

And so it was negatived.

Debate resumed.

Question—That this Bill be agreed to in principle—put.

The Assembly voted—

AYES, 11

Mr Barr
Ms Bresnan
Ms Burch
Mr Corbell
Ms Gallagher
Mr Hargreaves
Ms Hunter
Ms Le Couteur
Ms Porter
Mr Rattenbury
Mr Stanhope

NOES, 6

Mr Coe
Mr Doszpot
Mrs Dunne
Mr Hanson
Mr Seselja
Mr Smyth

And so it was resolved in the affirmative—Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole—

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

Bill, as a whole, as amended, agreed to.

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

13 A.C.T. TEACHER QUALITY INSTITUTE BILL 2010

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

Bill, by leave, taken as a whole—

On the motion of Ms Hunter, by leave, her amendments Nos. 1 to 5 (*see* [Schedule 2](#)) were made together, after debate.

Bill, as a whole, as amended, agreed to.

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

14 PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT STATEMENTS) AMENDMENT BILL 2010

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

Clause 1—

Debate continued.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

15 QUESTIONS

Questions without notice were asked.

16 AUDITOR-GENERAL'S REPORT NO. 3/2008—RECORDS MANAGEMENT IN A.C.T. GOVERNMENT AGENCIES—REPORT ON PROGRESS AND EFFECTIVENESS OF IMPLEMENTING RECOMMENDATIONS—PAPER—PAPER NOTED

Mr Stanhope (Minister for Territory and Municipal Services) presented the following paper:
Auditor-General's Report No. 3/2008—Records Management in ACT Government Agencies—Report on progress and effectiveness of implementing recommendations—

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

Question—put and passed.

17 ACTIVE TRANSPORT—GOVERNMENT RESPONSE—PAPER—PAPER NOTED

Mr Stanhope (Minister for Transport), pursuant to the resolution of the Assembly of 5 May 2010, presented the following paper:

Active transport—Government response—

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

Debate ensued.

Question—put and passed.

18 FINANCIAL MANAGEMENT ACT—INSTRUMENT—PAPER AND STATEMENT BY MINISTER

Ms Gallagher (Treasurer) presented the following paper:

Financial Management Act, pursuant to section 18A—Authorisation of Expenditure from the Treasurer's Advance to the ACT Planning and Land Authority, including a statement of reasons, dated 2 December 2010—

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

19 ESTIMATES 2010-2011—SELECT COMMITTEE—REPORT—APPROPRIATION BILL 2010-2011—CHANGE OF USE CHARGE—GOVERNMENT RESPONSE—PAPERS AND STATEMENT BY MINISTER

Ms Gallagher (Treasurer) presented the following papers:

Estimates 2010-2011—Select Committee—Report—*Appropriation Bill 2010-2011*—Government response in relation to the change of use charge, incorporating—

Final Report on the Review of the Change of Use Charges System in the ACT, commissioned by ACT Treasury.

Reforming the Change of Use Charges (CUC) in the ACT: An independent economic assessment, prepared by John Piggott, dated 25 November 2010.

Review of Empirical Estimation of the effects of Change of Use Charges (CUC) in the ACT, prepared by Mardi Dungey, dated 29 November 2010.

Review of the Change of Use Charge System in the ACT—Regulatory Impact Statement—

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

20 PRESENTATION OF PAPER

Mr Corbell (Minister for Police and Emergency Services) presented the following paper:

Public Accounts—Standing Committee—Report 9—*Review of Auditor-General's Report No. 4 of 2009: Delivery of Ambulance Services to the ACT Community*—Government response.

21 AUSTRALIAN CAPITAL TERRITORY ECONOMIC, SOCIAL AND CULTURAL RIGHTS RESEARCH PROJECT—REPORT—PAPER—PAPER NOTED

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

Australian Capital Territory Economic, Social and Cultural Rights Research Project—Australian Research Council Linkage Project LP0989167—Report, dated September 2010—

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

Question—put and passed.

