

1998-99

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**MINUTES OF PROCEEDINGS**

**No. 70**

**THURSDAY, 25 NOVEMBER 1999**

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- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Cornwell) 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 URBAN SERVICES - STANDING COMMITTEE – INQUIRY – LONG SERVICE LEAVE (CLEANING, BUILDING AND PROPERTY SERVICES) BILL 1999 – ALTERATION TO REPORTING DATE**

Mr Hird (Chair), by leave, moved – That the resolution of the Assembly of 1 September 1999, referring the Long Service Leave (Cleaning, Building and Property Services) Bill 1999 to the Standing Committee on Urban Services be amended by omitting “, by the last sitting day of November 1999” and substituting “by 7 December 1999”.

Question – put and passed.

**3 ACTION CORPORATION BILL 1999**

Mr Humphries (Treasurer), pursuant to notice, presented a Bill for an Act to establish the ACTION Corporation and for related purposes.

*Paper:* Mr Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

**4 KINGSTON FORESHORE DEVELOPMENT AUTHORITY BILL 1999**

Mr Humphries (Treasurer), pursuant to notice, presented a Bill for an Act to establish the Kingston Foreshore Development Authority, and for related purposes.

*Paper:* Mr Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **5 CRIMES AMENDMENT BILL (NO 3) 1999**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Crimes Act 1900*.

*Paper:* Mr Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **6 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 2) 1999**

Mr Humphries (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 Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **7 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999**

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*Paper:* Mr Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **8 PERIODIC DETENTION AMENDMENT BILL 1999**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Periodic Detention Act 1995*.

*Paper:* Mr Humphries presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **9 SUPERVISED INJECTING PLACE TRIAL BILL 1999**

Mr Moore (Minister for Health and Community Care), pursuant to notice, presented a Bill for an Act to allow for a trial of a supervised injecting place for drug dependent persons.

*Paper:* Mr Moore presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **10 WATER RESOURCES AMENDMENT BILL 1999**

Mr Smyth (Minister for Urban Services), pursuant to notice, presented a Bill for an Act to amend the *Water Resources Act 1998*.

*Paper:* Mr Smyth presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

## **11 LAPSE OF NOTICE**

Upon notice No. 1, Assembly business, relating to the proposed reference of the Domestic Animals Legislation – Exposure drafts to the Standing Committee on Urban Services, being called on and the Member failing to move the motion, the Speaker advised the Assembly that it would be withdrawn from the *Notice Paper*, pursuant to standing order 128.

## **12 CHIEF MINISTER'S PORTFOLIO – STANDING COMMITTEE – REFERENCE – MEMBERSHIP – LEGISLATIVE ASSEMBLY SECRETARIAT'S 1998-99 REPORT**

Ms Tucker, pursuant to notice, moved – That:

- (1) the Standing Committee for the Chief Minister's Portfolio inquire into and report on, as part of its inquiry into Departmental Annual and Financial Reports, the Legislative Assembly Secretariat's 1998-99 Report; and
- (2) Mr Cornwell be discharged from attending the Standing Committee for the Chief Minister's Portfolio for the Committee's consideration of the Legislative Assembly Secretariat's 1998-99 Report.

On the motion of Mr Hird the following amendment was made:

Paragraph (2), add the following new words: "and that Mr Hird be appointed in his place".

Question – That the motion, as amended, viz:

That:

- (1) the Standing Committee for the Chief Minister's Portfolio inquire into and report on, as part of its inquiry into Departmental Annual and Financial Reports, the Legislative Assembly Secretariat's 1998-99 Report; and
- (2) Mr Cornwell be discharged from attending the Standing Committee for the Chief Minister's Portfolio for the Committee's consideration of the Legislative Assembly Secretariat's 1998-99 Report and that Mr Hird be appointed in his place –

be agreed to – put and passed.

### **13 HOUSING – SELECT COMMITTEE – ALTERATION TO REPORTING DATE – PRINTING, CIRCULATION AND PUBLICATION OF REPORT**

Ms Tucker (Chair), pursuant to notice, moved – That the resolution of the Assembly of 1 July 1999 which appointed the Select Committee on Housing, be amended by:

- (1) omitting from paragraph (1) “by 30 November 1999” and substituting “by 31 March 2000”; and
- (2) by adding the following paragraphs:
  - “(3) if the Assembly is not sitting when the Committee has completed its inquiry, 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, circulation and publication; and
  - (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.”.

