



# Legislative Assembly for the Australian Capital Territory

2016-2017-2018

## Notice Paper

No 80

Wednesday, 28 November 2018

The Assembly meets this day at 10 am

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### PRIVATE MEMBERS' BUSINESS

#### Notices

- 1 **MR PETTERSSON:** To present a Bill for an Act to amend the *Drugs of Dependence Act 1989*, and for other purposes. (*Notice given 26 November 2018*).
- 2 **MS LAWDER:** To present a Bill for an Act to amend the *Domestic Animals Act 2000*. (*Notice given 26 November 2018*).
- 3 **MS LE COUTEUR:** To move—That this Assembly:
  - (1) notes that:
    - (a) while Canberra is a high income community with a growing economy, a substantial number of Canberrans struggle financially, for example people on low wages and many people that rely on Federal Government assistance payments;
    - (b) the ACT Government provides many services that are crucial supports for lower income Canberrans, including the public health system, public transport and public housing, as well as providing funding for financial counselling for people who fall into hardship;

\* Notifications to which an asterisk (\*) is prefixed appear for the first time



- (c) the ACT Government provides concessions to lower income households such as the utilities concessions and free off-peak public transport fares for pensioners – however, the ACT Government’s ability to target everyone who needs help is limited because Australia’s income tax and means-testing systems are operated by the Federal Government; and
  - (d) the ACT taxation system has existing policies and programs that can help people on lower incomes, such as rates deferrals and concessions for pensioners;
- (2) further notes that:
- (a) people struggling with their daily expenses can reach crisis point when bills like electricity, phone and rates arrive; and
  - (b) the ACT Revenue Office maintains a call centre for people with rates and other tax inquiries, and can be the first point of contact with the ACT Government for people facing financial hardship;
- (3) further notes that:
- (a) fines in the ACT such as parking tickets and lower-level traffic infringements are a fixed amount regardless of income, which means they have a disproportionate financial impact on people who are on lower incomes and means they are disproportionately punished for the infringement;
  - (b) the ACT Government has put in place a work and development program, so that those who may not be able to pay a fine are able to undertake activities such as community service, financial counselling or drug and alcohol treatment in lieu of paying their fine – however, low income workers without a Federal Government concession card can miss out;
  - (c) several countries internationally are investigating or introducing income-based fines, for example:
    - (i) the United Kingdom allows judges’ discretion to adjust fines for traffic matters that go to court based on income; and
    - (ii) Finland charges traffic fines using a formula based on the person’s daily disposable income; and
  - (d) the Australia Institute has investigated how this principle could be applied in Australia and has identified that it would be a fairer approach; and
- (4) calls on the ACT Government to expand and improve its support for low income Canberrans by:
- (a) investigating the potential of income-based fines for the ACT, including consultation with stakeholders such as community legal services;
  - (b) helping low income property owners by:

- (i) writing to all residential rate payers who get a concession by 28 February 2019 to advise them of the rates deferrals available;
  - (ii) including information about rates concessions, deferrals and hardship arrangements on all residential rates notices issued after 30 June 2019;
  - (iii) redesigning the rates notice to ensure people understand that they can still pay quarterly;
  - (iv) providing training for Revenue Office call centre staff by 30 June 2019 in how to recognise customers suffering from financial hardship, what help they may be eligible for, and who they can be referred to for further support – with other staff that support customers to be trained subsequently; and
  - (v) publishing the criteria used by the Revenue Office to determine who is eligible for hardship assistance, including providing easy-to-read material on the relevant Government website, by 28 February 2019;
- (c) helping organisations that advocate for lower income Canberrans by improving the cost of living statement in future Budget Papers by including a broader range of vulnerable households and providing time series data similar to the 2018-19 Budget's "Socio Economic Analysis on Taxation and Concessions Policy";
- (d) approaching the Federal Government and other states and territories, for example through the Council of Australian Governments, about opportunities for states and territories to access Federal Government information to help with providing concessions to people on lower incomes; and
- (e) reporting back on these issues by the last sitting day in August 2019. *(Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A).*

4 **MRS JONES:** To move—That this Assembly:

- (1) notes:
  - (a) the need to protect Canberrans against bushfires; and
  - (b) only 24.3 percent of prescribed burns were completed in the 2017-18 Bushfire Operations Plan, while only seven percent of prescribed burns were completed in 2016-17;
- (2) further notes the bushfire season commenced one month earlier than usual, on 1 September 2018; and

- (3) calls on the ACT Government to investigate methods of increasing the burning capacity during periods of suitable weather conditions and to report back to the Assembly by the end of the 2018-19 bushfire season. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

5 **MS CODY:** To move—That this Assembly:

- (1) notes:
  - (a) the naming of many places in Canberra, including suburbs and streets, after historical persons;
  - (b) that the behaviour of some of those persons was criminal, reprehensible and/or abhorrent;
  - (c) the ongoing hurt caused in the community by the commemoration of villains as heroes;
  - (d) that the ACT Place Names Committee provides advice to establish policies for the naming of divisions (suburbs) and public places on Territory land in the Australian Capital Territory (ACT);
  - (e) the current role, responsibilities, membership and expertise, and operations of the ACT Place Names Committee is set out in its terms of reference which is available online; and
  - (f) the Public Place Names Guidelines, which are notified on the ACT Legislation Register, detail the established policies for the naming of new divisions, roads and other public places in the ACT; and
- (2) calls on the ACT Government to:
  - (a) review the terms of reference and expansion of membership for the ACT Place Names Committee to ensure it continues to be representative of the diversity of Canberra as a modern, inclusive and progressive city;
  - (b) review the Public Place Names Guidelines to ensure that they meet with community standards, allow for greater community input and capacity to raise concerns;
  - (c) ensure that the ACT Place Name Committee considers community proposals relating to place names that no longer meet community standards;
  - (d) request the ACT Place Names Committee review particular non-residential place names that have been the subject of significant community disquiet, such as William Slim Drive and Haig Park, as a priority; and
  - (e) report to the Assembly during the June 2019 sitting period on the outcomes of this review. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