22 CLIMATE CHANGE, ENVIRONMENT AND WATER—STANDING COMMITTEE—REPORT 4—INQUIRY INTO ACT GREENHOUSE GAS REDUCTION TARGETS—FINAL REPORT—AUGUST 2010—GOVERNMENT RESPONSE—PAPER—PAPER NOTED

Mr Corbell (Minister for the Environment, Climate Change and Water) presented the following paper:

Climate Change, Environment and Water—Standing Committee—Report 4—*Inquiry into ACT Greenhouse Gas Reduction Targets—Final report*—August 2010—Government response, dated December 2010—

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

Question—put and passed.

23 PRESENTATION OF PAPER

Mr Barr (Minister for Education and Training), pursuant to the resolution of the Assembly of 23 June 2010, entitled *Shepherd Centre and Noah's Ark—Funding*, presented the following paper:

Disability education—Government response.

24 PRESENTATION OF PAPER

Mr Barr (Minister for Planning), pursuant to the resolution of the Assembly of 5 May 2010, presented the following paper:

Dunlop—Construction of shops—Government response.

25 TERRITORY PLAN—PROPOSED TECHNICAL AMENDMENT (2010-31)—GOVERNMENT RESPONSE—PAPER AND STATEMENT BY MINISTER

Mr Barr (Minister for Planning), pursuant to the resolution of the Assembly of 17 November 2010, presented the following paper:

Territory Plan—Proposed Technical Amendment (2010-31)—Government response—

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

26 PRESENTATION OF PAPER

Ms Burch (Minister for Children and Young People) presented the following paper:
ACT Young People's Plan 2009-2014—Progress report 2010.

27 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—STANHOPE GOVERNMENT

The Assembly was informed that Ms Bresnan, Mr Coe, Mr Doszpot, Mrs Dunne, Mr Hanson, Mr Hargreaves, Ms Hunter, Ms Le Couteur, Ms Porter, Mr Seselja (Leader of the Opposition) and Mr Smyth had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Hanson be submitted to the Assembly, namely, "The state of the Stanhope government".

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

28 PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT STATEMENTS) AMENDMENT BILL 2010

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

Detail Stage

Clause 1 agreed to.

Clauses 2 to 34, by leave, taken together—

Ms Le Couteur, by leave, moved her amendments Nos. 2 to 20 together (*see [Schedule 3](#)*).

Debate continued.

Question—put.

The Assembly voted—

AYES, 3

Ms Bresnan
Ms Hunter
Mr Rattenbury

NOES, 13

Mr Barr	Mr Hanson
Ms Burch	Mr Hargreaves
Mr Coe	Ms Porter
Mr Corbell	Mr Seselja
Mr Doszpot	Mr Smyth
Mrs Dunne	Mr Stanhope
Ms Gallagher	

And so it was negatived.

Clauses 2 to 34 agreed to.

Title agreed to.

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

29 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.29 p.m., adjourned until Tuesday, 15 February 2011 at 10 a.m., in accordance with the resolution agreed to earlier this day.

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

M M KIERMAIER
Acting Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

FAIR TRADING (AUSTRALIAN CONSUMER LAW) AMENDMENT BILL 2010

Amendment circulated by Mr Rattenbury

1

Schedule 1

Amendment 1.6

Proposed new section 8 (2)

Page 7, line 24—

omit

2 months

substitute

3 months

Schedule 2

A.C.T. TEACHER QUALITY INSTITUTE BILL 2010

Amendments circulated by Ms Hunter

1

Proposed new clause 32 (1A)

Page 19, line 8—

insert

- (1A) The institute may waive the requirement under subsection (1) (e) if the institute is satisfied that the person—
- (a) has taken all reasonable steps to obtain a copy of the record; and
 - (b) is unable to obtain the record.
-

2

Proposed new clause 33 (1A)

Page 20, line 28—

insert

- (1A) The institute may waive the requirement under subsection (1) (d) if the institute is satisfied that the person—
- (a) has taken all reasonable steps to obtain a copy of the record; and
 - (b) is unable to obtain the record.
-