Debate ensued.

Question – put and passed.

### **14 GENERAL PURPOSE STANDING COMMITTEES – ALTERATION TO RESOLUTION OF APPOINTMENT**

Mr Quinlan, pursuant to notice, moved –That the resolution of the Assembly of 28 April 1998, as amended on 28 May 1998, which appointed the General Purpose Standing Committees for this Assembly, be amended by:

- (1) omitting from paragraph (1)(a):
  - (a) “for the Chief Minister’s Portfolio” and substituting “on Finance and Public Administration (incorporating the Public Accounts Committee)”;
  - (b) “the portfolio of the Chief Minister including”;
  - (c) “and any other matter under the responsibility of the portfolio minister” and substituting “, women’s affairs, Aboriginal and Torres Strait Islander issues, asset management, gaming and racing and any other related matter”;
- (2) omitting from paragraph (1)(b) “and any other matter under the responsibility of the portfolio minister” and substituting “and any other related matter”;
- (3) omitting from paragraph (1)(c) “and any other matter under the responsibility of the portfolio minister” and substituting “and any other related matter”;
- (4) omitting from paragraph (1)(d):
  - (a) “on Urban Services” and substituting “on Planning and Urban Services”;
  - (b) “and any other matter under the responsibility of the portfolio minister” and substituting “and any other related matter”;
- (5) omitting from paragraph (1)(e):
  - (a) “on Education” and substituting “on Education, Community Services and Recreation”;
  - (b) “and any other matter under the responsibility of the portfolio minister” and substituting “and any other related matter”;

- (6) omitting from paragraph (2) “for the Chief Minister’s Portfolio” and substituting “on Finance and Public Administration (incorporating the Public Accounts Committee)”; and
- (7) omitting from paragraph (5) “on Urban Services” and substituting “on Planning and Urban Services”.

Debate ensued.

Question – put and passed.

## **15 URBAN SERVICES - STANDING COMMITTEE - REPORT NO. 37 – MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1998 - REPORT NOTED**

Mr Hird (Chair) presented the following report:

Urban Services - Standing Committee - Report No. 37 – Motor Traffic (Amendment) Bill (No. 4) 1998, dated 18 November 1999, together with a copy of the extracts of the minutes of proceedings -

and moved - That the report be noted.

Question – put and passed.

## **16 EXECUTIVE BUSINESS - PRECEDENCE**

Ordered - That Executive business be called on.

## **17 BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY AMENDMENT BILL 1999**

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.

## **18 BUILDING AMENDMENT BILL (NO 2) 1999**

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 -

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.

## **19 PUBLIC SECTOR LEGISLATION AMENDMENT BILL 1999**

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.

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*Detail stage*

*Speaker's ruling – Standing order 181 – Admissible amendments:* Mr Speaker ruled Mr Berry's circulated amendments out of order under standing order 181, as they did not come within the title of the Bill.

Bill, by leave, taken as a whole –

On the motion of Mr Berry, by leave, the following amendments were made together, by leave, after debate:

*New clause –*

Page 2, line 37, after clause 4, insert the following new clause in the Bill:

**“5 Amendment of the Legislative Assembly (Members’ Staff) Act**

After section 13B of the *Legislative Assembly (Members’ Staff) Act 1989* the following section is inserted:

**‘13BA Application of Merit Protection (Australian Government Employees) Act**

‘(1) The *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) applies under this Act as if a reference in that Act to the Merit Protection and Review Agency were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth).

‘(2) The *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) applies under this Act subject to any modifications prescribed under the regulations.

‘(3) This Act applies as if—

- (a) a reference to the Merit Protection Agency were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth); and
- (b) a reference to the *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) were a reference to that Act as in force on 1 July 1999.

‘(4) This section and section 13B cease to have effect on 31 December 2000.’.”.

*Amendment –*

Long title, page 1, omit the title, substitute the following title:

**“An Act to amend the *Public Sector Management Act 1994*, the *Fire Brigade (Administration) Act 1974* and the *Legislative Assembly (Members’ Staff) Act 1989* because of the repeal of the *Merit Protection (Australian Government Employees) Act 1984* (Cwlth)”.**

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

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

**20 CRIMES AMENDMENT BILL (NO 2) 1999**

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.

**21 TERRITORY OWNED CORPORATIONS AMENDMENT BILL (NO 2) 1999**

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.