6 **MS LEE:** To move—That this Assembly:

## (1) notes that:

- (a) the ACT Government should refocus Canberra on being the best city in Australia to learn a second language;
- (b) Canberra is a great multicultural city;
- (c) learning a second language from an early age has enormous benefits for all children – academically, socially, culturally and for future employability;
- (d) strong communication skills are becoming increasingly valued by employers and our education system should evolve to equip all Canberra children with skills for a future not limited by geographic borders;
- (e) the ACT Government’s *Future of Education Strategy* does not make a single mention of the importance of language education in Canberra schools;
- (f) very few ACT government primary schools offer Mandarin – yet China is Australia’s largest trading partner;
- (g) no ACT government schools teach Arabic – despite Arabic being the third most commonly spoken language in Australia and the increasing demand in both public and private sectors;
- (h) very few ACT government primary schools offer Indian languages – despite the importance of India as a trading partner and the high Indian population in the ACT; and
- (i) the ACT Government has failed to:
  - (i) appropriately prioritise or think strategically about the future of language education in Canberra schools;
  - (ii) adequately encourage or support teachers to pursue the appropriate qualifications to teach a second language; and
  - (iii) adequately promote the qualifications to teach a second language as a desirable skill for new teachers;
 which has resulted in Canberra students not having a consistent language pathway from preschool or kindergarten through to college to pursue study of a second language; and

## (2) calls on the ACT Government to:

- (a) explain to the Canberra community why it has failed to make a single mention of the importance of language education in its *Future of Education Strategy*;
- (b) establish an action plan to encourage, improve and support language education in Canberra schools;

- (c) work more closely with the Community Language Schools Association to share teaching resources so that language education can be offered in a school setting where needed; and
- (d) report back to the ACT Legislative Assembly on its action plan by the last sitting day in March 2019. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

7 **MISS C BURCH:** To move—That this Assembly:

(1) notes that:

- (a) as of November 2018, the ACT Government is yet to release the 2019 bus timetable;
- (b) without access to the proposed timetable, it is nearly impossible to ascertain the impact of the new network on commuters or for the community to provide genuine feedback in the consultation process;
- (c) the ACT Government has also not given an indicative commencement date for the 2019 bus network and timetable;
- (d) this uncertainty regarding the start date of the new network and timetable will cause inconvenience to students, parents and schools who need to make arrangements for the 2019 school year;
- (e) given that 50 schools will have no dedicated school buses, this uncertainty will also disproportionately impact those who must solely rely on the new network to get to and from school; and
- (f) there is strong dissatisfaction in the community regarding the ACT Government's inaction on releasing the commencement date for the 2019 bus timetable and network; and

(2) calls on Minister Fitzharris to:

- (a) explain the reasons why the 2019 bus timetable has yet to be released;
- (b) explain why the Minister thinks it is appropriate to leave thousands of parents and students, as well as Canberra schools, in the dark regarding these changes, causing inconvenience and uncertainty going into the 2019 school year; and
- (c) indicate a definitive commencement date in 2019 for the new network and timetable by 7 December 2018. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

8 **MR PETERSSON:** To move—That this Assembly:

(1) notes:

- (a) the tertiary education and research sector plays an integral role in the ACT's economy;
- (b) a recent study by Deloitte Access Economics found that the tertiary education (which for the purposes of the study included technical and further education (TAFE)) and research sector contributes \$3.3 billion and 20 000 full-time equivalent jobs to the ACT economy which equates to approximately nine percent of the ACT economy and workforce;
- (c) a critical part of the this sector is the Vocational Education and Training (VET) system;
- (d) a properly funded VET system is crucial to ensuring that Canberrans have the skills they need to participate in the labour market which in turn supports our growing city and economy;
- (e) the ACT Government acted decisively and successfully negotiated an agreement with the Commonwealth under the National Partnership on the Skilling Australians Fund ensuring the Territory will receive approximately \$20 million over the next four years, along with additional funding for specific projects that will help the ACT Government meet the needs of industry and increase the number of apprentices and trainees;
- (f) since 2014-15, the ACT has lead the nation in arresting the decline and significantly increasing apprenticeship commencements, while nationally the numbers have continued to decline. In fact from 2015-16 to 2016-17, the ACT increased apprenticeship commencements by 47 percent;
- (g) the Government has also proactively targeted and supported a number of key groups in our community to take up apprenticeships and traineeships, for example, recently announcing the recipients of the Mature Workers Grants Program and a second round of the Women in Trades Grant Program;
- (h) the ACT Government's commitment to supporting VET is demonstrated through the Government's continued support of the Canberra Institute of Technology (CIT);
- (i) through the Ninth Assembly Parliamentary Agreement the Government has committed to recognise that CIT should remain the primary provider of high-quality vocational training in the ACT, and to maintain the CIT under public ownership. The Government will continue to directly fund CIT to a minimum of 70 percent of total ACT Government funding for VET; and