3

Proposed new clause 35 (1A)

Page 22, line 29—

insert

- (1A) The institute may waive the requirement under subsection (1) (c) if the institute is satisfied that the person—
- (a) has taken all reasonable steps to obtain a copy of the record; and
 - (b) is unable to obtain the record.
-

4**Clause 42 (5)****Page 31, line 5—***omit clause 42 (5), substitute*

- (5) The institute may make information in the teachers register, about whether a teacher holds full registration, provisional registration or a permit to teach, available to someone else on request.
-

5**Clause 42 (6)****Page 31, line 13—***omit*

or subsection (5) (b)

Schedule 3

**PLANNING AND DEVELOPMENT (ENVIRONMENTAL
IMPACT STATEMENTS) AMENDMENT BILL 2010**

Amendments circulated by Ms Le Couteur

1

Long title—

after

Planning and Development Act 2007

insert

, and for other purposes

2

Clause 3, note

Page 2, line 17—

substitute

Note This Act also amends the *Planning and Development
Regulation 2008* (see sch 1).

3

Proposed new clause 3A

Page 2, line 18—

insert

3A What is a *strategic environmental assessment*?
New section 99 (2)

insert

(2) A strategic environmental assessment is a notifiable instrument.

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

4

Clause 7 heading

Page 3, line 20—

omit clause 7 heading, substitute

7 New sections 124A and 124B

5**Clause 7****Proposed new section 124A (1) (b)****Page 4, line 2—***omit*

substantial

substitute

significant

6**Clause 7****Proposed new section 124A (3)****Page 4, line 10—***omit proposed new section 124A (3), substitute*

(3) In this section:

significant means important, notable or of consequence having regard to the matters mentioned in subsection (2).**124B Meaning of *likely to have a significant adverse environmental impact***

- (1) For this Act, a development proposal is *likely to have a significant adverse environmental impact* if there is a real or not remote chance or possibility that the proposal will have a significant adverse environmental impact.
- (2) In deciding whether a development proposal is likely to have a significant adverse environmental impact it does not matter whether the adverse environmental impact is likely to occur on the site of the development or elsewhere.

7**Clause 9****Proposed new section 138AA (1) (b)****Page 4, line 23—***omit*

or item 6

substitute

, item 6 or item 7 (b)

8**Clause 9****Proposed new section 138AB (4A)****Page 5, line 26—***insert*

- (4A) A regulation may prescribe criteria that a relevant agency must take into account in considering whether a proposal is not likely to have a significant adverse environmental impact.

9**Clause 14****Proposed new section 211 (2) and (3)****Page 9, line 18—**

omit proposed new section 211 (2) and (3), substitute

- (2) An exemption must include—
- (a) a statement of the reasons for exempting the development application; and
 - (b) a copy of the other study.
- (3) A regulation must prescribe the criteria that the Minister must take into account in deciding whether the environmental impact of the development proposal has been sufficiently addressed by the other study.
- (3A) An exemption is a notifiable instrument.

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

10**Proposed new clause 25A****Page 14, line 14—**

insert

25A New sections 410A and 410B

insert

410A ACAT review—environmental significance opinions

- (1) This section applies if, in relation to a development proposal—
- (a) a relevant agency decides to give an environmental significance opinion under section 138AB (4) (a); and
 - (b) a development application for development approval for the development proposal has been made.
- (2) An application for review of the relevant agency's decision must be made not later than the end of the public consultation period for the development application.

Note **Public consultation period**, for a development application—see s 157.

410B ACAT review—s 211 exemptions

- (1) This section applies if—
- (a) the Minister decides to exempt a development application for development approval for a development proposal from a requirement to include an EIS under section 211; and

- (b) a development application for development approval for the development proposal has been made.
- (2) An application for review of the Minister's decision must be made not later than the end of the public consultation period for the development application.

Note **Public consultation period**, for a development application—see s 157.