## **22 ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999**

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.

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.

## **23 QUESTIONS**

Questions without notice being asked –

*Paper:* Mr Humphries (Treasurer) presented the following paper:

Totalcare quarry – “Totalcare quarry plans should go ahead” – Copy of media release by John Stanhope, Leader of the Opposition, dated 25 November 1999.

Questions continued.

## **24 PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS - PAPERS - STATEMENT BY MINISTER**

Ms Carnell (Chief Minister) presented the following papers:

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

Edward Rayment (Long term contract), dated 26 October 1999.

Desmond McKee (Schedule D variation), dated 25 October 1999 -

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

## **25 CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE (INCORPORATING THE DUTIES OF A PUBLIC ACCOUNTS COMMITTEE) - PUBLIC ACCOUNTS COMMITTEE REPORT NO. 21 – REVIEW OF AUDITOR-GENERAL'S REPORT NO. 1, 1999 – STAMP DUTY ON MOTOR VEHICLE REGISTRATIONS - GOVERNMENT RESPONSE – PAPER NOTED**

Mr Humphries (Treasurer) presented the following paper:

Chief Minister's Portfolio - Standing Committee (incorporating the duties of a Public Accounts Committee) - Public Accounts Committee Report No. 21 - Review of Auditor-General's Report No. 1, 1999 – Stamp duty on motor vehicle registrations (*presented 26 August 1999*) - Government response, dated November 1999 -

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

Question – put and passed.

## **26 JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE - REPORT NO. 2 – VICTIMS OF CRIME (FINANCIAL ASSISTANCE) (AMENDMENT) BILL 1998 - GOVERNMENT RESPONSE – PAPER NOTED**

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

Justice and Community Safety - Standing Committee - Report No. 2 – Victims of Crime (Financial Assistance) (Amendment) Bill 1998 (*presented 30 June 1999*) - Government response -

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

Question – put and passed.

## **27 PUBLIC PASSENGER TRANSPORT LEGISLATION – EXPOSURE DRAFTS – PAPERS – PAPERS NOTED**

Mr Smyth (Minister for Urban Services) presented the following papers:

Public Passenger Transport Legislation – Exposure drafts –

Public Passenger Transport Bill 1999.

Public Passenger Transport Bill 1999 – Explanatory memorandum.

Public Passenger Transport Regulations and Standards - Discussion paper, dated October 1999 –

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

Question – put and passed.

## **28 URBAN SERVICES - STANDING COMMITTEE - REPORT NO. 28 – RESTRICTED TAXI (MULTICAB) PLATES - GOVERNMENT RESPONSE - MOTION TO TAKE NOTE OF PAPER**

Mr Smyth (Minister for Urban Services) presented the following paper:

Urban Services - Standing Committee - Report No. 28 – The need to increase the number of restricted taxi (multicab) plates (*presented 24 August 1999*) - Government response -

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

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

## **29 LAND (PLANNING AND ENVIRONMENT) ACT – VARIATION (NO. 102) TO THE TERRITORY PLAN – HERITAGE PLACES REGISTER - PAPERS AND STATEMENT BY MINISTER**

Mr Smyth (Minister for Urban Services) presented the following papers:

Land (Planning and Environment) Act, pursuant to section 29 – Variation (No. 102) to the Territory Plan relating to the Heritage Places Register, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required –

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

## **30 CASINO CONTROL AMENDMENT BILL (NO 2) 1999**

Mr Kaine, by leave, presented a Bill for an Act to amend the *Casino Control Act 1988*, and for other purposes.

*Paper:* Mr Kaine presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

### **31 ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999**

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.

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#### *Detail stage*

Clause 1 -

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

### **32 ROAD TRANSPORT (GENERAL) BILL 1999**

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 -

Question - That this Bill be agreed to in principle - put and passed.

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#### *Detail stage*

Clause 1 -

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

### **33 ROAD TRANSPORT (DRIVER LICENSING) BILL 1999**

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 -

Question - That this Bill be agreed to in principle - put and passed.

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#### *Detail stage*

Clause 1 -

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

### **34 ROAD TRANSPORT (VEHICLE REGISTRATION) BILL 1999**

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 -

Question - That this Bill be agreed to in principle - put and passed.

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#### *Detail stage*

Clause 1 -

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

### 35 ROAD TRANSPORT LEGISLATION AMENDMENT BILL 1999

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 -

Question - That this Bill be agreed to in principle - put and passed.