- (j) the ACT Government's commitment to strong linkages and integration between the tertiary and VET sectors in the ACT to give students and industry the best access to holistic learning opportunities;
- (2) notes the vital role CIT plays in providing vocational education in Canberra, including:
    - (a) educating and training over 13 000 people last year, with 4 210 program completions;
    - (b) providing 3 422 apprenticeship and traineeship courses;
    - (c) holding a 91 percent learner satisfaction rate and a 87 percent employer satisfaction rate; and
    - (d) ensuring 84 percent of all graduates employed after graduation, compared to the national average of 73 percent;
  - (3) notes attacks on the vocational education sector coming from Federal and State Liberal governments including:
    - (a) attempted privatisation of cross-border TAFE services;
    - (b) opening the funding system and giving billions to shonky providers who lured students in with free gifts and left them with massive debts; and
    - (c) the Liberal Party propensity to sell off anything and everything, even if it is nailed down; and
  - (4) calls on all Members of this Assembly to:
    - (a) support public vocational education and rule out privatisation of this essential institution; and
    - (b) sign a commitment to keep CIT in public hands. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).
- 9 **MR PARTON:** To move—That this Assembly:
- (1) notes:
    - (a) the Canberra Liberals commitment to reducing cost of living through providing more affordable rentals in Canberra;
    - (b) that the Liberal Opposition presented a bill aimed at providing more affordable rental in Canberra;
    - (c) the Speakers ruling that the bill is out of order in accordance with standing orders; and
    - (d) Labor and the Greens have failed to take firm steps to reduce the burden of housing stress in Canberra; and

- (2) calls on the ACT Government to:
  - (a) legislate to provide a land tax exemption as outlined in the Land Tax (Community Housing Exemption) Amendment Bill 2018 presented to the Assembly on 19 September 2018 in order to provide more affordable rentals in Canberra. (*Notice given 23 October 2018. Notice will be removed from the Notice Paper unless called on within 2 sitting weeks – standing order 125A*).

10 **MRS JONES:** To move—That this Assembly:

- (1) notes the detainee population of the Alexander Maconochie Centre has reached a new high of 507, 68 detainees over the design capacity of 439 and four detainees fewer than the operational capacity of 511;
- (2) further notes that a feasibility study into future correctional requirements, including accommodation, was completed in early 2018; and
- (3) calls on the ACT Government to release its findings of the feasibility study and explain to the Assembly how it will accommodate detainees should the population increase beyond 511. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

\*11 **MRS DUNNE:** To move—That this Assembly:

- (1) notes:
  - (a) systematic bullying, poor culture and poor management in the ACT health system;
  - (b) high churn of staff in ACT Health since the announcement in March that the Health Directorate would be split into two directorates;
  - (c) worsening elective surgery waiting times and emergency waiting times, despite the assurances of the Minister for Health and Wellbeing that they were improving;
  - (d) failures in infrastructure at The Canberra Hospital; and
  - (e) delays to the delivery of the Surgical Procedures, Interventional Radiology and Emergency building; and
- (2) censures the Minister for Health and Wellbeing for her failures in administration of the Health portfolio. (*Notice given 27 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

## Orders of the day

- 1 **PLANNING AND DEVELOPMENT (TERRITORY PLAN VARIATIONS) AMENDMENT BILL 2017:** (*Ms Le Couteur*) Agreement in principle—Resumption of debate (*from 10 May 2017—Ms Lawder*).

- 2 **LANDS ACQUISITION (REPORTING REQUIREMENTS) AMENDMENT BILL 2018:** *(Mr Coe)* Agreement in principle—Resumption of debate *(from 14 February 2018—Mr Barr)*.
- 3 **CRIMES (CONSENT) AMENDMENT BILL 2018:** *(Ms Le Couteur)* Agreement in principle—Resumption of debate *(from 11 April 2018—Mr Ramsay)*.
- 4 **MAGISTRATES COURT (RETIREMENT AGE OF MAGISTRATES) AMENDMENT BILL 2018:** *(Mr Hanson)* Agreement in principle—Resumption of debate *(from 9 May 2018—Mr Ramsay)*.
- 5 **ANTI-CORRUPTION AND INTEGRITY COMMISSION BILL 2018:** *(Mr Coe)* Agreement in principle—Resumption of debate *(from 6 June 2018—Mr Barr)*.
- 6 **DOMESTIC ANIMALS (DANGEROUS DOGS) LEGISLATION AMENDMENT BILL 2018:** *(Ms Lawder)* Agreement in principle—Resumption of debate *(from 24 October 2018—Mr Steel)*.