11**Proposed new clause 26A**

Page 15, line 2—

*insert***26A Schedule 1, new item 1A***before item 1, insert*

1A	decision under s 138AB (4) (a) to give an environmental significance opinion	relevant agency	an entity if— (a) the entity made a representation under s 156 about the development proposal or had a reasonable excuse for not making a representation; or (b) the entity has objects or purposes—the decision relates to a matter included in the entity's objects or purposes	
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12**Proposed new clause 26B**

Page 15, line 2—

*insert***26B Schedule 1, new item 14A***insert*

14A	decision under s 211 to exempt development application	Minister	an entity if— (a) the entity made a representation under s 156 about the development proposal or had a reasonable excuse for not making a representation; or (b) the entity has objects or purposes—the decision relates to a matter included in the entity's objects or purposes	
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13
Clause 29
Proposed new item 1
Page 16—

omit

a future urban area or in

14
Clause 30
Proposed new item 2
Page 21—

omit proposed new item 2, substitute

2	proposal involving— <ul style="list-style-type: none"> (a) the clearing of more than 0.5ha of native vegetation unless the conservator of flora and fauna produces an environmental significance opinion that the clearing is not likely to have a significant adverse environmental impact; or (b) the clearing of native vegetation on land identified in a nature conservation strategy, or action plan, under the <i>Nature Conservation Act 1980</i> or a biodiversity corridor unless the conservator of flora and fauna produces an environmental significance opinion that the clearing is not likely to have a significant adverse environmental impact
---	--

15
Clause 30
Proposed new item 6
Page 22—

after

registered

insert

, or nominated for provisional registration,

16
Clause 30
Proposed new item 7
Page 22—

omit proposed new item 7, substitute

7	proposal involving— <ul style="list-style-type: none"> (a) land included on the register of contaminated sites under the <i>Environment Protection Act 1997</i>; or (b) land potentially contaminated in a way that is likely to cause a significant risk of harm to people's health or the environment unless the environment protection authority produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact
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17**Clause 30****Proposed new item 8****Page 22—***omit*

or land that is designated under the territory plan as a future urban area

18**Clause 32****Proposed new definition of *likely to have a significant adverse environmental impact*****Page 22, line 12—***insert**likely to have a significant adverse environmental impact—*
see section 124B (1).

19**Clause 32****Proposed new definition of *relevant agency*, new paragraph (d)****Page 23, line 9—***insert*(d) for schedule 4, part 4.3, item 7 (b)—the environment
protection authority.

20**Clause 34****Page 23, line 17—***omit clause 34, substitute*

Schedule 1 Planning and Development Regulation 2008

(see s 3)

[1.1] New section 13 (3)

insert

- (3) An SEA scoping document is a notifiable instrument.

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

[1.2] Section 14

after

assess the environmental benefits and impacts

insert(a *benefits and impacts assessment*)

[1.3] New section 15 (2) (aa)

before paragraph (a), insert

- (aa) invite comments from the public; and

[1.4] New section 15 (2) (c)

insert

- (c) allow for public consultation for stages A, B, C and E.

[1.5] Section 17 (2) (b) and (c)

substitute

- (b) the benefits and impacts assessment;
- (c) the consultation plan;
- (d) the consultation report;
- (e) any monitoring plan.

[1.6] Section 17 (2), note

substitute

Note The SEA scoping document is prepared in stage B (see s 13). The benefits and impacts assessment is prepared in stage C (see s 14). The consultation plan and consultation report are prepared in stage D (see s 15). The monitoring plan is prepared in stage E (see s 16).

[1.7] Section 51 (3), except example

substitute

- (3) The planning and land authority in preparing a scoping document for a development proposal—
 - (a) must consult with the ACT community; and
 - (b) may consult with an entity that the authority is not required to consult with under subsection (1).

[1.8] Section 54 (1) (e)

omit

[1.9] Dictionary, new definition of *benefits and impacts assessment*

insert

benefits and impacts assessment, in relation to a strategic environmental assessment—see section 14.