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#### *Detail stage*

Clause 1 -

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

### 36 LEAVE OF ABSENCE TO MEMBER

Mr Humphries (Attorney-General) moved - That leave of absence for today, 25 November 1999, be given to Mr Rugendyke.

Question - put and passed.

### 37 LAND PLANNING AND ENVIRONMENT AMENDMENT BILL (NO 3) 1999

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.

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#### *Detail stage*

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4 –

Ms Tucker moved the following amendment:

Page 2, line 1, proposed new definition of *land management agreement*, omit the definition, substitute the following definition:

“*land management agreement* means an agreement under section 186C or 186CD, and includes such an agreement as varied.”.

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*Adjournment negated:* It being 5 p.m. - The question was proposed - That the Assembly do now adjourn.

Ms Carnell (Chief Minister) requiring the question to be put forthwith without debate -

Question - put and negated.

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Debate continued.

Question – That Ms Tucker’s amendment be agreed to – put.

The Assembly voted -

Ayes, 7

Mr Berry	Ms Tucker
Mr Corbell	Mr Wood
Mr Hargreaves	
Mr Quinlan	
Mr Stanhope	

Noes, 8

Ms Carnell	Mr Moore
Mr Cornwell	Mr Smyth
Mr Hird	Mr Stefaniak
Mr Humphries	
Mr Kaine	

And so it was negatived.

Clause 4 agreed to.

Clauses 5 to 7, by leave, taken together and agreed to.

Clause 8 –

*Paper:* Mr Smyth (Minister for Urban Services) presented a supplementary explanatory memorandum to the Bill.

On the motion of Mr Smyth the following amendment was made, after debate:

Page 3, line 14, proposed new section 186B, definition of ***discharge amount***, omit the definition, substitute the following definitions:

***“discharge amount—***

- (a) in relation to a special Pialligo lease—means an amount determined in accordance with section 186EA; or
- (b) in any other case—means an amount determined in accordance with section 186E.

***earlier index number***, for a lease, means the last index number issued before the lease was granted under section 161 or 171A.”.

On the motion of Mr Smyth, by leave, the following amendments were made together:

Page 3, line 20, proposed new section 186B, insert the following definitions:

***“index number—***see section 186EB.

***later index number*** means—

- (a) for a special Pialligo lease—means the last index number issued before the discharge amount is to be paid; or
- (b) for any other lease—the last index number issued before the last amount is worked out under section 186E.”.

Page 3, line 22, proposed new section 186B, insert the following definition:

***“special Pialligo lease*** means a lease comprising land in block 6, 12, 13, 14, 15, 19, 20 or 52 of section 2 of the district of Majura.”.

Ms Tucker moved the following amendment:

Page 3, line 35, after proposed paragraph 186 (2) (a), insert the following new paragraph:

“(aa) approved by the person or people (if any) whose approval is required under 186CA; and”.

Debate continued.

Question – That Ms Tucker’s amendment be agreed to – put.

The Assembly voted -

Ayes, 7

Noes, 8

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Quinlan  
Mr Stanhope

Ms Tucker  
Mr Wood

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Kaine

Mr Moore  
Mr Smyth  
Mr Stefaniak

And so it was negatived.

Ms Tucker was granted leave to move the following amendments separately:

Page 4, line 4, proposed subclause 186C (3), omit “may”, substitute “must”.

Debate continued.

Amendment negatived.

Page 4, line 6, proposed clause 186C, add the following subclause:

“(5) A form approved for paragraph (2) (a) is a disallowable instrument for section 10 of the *Subordinate Laws Act 1989*.”.

Debate continued.

Amendment agreed to.

*Proposed new clauses –*

Page 4, line 6, after proposed new clause 186CA, insert the following new clauses:

**“186CB Exclusion of parts from inspection**

“(1) If a person enters into a land management agreement with the Territory, the person may apply to the Minister to exclude a stated part of the agreement from inspection by the public under section 186CC on the grounds that—

- (a) the disclosure would, or would reasonably be expected to, adversely affect a person in respect of the lawful business affairs of the person; and
- (b) it would not be in the public interest for that part to be published.

“(2) An application must—

- (a) be in writing; and
- (b) be made at the time the agreement is entered into.

“(3) If the Minister is satisfied that the grounds referred to in subsection (1) exist for the exclusion of a part of a land management agreement, the Minister must exclude that part from each copy of the agreement made available for public inspection under section 186CC.