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## EXECUTIVE BUSINESS

### Orders of the day

- 1 **CITY RENEWAL AUTHORITY AND SUBURBAN LAND AGENCY AMENDMENT BILL 2018:** *(Minister for Housing and Suburban Development)*: Agreement in principle—Resumption of debate *(from 30 October 2018—Mr Parton)*.
- \*2 **INTEGRITY COMMISSION BILL 2018:** *(Chief Minister)*: Agreement in principle—Resumption of debate *(from 27 November 2018—Mr Coe)*.
- 3 **EDUCATION AMENDMENT BILL 2017:** *(Minister for Education and Early Childhood Development)*: Agreement in principle—Resumption of debate *(from 26 October 2017—Mr Wall)*.
- 4 **RESIDENTIAL TENANCIES AMENDMENT BILL 2018 (NO 2):** *(Attorney-General)*: Agreement in principle—Resumption of debate *(from 1 November 2018—Mr Parton)*.
- 5 **ACT HEALTH REPORTING—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate *(from 14 February 2017—Mr Wall)* on the motion of Ms Fitzharris—That the Assembly takes note of the paper.
- 6 **ACHIEVEMENTS IN THE FIRST YEAR—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate *(from 31 October 2017—Mrs Jones)* on the motion of Mr Rattenbury—That the Assembly takes note of the paper.

- 7 **FEMALE DETAINEE ACCOMMODATION AT THE ALEXANDER MACONOCHE CENTRE—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (*from 31 October 2017—Mrs Jones*) on the motion of Mr Rattenbury—That the Assembly takes note of the paper.
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## ASSEMBLY BUSINESS

### Notices

- 1 **MR COE:** To move—That:
- (1) this Assembly refers to the Standing Committee on Public Accounts for inquiry and report by the last sitting day of April 2019, all issues relating to commercial rates in Canberra, including:
    - (a) the process for determining ratings factors;
    - (b) the impact of lease variations;
    - (c) how valuations are conducted;
    - (d) the amount paid by property owners; and
    - (e) the impact on leasing costs, property values and business viability; and
  - (2) the inquiry should hold public hearings and explore the effectiveness of the commercial ratings system and the impact it is having on businesses and the property sector in Canberra. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).
- 2 **MS CODY:** To move—That if the Standing Committee on Health, Ageing and Community Services has completed its inquiry into the future sustainability of health funding in the ACT when the Assembly is not sitting, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publishing and circulation. (*Notice given 23 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).
- 3 **MR BARR:** To move—That the Standing Committee on Environment and Transport and City Services:
- (1) further consider, and consult with the community on, a new Territory Coat of Arms; and
  - (2) report back to the Assembly by 6 June 2019. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

## Orders of the day

- 1 **ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE—REPORT 8—REVIEW OF THE STANDING ORDERS AND CONTINUING RESOLUTIONS OF THE LEGISLATIVE ASSEMBLY—MOTION THAT RECOMMENDATIONS 1 AND 2 BE ADOPTED TO COMMENCE ON 1 JANUARY 2019 AND RECOMMENDATIONS 3 TO 12 BE NOTED:** Resumption of debate (*from 25 October 2018—Ms Orr*) on the motion of Mr Wall—That Recommendations 1 and 2 be adopted to commence on 1 January 2019 and Recommendations 3 to 12 be noted. (*Order of the day will be removed from the Notice Paper unless called on within 3 sitting weeks—standing order 152A.*)

## Notices—continued

- 4 **MR BARR:** To move—That Continuing Resolution 5AA, Commissioner for Standards, be amended by omitting paragraph (3) and (4)(b) and substituting a new paragraph (3) and (4)(b) as follows:
- “(3) The Commissioner may be dismissed only following a resolution of the Legislative Assembly resolving to require the Speaker to end the Commissioner’s appointment—
- (a) for misbehaviour; or
  - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner’s functions.
- However, a motion for such a resolution may only be debated after the Standing Committee on Parliamentary and Public Sector Integrity (‘the Committee’) has reported to the Assembly that it is satisfied that the Commissioner is unfit for the office or unable to fulfil the Commissioner’s functions.”; and
- “(4)(b) report to the Standing Committee on Parliamentary and Public Sector Integrity; and”. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A.*)
- 5 **MS J BURCH:** To move—That Continuing Resolution 5AA be amended as follows:
- (1) in paragraph (6), omit “will”, substitute “may”;
  - (2) in paragraph (5), add the following “The Integrity Commissioner established pursuant to the *Integrity Commission Act 2018* may also refer matters to the Commissioner for Standards for consideration via the Clerk of the Legislative Assembly about matters the Integrity Commissioner considers should be referred.”; and

- (3) in paragraph (6), add the following “If the Commissioner considers that the complaint is more properly the purview of the Integrity Commissioner, the Commissioner shall refer the matter to the Integrity Commissioner.”. (*Notice given 21 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

6 **MR BARR:** To move—That:

- (1) the Standing Committee on Administration and Procedure inquire into, and report on:
  - (a) the level and manner of support to the Speaker in performing statutory roles under Officer of the Assembly legislation, and any other related matter;
  - (b) developing amendments to Continuing Resolution 5AA and any standing orders to give effect to permitting the Legislative Assembly Commissioner for Standards to refer suspected systemic and corrupt conduct to the Commission and to receive and act on referrals from the Commission, and any other related matter;
  - (c) the establishment and content of a memorandum of understanding between the Speaker, on behalf of the Assembly, and the ACT Integrity Commission about parliamentary privilege which will, among other matters, cover arrangements for the execution of search warrants or the provision of documents or information where parliamentary privilege is claimed; and
  - (d) the arrangements necessary for an independent legal arbitration process to advise on claims of parliamentary privilege that arise during the course of an ACT Integrity Commission investigation and present a proposal to the Assembly, and any other related matter;
- (2) the Committee report back to the Assembly by the last sitting day in February 2019; and
- (3) the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

7 **MR BARR:** To move—That:

- (1) a Standing Committee on Parliamentary and Public Sector Integrity be established to:
  - (a) examine matters related to corruption and integrity in public administration;
  - (b) inquire into and report on matters referred to it by the Assembly or matters that are considered by the Committee to be of concern to the community;

- (c) perform all functions required of it according to the *Integrity Commission Act 2018*; and
  - (d) monitor, review and report to the Assembly on the performance of the ACT Integrity Commission, the Inspector of the ACT Integrity Commission and the Legislative Assembly Commissioner for Standards on the exercise of the powers and functions of the ACT Integrity Commission, the Inspector of the ACT Integrity Commission and the Legislative Assembly Commissioner for Standards, including examining annual reports of the ACT Integrity Commission, the Inspector of the ACT Integrity Commission and the Legislative Assembly Commissioner for Standards and any other reports made by these bodies;
- (2) nothing in this resolution authorises the Committee to investigate a matter relating to particular conduct or to reconsider a decision to investigate, not to investigate or to discontinue an investigation of a particular complaint made to the Commission, or to reconsider the findings, recommendations, determinations or other decisions of the Commission, the Inspector or the Legislative Assembly Commissioner for Standards in relation to a particular investigation or complaint;
  - (3) the Committee shall be composed of a Member nominated by the Government, a Member nominated by the Opposition and a Member to be nominated by the Crossbench;
  - (4) the Chair shall be an Opposition Member;
  - (5) the Committee be provided with the necessary staff, facilities and resources; and
  - (6) nominations for membership of this Committee be notified in writing to the Speaker within two hours following the passage of this resolution. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

8 **MS J BURCH:** To move—That:

- (1) a Standing Committee on the Integrity Commission be established to:
  - (a) examine matters related to corruption and integrity in public administration;
  - (b) inquire into and report on matters referred to it by the Assembly or matters that are considered by the Committee to be of concern to the community;
  - (c) perform all functions required of it pursuant to the *Integrity Commission Act 2018*; and

- (d) monitor, review and report on the performance of the Integrity Commission and the Inspector of the Integrity Commission or the exercise of the powers and functions of the Integrity Commission and the Inspector of the Integrity Commission, including examining the annual reports of the Integrity Commission and the Inspector of the Integrity Commission and any other reports made by the Commission;
- (2) nothing in this resolution authorises the Committee to investigate a matter relating to particular conduct or to reconsider a decision to investigate, not to investigate or to discontinue an investigation of a particular complaint made to the Commission, or to reconsider the findings, recommendations, determinations or other decisions of the Commission or the Inspector in relation to a particular investigation or complaint;
- (3) the Committee shall be composed of a Member nominated by the Government, a Member nominated by the Opposition and a Member to be nominated by the Crossbench;
- (4) the Chair shall be an Opposition Member;
- (5) the Committee be provided with the necessary staff, facilities and resources; and
- (6) nominations for membership of this Committee be notified in writing to the Speaker within two hours following the passage of this resolution. (*Notice given 26 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A*).

\*9 **MS J BURCH:** To move—That the following continuing resolution be adopted:

**Dealing with claims of parliamentary privilege that arise during the exercise of the ACT Integrity Commission’s powers and functions**

**Preamble**

- (1) The Assembly:
  - (a) reserves all its powers, privileges and immunities, and those of its Members, derived from all sources of law;
  - (b) affirms that parliamentary privilege attaches to all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of the Assembly or an Assembly committee, including to documents and information falling within the scope of ‘proceedings in Parliament’ as provided for in article 9 of the *Bill of Rights 1689* and section 16 of the *Parliamentary Privileges Act 1987* (Cwlth);
  - (c) acknowledges that pursuant to the *Integrity Commission Act 2018*, statutory powers and functions have been vested in the ACT Integrity Commission to investigate and report on corruption in the ACT and that the Commission is empowered, subject to that Act, to investigate allegations of corrupt conduct involving a Member of the Legislative Assembly;

- (d) acknowledges that there may be occasions where the exercise of the Commission's powers and functions gives rise to a claim, by a Member, of parliamentary privilege; and
- (e) resolves that where such a claim is made, it will be addressed and resolved in accordance with the arrangements and principles provided for in this continuing resolution.

### **Compulsory production of documents**

- (2) Where the Integrity Commission or a person acting under the direction of the Commission purports to compulsorily inspect, examine, make a record of, copy, or take possession of a document held by a Member, the Member is entitled to claim that parliamentary privilege applies to the document. 'Document' has the meaning provided for in the *Legislation Act 2001*.
- (3) The Commission must advise a Member that they are entitled to the opportunity to make a claim relating to parliamentary privilege prior to the purported exercise of a compulsory power to inspect, examine, make a record of, copy, or take possession of any document. Where a claim is to be made, it must be notified by the Member to: a) the Commission or a person acting under the direction of the Commission; and b) to the Speaker. In the first instance, a claim may be made in general terms and verbally.
- (4) Where a Member makes a claim in relation to parliamentary privilege, the Commission or a person acting under the direction of the Commission must not inspect, examine, make a record of, copy, or take possession of any document over which a claim has been made until such time as parliamentary privilege has been determined not to apply pursuant to this resolution or that claim has been withdrawn. Any document that is the subject of a claim must be placed in the secure custody of the Clerk of the Legislative Assembly.
- (5) Within 5 calendar days of a claim having been made by a Member that parliamentary privilege applies to a document, the Member must write to the Speaker and the Commissioner advising of the scope and basis of the claim. The Speaker must provide the Member's written advice of a claim to the Standing Committee on Administration and Procedure within 5 calendar days of its receipt.
- (6) Where a Member makes a claim in relation to parliamentary privilege over a document, the Commissioner must notify the Member and the Speaker whether or not the Commission intends to dispute the claim. The notification may be given verbally in the first instance. Where no such notification is given, any document the subject of the claim will be returned to the Member.

- (7) Within 5 calendar days of the receipt of the Member's written advice outlining the scope and basis of the claim, the Commissioner must either give notification that the claim is not disputed or write to the Speaker and the Member advising of the scope and basis of the dispute of the claim. The Speaker must provide the Commissioner's written advice of a dispute to the Standing Committee on Administration and Procedure within 5 calendar days of receipt.
- (8) The Speaker must appoint an Independent Legal Arbiter to adjudicate any claim that is disputed by the Commissioner. Upon the appointment of an Arbiter, the Clerk must hand over custody to the Arbiter any document that is the subject of the disputed claim. The Clerk must return any document to the Member over which there is an undisputed claim. The Speaker may make available to the Arbiter a secure space within the Legislative Assembly precincts to facilitate examination of any document that is the subject of a claim.
- (9) Upon appointment, the Speaker must make the Member's and Commissioner's written advices available to the Arbiter. The Arbiter may seek written submissions from the Member and the Commissioner in which any additional reasons for or against a claim or related information may be stated.
- (10) The Arbiter must review each document that is the subject of a claim and determine whether or not the document falls within the scope of the 'proceedings in Parliament'. Where there is a large volume of material that is the subject of a claim, the Arbiter may receive assistance from a person acting under the direction of the Arbiter to review the material.
- (11) Where the Arbiter determines that a document does fall within the scope of 'proceedings in Parliament', it is protected by parliamentary privilege and it will be returned to the Member.
- (12) Where the Arbiter determines that a document does not fall within the scope 'proceedings in Parliament', it is not protected by parliamentary privilege and it will be provided to the Commissioner (subject to any other lawful requirement that may have been imposed).
- (13) The Arbiter's determination must: be in writing; include reasons; and be transmitted by the Arbiter to the Member, the Commissioner, and the Speaker. The Speaker is required to provide a copy of the Arbiter's determination to the Standing Committee on Administration and Procedure within 5 calendar days of its receipt.

#### **Examination or questioning**

- (14) Where a Member appears under summons to give evidence before the Commission, the Member is entitled to decline to answer a question on the basis that the information in answer to the question is protected by parliamentary privilege.

- (15) Where a claim is made by a Member that the information in answer to a question is protected by parliamentary privilege, it is open to the Commissioner to:
  - (a) withdraw the question; or
  - (b) advise the Member that the Commissioner intends to dispute the claim of parliamentary privilege.
- (16) Where a Member makes a claim relating to parliamentary privilege under examination, the Member must advise the Speaker and the Commissioner in writing as to the scope and basis of the claim within 5 calendar days of the claim being made. The Speaker must provide the Member's written advice to the Standing Committee on Administration and Procedure within 5 calendar days of its receipt.
- (17) Where the Commissioner disputes a claim made by a Member under examination, the Commissioner must advise the Speaker and the Member in writing as to the scope and basis of the dispute of the claim within 5 calendar days of the receipt of the Member's written advice of a claim. The Speaker must provide the Commissioner's written advice to the Standing Committee on Administration and Procedure within 5 calendar days of its receipt.
- (18) Where the Speaker receives advice from the Commissioner that a disputed claim of parliamentary privilege has arisen in the course of an examination, the Speaker must appoint an Independent Legal Arbiter to adjudicate the claim. The Speaker must provide to the Arbiter the Member's written claim and the Commissioner's written dispute of the claim.
- (19) The Arbiter may seek written submissions from the Member and the Commissioner in which any additional reasons for or against a claim or related information may be stated.
- (20) Where the Arbiter determines that the information sought by the Commissioner, by way of a question asked under examination, does fall within the scope of 'proceedings in Parliament', an immunity from the provision of that information to the Commission will operate by reason of parliamentary privilege.
- (21) Where the Arbiter determines that the information sought by the Commissioner, by way of a question asked under examination, does not fall within the scope of 'proceedings in Parliament', no immunity by reason of parliamentary privilege will operate.
- (22) The Arbiter's determination must: be in writing; include reasons; and be transmitted by the Arbiter to the Member, the Commissioner, and the Speaker. The Speaker is required to provide a copy of the Arbiter's determination to the Standing Committee on Administration and Procedure within 5 calendar days of its receipt.

- (23) In determining a question of parliamentary privilege in relation to a question that is posed or information that is sought during an examination, the Arbiter may express the determination:
- by way of specific questions that, if asked, would or would not engage the privilege;
  - by way of more general areas of inquiry that, if explored, would or would not engage the privilege; or
  - in some other way that clarifies the limits of the operation of parliamentary privilege.

### **Making a determination**

- (24) The Arbiter may, but is not bound to, apply the following test to determine whether or not a document that is sought pursuant to a compulsory production power or information that is sought pursuant to a compulsory examination falls within ‘proceedings in Parliament’.

STEP 1: Were the documents or information that is sought **brought into existence** in the course of, or for purposes of or incidental to, the transacting of business of the Assembly or an Assembly committee?