“(4) If part of a land management agreement is excluded from the copy made available for public inspection, the copy must include a statement to the effect that an unspecified part of the agreement has been excluded to protect the confidentiality of information included in that part.

“(5) The Minister must not permit the inspection of a land management agreement, or part of an agreement, under section 186CC to which an application under subsection (1) relates—

- (a) until 28 days after the Minister has made a decision excluding or refusing to exclude part of the agreement from inspection; or

- (b) if an application for review of that decision has been made to the Administrative Appeals Tribunal—until the matter has been determined by the Tribunal.

**“186CC Inspection and copying of land management agreements**

“(1) The Minister must keep a copy of each land management agreement entered into.

“(2) A person may inspect a land management agreement kept by the Minister at any reasonable time.

“(3) A person may, on payment of the reasonable copying costs, obtain a copy of an agreement.

Debate continued.

Proposed new clauses negatived.

On the motion of Mr Smyth, by leave, the following amendments were made together, after debate:

Page 5—

Line 6, proposed new subsection 186E (1), after “lease”, insert “(other than a special Pialligo lease)”.

Line 10, proposed new subsection 186E (2), omit the subsection.

Line 22, proposed new subsection 186E (3), Omit the subsection, substitute the following subsection:

“(3) In this section—

*first amount* means—

- (a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or 171A; or
- (b) in relation to a short lease—the value of the lease determined when the lease was granted under section 161 or 171A; or
- (c) in relation to any other lease—any consideration for the lease when granted under section 161 or 171A plus any amount to be paid under the lease;

other than an amount attributable to lessee-owned improvements to the land comprised in the lease.

*last amount*, in relation to a lease, means—

- (a) the consideration for the dealing with the lease, not including any amount attributable to lessee-owned improvements to the land comprised in the lease; or
- (b) if—
  - (i) there is no consideration; or
  - (ii) the dealing relates to only part of the land comprised in the lease; or
  - (iii) the consideration is less than the market value of the lease;

the market value of the lease, not including any amount attributable to the lessee-owned improvements to the land comprised in the lease.

*owed amount* means—

- (a) in relation to a long lease—any amount remaining to be paid under the lease, even if the amount is not due; or

- (b) in relation to a short lease—any rent and additional rent payable under the lease up to the day of the dealing with the lease.”.

Page 6, line 21, after proposed new section 186E, insert the following new sections:

**“186EA Discharge amount—special Pialligo leases**

“(1) The discharge amount for a special Pialligo lease granted less than 1 year before the discharge amount is an amount equal to the total of the amount paid and the owed amount for the lease.

“(2) The discharge amount for a special Pialligo lease granted at least 1 year before the discharge amount is to be paid is the amount determined in accordance with the formula—

$$\text{amount paid} - (\text{cpi adjusted amount} \times \frac{\text{years since grant}}{10}) + \text{owed amount}$$

“(3) The *cpi adjusted amount* in relation to a lease is the amount determined in accordance with the formula—

$$\text{amount paid} \times \frac{\text{later index number}}{\text{earlier index number}}$$

“(4) In this section—

*amount paid* means—

- (a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or 171A; or
- (b) in relation to any other lease—any consideration for the lease when granted under section 161 or 171A plus any amount to be paid under the lease; other than an amount attributable to lessee-owned improvements to the land comprised in the lease.

*years since grant*, in relation to a lease, means the number of whole years since the lease was granted under section 161 or 171A.

*owed amount*, in relation to a lease, means any amount remaining to be paid under the lease, even if the amount is not due.

**“186EB Index numbers**

“(1) In this Division—

*index number* means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician from time to time.

“(2) However, in determining index numbers for this Division—

- (a) if the Australian Statistician revises the calculation of an index number for a reason other than a change in the reference base for the All Groups Consumer Price Index and, as a result of the calculation, publishes an index number for a period in substitution for the previous index number, the later index number is disregarded; and
- (b) if the Australian Statistician changes the reference base for the consumer price index after the lease is granted but before the calculation of the later index number, the earlier index number is the index number that would have been applicable if the new reference base had been in effect when the lease was granted.”.

Clause 8, as amended, agreed to.

Clause 9 agreed to.