YES → Falls within the scope of ‘proceedings in Parliament’ and parliamentary privilege applies.

NO → Move to step 2.

STEP 2: Have the documents or the information that is sought been **subsequently used** in the course of, or for purposes of or incidental to, the transacting of the business of the Assembly or an Assembly committee?

YES → Falls within the scope of ‘proceedings in Parliament’ and parliamentary privilege applies.

NO → Move to step 3.

STEP 3: Is there any contemporary or contextual evidence that the documents or the information that is sought was **retained or intended** for use in the course of, or for purposes of or incidental to, the transacting of the business of the Assembly or an Assembly committee?

YES → Falls within the scope of ‘proceedings in Parliament’ and parliamentary privilege applies.

NO → The document does not fall within the scope of 'proceedings in Parliament' and is not immune from production / the information sought by the Commissioner in the course of an examination is not covered by parliamentary privilege.

- (25) In determining whether or not parliamentary privilege applies to a document or information that is sought, the Arbiter must have regard to:
- the written claim made by the Member;
  - the written dispute of the claim by the Commissioner;
  - any transcript of an examination of a Member in which a claim relating to parliament privilege has arisen;
  - any written submission made by the Member or by the Commissioner;
  - applicable law relating to parliamentary privilege;
  - the Assembly's standing orders and continuing resolutions;
  - reports of an Assembly committee or of a committee of either House of the Commonwealth Parliament relating to parliamentary privilege; and
  - any other matter that the Arbiter considers to be relevant.
- (26) Documents or information that may fall within the scope of 'proceedings in Parliament' may include (but are not necessarily confined to): notes, draft speeches and questions prepared by a Member for use in the Assembly or an Assembly committee; correspondence received by a Member from a constituent where the Member has raised or is intending to raise a matter in the Assembly or an Assembly committee; correspondence prepared by a Member where the Member has raised or intends to raise a matter in the Assembly or an Assembly committee; information as it relates to words said or actions done in the course of a proceeding of the Assembly or an Assembly committee; and submissions and other material provided to a Member as part of a Member's participation in an Assembly committee. **In some cases the question will turn on what has been done with a document or information, or what a Member intends to do with the document or information, rather than what is contained in the document or the substance of the information, or where the document or information is held.**
- (27) Documents or information that are unlikely to be within the scope of 'proceedings in Parliament' include material relating to a Member's travel or entitlements, or party-political material.

- (28) In determining a claim, the Arbiter may speak with the Member who has made a claim or with the Commissioner. The Arbiter may permit the Member to view a document in the presence of the Arbiter.
- (29) The Arbiter must only determine the question of whether a document or information sought by the Commission is protected by parliamentary privilege and no other question.
- (30) The Arbiter must consider, determine and report on a determination relating to a claim of parliamentary privilege in a timely manner.

#### **Requirements for appointing an Arbiter**

- (31) The Independent Legal Arbiter must be a Queen's Counsel, Senior Counsel, or a retired judge or justice of the Supreme, Federal or High Court and the Speaker must consult with the Standing Committee on Administration and Procedure prior to making an appointment. The Arbiter will be paid a fee approved by the Speaker.

#### **Memorandum of understanding**

- (32) For the purposes of facilitating the effective administration of this resolution, the Speaker may enter into a memorandum of understanding with the Integrity Commissioner in relation to parliamentary privilege and the exercise of the Commission's powers. A memorandum of understanding must not be inconsistent with this resolution and must be tabled in the Assembly on the first available sitting day following its finalisation.

#### **Recusal of the Speaker or a member of the Standing Committee**

- (33) Where the Speaker makes a claim of parliamentary privilege in relation to the exercise of a power or function by the Commissioner, the Speaker must recuse herself or himself from the exercise of the Speaker's functions pursuant to this resolution and the Deputy Speaker will instead perform the functions.
- (34) Where a member of the Standing Committee on Administration and Procedure makes a claim of parliamentary privilege in relation to the exercise of a power or function by the Commissioner, the Member must recuse himself or herself from any consideration by the committee of the matter. *(Notice given 27 November 2018. Notice will be removed from the Notice Paper unless called on within 4 sitting weeks – standing order 125A).*

## Orders of the day—continued

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### 14 December 2018

- 2 **JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE:** Presentation of report on the Exposure Draft of the Motor Accident Injuries Bill and accompanying explanatory guide, pursuant to order of the Assembly of 20 September 2018, as amended 30 October 2018.

### Last sitting day in February 2019

- 3 **ADMINISTRATION AND PROCEDURE—STANDING COMMITTEE:** Presentation of report on expanding the scope of the ACT Register of Lobbyists to cover in-house government relations staff, industry associations and project management liaison officers and companies, pursuant to order of the Assembly of 1 November 2018; amended 27 November 2018.

### Last sitting day in March 2019

- 4 **STANDING COMMITTEES:** Presentation of report on annual and financial reports for the financial year 2017-2018 and calendar year reports for 2017, pursuant to order of the Assembly of 25 October 2018.

### Last sitting day in March 2019

- 5 **END-OF-LIFE CHOICES IN THE ACT—SELECT COMMITTEE:** Presentation of report on end-of-life choices in the ACT, pursuant to order of the Assembly of 30 November 2017; amended 2 August 2018 and 27 November 2018.

### Last sitting week in 2019

- 6 **ECONOMIC DEVELOPMENT AND TOURISM—STANDING COMMITTEE:** Presentation of report on drone delivery systems in the ACT, pursuant to order of the Assembly of 1 November 2018.