*Proposed new clause -*

Ms Tucker moved that the following new clause be inserted in the Bill: Page 6, line 30:

**“9A Insertion**

After Division 7 of Part 5 the following Division is inserted in Part 5:

***‘Division 8—Rural conservation trust***

***‘Subdivision A—Preliminary***

**“221A Definitions**

For this Division—

***chairperson*** means the chairperson of the trust appointed under section 221I.

***deputy chairperson*** means the deputy chairperson of the trust appointed under section 221I.

***member*** means a member of the trust.

***secretary*** means the secretary to the trust appointed under section 221I.

***trust*** means the Rural Conservation Trust established by section 221B.

***Subdivision B—Establishment, functions and powers***

**“221B Establishment**

The Rural Conservation Trust is established.

**“221C Functions**

The functions of the trust are—

- (a) to provide advice to the Minister about the adequacy and effectiveness of land management agreements in achieving nature conservation objectives and their ongoing development for that purpose; and
- (b) to provide advice to the Minister about the development and implementation of land management agreements with individual lessees; and
- (c) to make recommendations to the Minister about payments by the Territory to lessees for conservation activities as provided for by land management agreements; and
- (d) on request—to provide information and advice to rural lessees on sustainable land use and nature conservation issues in relation to their rural leases; and
- (e) any other function conferred on it under this or another Act.

**“221D Powers**

The trust has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

**“221E Delegation to secretary**

The trust may, by resolution at a properly constituted meeting, delegate to the secretary any of its powers or any functions referred to in paragraph 221C (e).

***Subdivision C—Constitution and meetings*****“221F Constitution**

The trust is constituted by—

- (a) the conservator; and
- (b) 5 other members appointed by the Minister in writing under section 221G.

**“221G Appointment of members**

“(1) The Minister must appoint as members—

- (a) a person nominated by the ACT Rural Lessees Association to represent rural lessees; and
- (b) a person nominated by the Conservation Council of the South Eastern Region and Canberra Inc to represent the Council; and
- (c) a person with tertiary qualifications, and expertise, in ecology who is not employed by the Territory; and
- (d) a person with expertise in protection of land from degradation who is not employed by the Territory; and
- (e) a person with expertise in rural finance.

“(2) A person is not eligible to be appointed to be a member mentioned in paragraph (1) (b), (c), (d) or (e) if he or she has a financial interest in a rural lease.

“(3) The performance of the functions or the exercise of the powers of the trust is not affected only because of a vacancy in the membership of the trust.

**“221H Terms of appointment**

“(1) Members hold office on a part-time basis.

“(2) A member, other than the conservator, holds office—

- (a) for a period of not more than 3 years that is mentioned in the instrument of appointment; and
- (b) on the terms and conditions (if any) in relation to matters not provided for by this Act that are determined in writing by the Minister.

**“221I Chairperson, deputy chairperson and secretary**

“(1) The Minister must appoint from the members—

- (a) a chairperson; and
- (b) a deputy chairperson.

“(2) The Minister must appoint a public servant who is not a member to be secretary to the trust.

**“221J Leave of absence**

The Minister may, in writing, grant leave of absence to a member on the terms and conditions mentioned in the writing as to remuneration or otherwise.

**“221K Disclosure of interests**

“(1) A member who has a direct or indirect financial interest in a matter being considered or about to be considered by the trust must, as soon as practicable after the relevant facts have come to the member’s knowledge, disclose the nature of the interest at a trust meeting.

“(2) A disclosure must be recorded in the minutes of the meeting and, unless the Minister otherwise determines, the member must not—

- (a) be present during any deliberation of the trust in relation to the matter; or
- (b) take part in any decision of the trust in relation to the matter.

“221L **Resignation**

A member may resign office in writing signed by the member and delivered to the Minister.

“221M **Termination of appointment**

“(1) The Minister may end the appointment of a member for misbehaviour or physical or mental incapacity.

“(2) If a member—

- (a) is absent, except on leave granted under section 221J, from 3 consecutive meetings of the trust; or
- (b) without reasonable excuse, contravenes section 221K;

the Minister must end the appointment of the member.

“221N **Acting members**

The Minister may appoint a person to act as a member—

- (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the member is absent from duty or from the Territory or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy must not continue to act for more than 12 months.

“221O **Convening meetings**

“(1) The chairperson, or, if he or she is unable to do so, the deputy chairperson, must call the trust meetings—

- (a) that the chairperson or the deputy chairperson considers necessary for the efficient performance of the functions of the trust; and
- (b) that the Minister directs by notice in writing given to the chairperson or the deputy chairperson.

“(2) If the chairperson or the deputy chairperson proposes to call a meeting of the trust, he or she must, not later than 5 days before the date of the proposed meeting, give each member a notice in writing setting out—

- (a) the date, time and place of the meeting; and
- (b) the matters to be considered at the meeting.

“221P **Procedure at meetings**

“(1) The chairperson must preside at each trust meeting at which he or she is present.

“(2) If the chairperson is not present at a meeting, the deputy chairperson must preside.

“(3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect a member present to preside.

“(4) The member presiding at a meeting may give directions about the procedure to be followed at the meeting.

“(5) Questions arising at a meeting are decided by a majority of the votes of the members present and voting.

“(6) The member presiding at a meeting has a deliberative vote and, if the votes are equal, a casting vote.

“(7) The trust must keep minutes of its proceedings.

“221Q **Quorum**

At a meeting of the trust, a majority of the members currently appointed to the trust constitutes a quorum.

“221R **Trust’s annual report**

“(1) The trust is taken to be a public authority for the *Annual Reports (Government Agencies) Act 1995* that is required to provide a report under paragraph 8 (5) (a) of that Act.

“(2) A report in relation to a period must include particulars of the following for the period:

- (a) progress in achieving nature and land conservation on rural leases;
- (b) progress in the negotiation of land management agreements and issues raised in the negotiations;
- (c) public and private expenditure on nature conservation and land management activities on rural leases and further expenditure that is desirable;
- (d) monitoring of the implementation of land management agreements;
- (e) complaints, disputes and enforcement actions regarding land management agreements.’.”.

Debate continued.

Mr Corbell moved the following amendment to Ms Tucker’s proposed new clauses: Proposed new section 221B, add the following subsection:

“(2) The trust—

- (a) is a body corporate; and
- (b) may have a common seal.”.

Debate continued.

Question – That Mr Corbell’s amendment to Ms Tucker’s proposed new clause be agreed to – put and negatived.

Mr Corbell moved the following amendment to add proposed new Subdivision D to Ms Tucker’s proposed new clauses:

**“Subdivision D—Rural Conservation Trust Fund**

‘221S **Definitions**

In this Subdivision—

*fund* means the Rural Conservation Trust Fund established under section 221T.

‘221T **Rural Conservation Trust Fund**

‘(1) The trust must establish and maintain a fund called the Rural Conservation Trust Fund.

‘(2) The fund consists of—

- (a) money received by the trust under section 221V; and
- (b) interest generated by money standing to the credit of the fund.

**‘221U Application of fund**

The fund may be applied only for the following purposes:

- (a) payments to rural lessees for conservation activities;
- (b) administrative costs;
- (c) research related to the functions of the trust;
- (d) activities of the trust.

**‘221V Trust may seek funds**

‘(1) The trust may seek money from any source it considers appropriate, taking into consideration the aim of encouraging environmental conservation on rural leases.

‘(2) Money paid to the trust under this section must be paid into the fund.’.”.

Debate continued.

Question – That Mr Corbell’s amendment to Ms Tucker’s proposed new clauses be agreed to – put and negatived.

Question – That Ms Tucker’s proposed new clauses be inserted in the Bill – put and negatived.

Clause 10 agreed to.

Clause 11 agreed to.

*Proposed new clauses –*

Ms Tucker moved that the following new clauses be inserted in the Bill: Page 7, line 9:

**“11A Inspections etc**

Section 266 is amended by adding the following subsections:

“(2) For finding out whether there has been a failure to manage land held under a land management agreement in accordance with the agreement, an inspector may enter the place—

- (a) with the consent of the occupier of the place; or
- (b) in accordance with a warrant issued under section 273A; or
- (c) with such assistance and by such force as is reasonable, where the inspector believes on reasonable grounds that the circumstances are of such seriousness and urgency as to require the immediate exercise of those powers without the authority of a warrant issued under section 273A;

and, subject to section 268, may exercise any power referred to in section 269 if the inspector believes on reasonable grounds that a controlled activity is, or is intended to be, conducted in or on that place.”.

**“11B Insertion**

After section 273 insert the following section:

**“273A Search warrants**

“(1) If an inspector suspects on reasonable grounds that a person is managing land other than in accordance with a land management agreement that applies to the land, the inspector may—

- (a) lay before a magistrate an information on oath setting out those grounds; and
- (b) apply for the issue of a warrant to enter the place and search the place for evidence of a stated kind that the person has not been managing the land in accordance with the agreement.