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## EXECUTIVE MEMBERS' BUSINESS

*There are no notices or orders of the day*

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## QUESTIONS ON NOTICE

On the first sitting day of a period of sittings a complete Notice Paper is published containing all unanswered questions. On subsequent days, only redirected questions are included on the Notice Paper together with a list of all unanswered questions.

A Questions on Notice Paper will be issued on the Friday of a sitting week, containing the text of all questions on notice lodged that week and can be accessed at [www.parliament.act.gov.au/in-the-assembly/questions-paper](http://www.parliament.act.gov.au/in-the-assembly/questions-paper).

### *Unanswered questions*

1734, 1888-1891, 1894-1896, 1898-1900, 1902, 1904, 1906-1915, 1918, 1920, 1921, 1923, 1927, 1977, 1979, 1987, 1989-1991, 1994, 2012, 2015, 2017-2020, 2022, 2023, 2025, 2027, 2032, 2035-2039, 2043, 2047.

**T Duncan**

Clerk of the Legislative Assembly

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## GOVERNMENT TO RESPOND TO PETITIONS

(in accordance with standing order 100)

### **18 December 2018**

Fencing of play spaces—Minister for City Services—Petition lodged by Ms Le Couteur (Pet 14-18).

ACT Clubs' Community Contributions Scheme—Attorney-General—Petition lodged by Mr Parton (Pet 15-18).

### **20 December 2018**

Fair treatment for international students in Canberra—Chief Minister—Petition lodged by Mrs Kikkert (Pet 19-18).

### **22 January 2019**

Amendment to Phillip precinct code—Minister for Planning and Land Management—Petitions lodged by Ms Le Couteur (Pet 12-18 and Pet 20-18).

Proposed school bus services—Minister for Transport—Petition lodged by Miss C. Burch (Pet 17-18).

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## COMMITTEES

Unless otherwise shown, appointed for the life of the Ninth Assembly. The dates of the amendments to the committees' resolution of appointment are reflected, but not changes in the membership.

### Standing

Pursuant to standing order

**ADMINISTRATION AND PROCEDURE:** *(Formed 31 October 2016):* The Speaker (Chair), Ms Cheyne, Mr Rattenbury, Mr Wall.

Pursuant to resolution

**ECONOMIC DEVELOPMENT AND TOURISM—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 26 October 2017 and 20 September 2018):* Mr Hanson (Chair), Ms Orr, Mr Pettersson.

**EDUCATION, EMPLOYMENT AND YOUTH AFFAIRS—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 20 September 2018):* Mr Pettersson (Chair), Mrs Kikkert, Ms Lee.

**ENVIRONMENT AND TRANSPORT AND CITY SERVICES—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 20 September 2018):* Ms Orr (Chair), Miss C Burch, Mr Milligan.

**HEALTH, AGEING AND COMMUNITY SERVICES—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 20 September 2018):* Ms Cody (Chair), Mrs Dunne, Ms Le Couteur.

**JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 20 September 2018):* Mrs Jones (Chair), Ms Cody, Mr Pettersson.

**PLANNING AND URBAN RENEWAL—STANDING COMMITTEE:** *(Formed 13 December 2016; amended 20 September 2018):* Ms Le Couteur (Chair), Ms Orr, Mr Parton.

**PUBLIC ACCOUNTS:** *(Formed 13 December 2016; amended 26 October 2017 and 20 September 2018):* Mrs Dunne (Chair), Ms Cheyne, Ms Cody, Ms Lawder.

### Select

**END OF LIFE CHOICES IN THE ACT—SELECT COMMITTEE:** *(Formed 30 November 2017):* Ms Cody (Chair), Ms Cheyne, Mrs Dunne, Mrs Kikkert, Ms Le Couteur.

## Dissolved

**2016 ACT ELECTION AND ELECTORAL ACT—SELECT COMMITTEE:** *(Formed 15 December 2016):* Ms Cody (Chair), Ms Cheyne, Ms Le Couteur, Mr Milligan, Mr Wall. *(Presented 30 November 2017)*

**ESTIMATES 2017-2018—SELECT COMMITTEE:** *(Formed 16 February 2017):* Mr Wall (Chair), Ms Cody, Mr Coe, Ms Le Couteur, Mr Pettersson. *(Presented 1 August 2017)*

**ESTIMATES 2018-2019—SELECT COMMITTEE:** *(Formed 22 March 2018):* Mr Wall (Chair), Ms Cheyne, Ms Le Couteur, Ms Lee, Ms Orr. *(Presented 31 July 2018)*

**INDEPENDENT INTEGRITY COMMISSION—SELECT COMMITTEE:** *(Formed 15 December 2016; amended 6 June 2017):* Mr Rattenbury (Chair), Ms Cody, Mrs Jones, Ms Lee, Mr Steel. *(Presented 31 October 2017)*

**INDEPENDENT INTEGRITY COMMISSION 2018—SELECT COMMITTEE:** *(Formed 6 June 2018):* Mr Rattenbury (Chair), Ms Cody, Mrs Dunne, Ms Lee, Mr Steel. *(Presented 31 October 2018)*

**PRIVILEGES 2018—SELECT COMMITTEE:** *(Formed 12 April 2018):* Mr Rattenbury (Chair), Ms Cheyne, Mr Wall. *(Presented 31 July 2018)*

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