“(2) On application under subsection (1), a magistrate may issue a warrant authorising an inspector named in the warrant, with necessary and reasonable assistance and force—

- (a) to enter the place; and
- (b) to search the place for evidence of the kind stated in the warrant; and
- (c) to seize anything found in the course of the search that the inspector believes on reasonable grounds to be evidence of a stated kind connected with not complying with the agreement.

“(3) However, a magistrate must not issue a warrant unless—

- (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

“(4) A warrant must—

- (a) state the purpose for which it is issued; and
- (b) state that the warrant is to investigate suspected noncompliance with a land management agreement; and
- (c) mention the hours during which entry is authorised, or state that the entry is authorised at any time of the day or night; and
- (d) include a description of the kinds of evidence in relation to which the powers under the warrant may be exercised; and
- (e) mention the date, not more than 28 days after the date of issue of the warrant, that the warrant ceases to have effect.”.

Debate continued.

Question – That the proposed new clauses be agreed to – put and negatived.

*New clause -*

On the motion of Mr Smyth the following new clause was inserted in the Bill, after debate: Page 7, line 9:

#### **“11A Review of decisions**

Section 282A is amended—

- (a) by inserting after subsection (4) the following subsection:

‘(4A) Where a decision is made on behalf of the Territory to vary a land management agreement under a provision of a kind referred to in subsection 186C (3), the Minister must give notice of the decision to the other party to the agreement.’; and

- (b) by omitting paragraph (5) (a) and substituting the following paragraph:

‘(a) a decision referred to in subsection (1), (2), (3), (4) or (4A);’; and

(c) by omitting subsection (6) and substituting the following subsection:

‘6) A notice under subsection (1), (2), (3), (4) or (4A) or paragraph 69 (1) (b) or 73 (1) (b) must be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.’.

Clause 12 –

Ms Tucker moved the following amendment:

Page 7, line 10, omit the clause, substitute the following clause:

**“12      Schedule 5**

Schedule 5 is amended by adding at the end the following item:

‘12	Managing land held under a rural lease other than in accordance with the land management agreement that applies to it, whether because of the agreement or because of subsection 186CF (1)	100 penalty units.’.
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Debate continued.

Amendment negated.

Clause 12 agreed to.

Title agreed to.

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

**38      LANDS ACQUISITION AMENDMENT BILL 1999**

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 -

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.

**39      URBAN SERVICES – STANDING COMMITTEE – INQUIRY – BETTERMENT – ALTERATION TO REPORTING DATE**

Mr Hird (Chair), by leave, moved – That the resolution of the Assembly of 1 July 1999, as amended on 26 August 1999, referring the level and charging of betterment and change of use charge to the Standing Committee on Urban Services be amended by omitting “by the last sitting day in 1999” and substituting “by the first sitting day of March 2000”.

Question put and passed.

**40      GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES – SELECT COMMITTEE – COMMERCIAL-IN-CONFIDENCE DOCUMENTS – PUBLICATION**

Mr Osborne, by leave, moved – That this Assembly requires the Government to submit the following agreements to the Select Committee on Government Contracting and Procurement Processes:

- (1) hirer’s agreement between Bruce Operations Pty Ltd and the Canberra Raiders;
- (2) hirer’s agreement between Bruce Operations Pty Ltd and the ACT Brumbies;

- (3) hirer's agreement between Bruce Operations Pty Ltd and the Canberra Cosmos; and
- (4) agreement between the ACT Government and the Sydney Olympic Organising Committee (SOCOG) for the staging of Olympic football in Canberra;

and directs that the Select Committee, and its members, regard these documents as being commercial-in-confidence and not publish them, or extracts from them, without the express permission of a majority of members of the Assembly.

The foregoing provisions of this resolution has effect notwithstanding anything contained in the standing orders.

Debate ensued.

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

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#### **41 ADJOURNMENT**

Mr Humphries (Manager of Government Business) moved - That the Assembly do now adjourn.

Debate ensued.

Question - put and passed.

And then the Assembly, at 6.12 p.m., adjourned until Tuesday, 7 December 1999 at 10.30 a.m.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting, except Mr Rugendyke (on leave).

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**M.J. McRAE**  
Clerk of the Legislative Assembly