



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2020–2021–2022–2023

MINUTES OF PROCEEDINGS

No 82

WEDNESDAY, 10 MAY 2023

- 1 The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms Burch) took the Chair and made the following acknowledgement of country in the Ngunnawal language:

Dhawura nguna, dhawura Ngunnawal.

Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.

Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

This is Ngunnawal Country.

Today we are gathering on Ngunnawal country.

We always pay respect to Elders, female and male, and Ngunnawal country.

The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 LEAVE OF ABSENCE TO MEMBER

Mr Gentleman (Manager of Government Business) moved—That leave of absence be granted to Ms Orr for this sitting due to personal reasons.

Question—put and passed.

3 CORRECTION OF RECORD—STATEMENT BY MINISTER

Ms Stephen-Smith (Minister for Health), by leave, corrected the record concerning her answer to a question without notice on 9 May 2023.

4 A.C.T. YOUTH WEEK 2023—MINISTERIAL STATEMENT—PAPER NOTED

Ms Berry (Minister for Education and Youth Affairs) made a ministerial statement concerning ACT Youth Week that was held from 14 to 24 April 2023 to celebrate young people in the community aged 12 to 25 years old, and presented the following paper:

ACT Youth Week 2023—Ministerial statement, 10 May 2023.

Ms Berry moved—That the Assembly take note of the paper.

Question—put and passed.

5 DELEGATION TO THE UNITED STATES AND CANADA (FEBRUARY 2023)—UPDATE—MINISTERIAL STATEMENT—PAPER NOTED

Mr Gentleman (Minister for Police and Emergency Services) made a ministerial statement concerning the recent ACT Government delegation visit to Canada and the United States of America and presented the following paper:

Delegation to the United States and Canada (February 2023)—Update—Ministerial statement, 10 May 2023.

Mr Gentleman moved—That the Assembly take note of the paper.

Question—put and passed.

6 BEES AND OTHER POLLINATORS—ASSEMBLY RESOLUTION OF 22 NOVEMBER 2022—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT—PAPER NOTED

Ms Vassarotti (Minister for the Environment) made a ministerial statement concerning the Government response to the Assembly resolution of 22 November 2022 relating to bees and other pollinators and presented the following paper:

Bees and other pollinators—Assembly Resolution of 22 November 2022—Government response—Ministerial statement, 10 May 2023.

Ms Vassarotti moved—That the Assembly take note of the paper.

Question—put and passed.

7 AGE-FRIENDLY CITY PLAN 2020-2024—THIRD ANNUAL REPORT—MAY 2023—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Ms Davidson (Minister for Veterans and Seniors) made a ministerial statement to provide an update on work progressed under the Age-Friendly City plan, in response to the Assembly resolution of 21 April 2021 on dementia-friendly infrastructure, and presented the following papers:

Age-Friendly City Plan 2020-2024—

Status of Actions (Third Progress Report)—Reporting Period: January to December 2022, dated May 2023.

Third Annual Report—May 2023 (in response to Dementia-friendly infrastructure—Assembly Resolution of 21 April 2021)—Ministerial statement, 10 May 2023.

Ms Davidson moved—That the Assembly take note of the ministerial statement.

Question—put and passed.

8 YOUTH MENTAL HEALTH SUPPORT—ASSEMBLY RESOLUTION OF 1 DECEMBER 2022—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT—PAPER NOTED

Ms Davidson (Minister for Mental Health) made a ministerial statement concerning efforts to improve support for the mental health and wellbeing of children and young people in the ACT, in response to the Assembly resolution of 1 December 2022 relating to youth mental health support, and presented the following paper:

Youth mental health support—Assembly Resolution of 1 December 2022—Government response—Ministerial statement, 10 May 2023.

Ms Davidson moved—That the Assembly take note of the paper.

Question—put and passed.

9 BIMBERI HEADLINE INDICATORS REPORT—MAY 2023—MINISTERIAL STATEMENT AND PAPER—PAPER NOTED

Ms Davidson (Assistant Minister for Families and Community Services) made a ministerial statement concerning the eleventh bi-annual Bimberi Headline Indicators Report and presented the following papers:

Bimberi Headline Indicators Report—May 2023—
Report.

Ministerial statement, 10 May 2023.

Ms Davidson moved—That the Assembly take note of the ministerial statement.

Question—put and passed.

10 SUPREME COURT AMENDMENT BILL 2023

Mr Rattenbury (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Supreme Court Act 1933*.

Paper: Mr Rattenbury presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

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

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

11 BIOSECURITY BILL 2023

Ms Vassarotti (Minister for the Environment), pursuant to notice, presented a Bill for an Act to manage biosecurity risk, and for other purposes.

Paper: Ms Vassarotti presented the following paper:

Explanatory statement to the Bill, incorporating a compatibility statement, pursuant to section 37 of the *Human Rights Act 2004*.

Title read by Clerk.

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

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

12 FREEDOM OF INFORMATION AMENDMENT BILL 2022

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 adjourned (Mr Gentleman—Manager of Government Business) and the resumption of the debate made an order of the day for a later hour this day.

13 QUESTIONS

Questions without notice were asked.

14 PAYROLL TAX EXEMPTION PROPOSAL—GENERAL PRACTICES

Ms Castley, pursuant to notice, moved—That this Assembly:

(1) notes:

- (a) data from Cleanbill shows that:
 - (i) only 5.5 percent of general practitioner (GP) clinics in the ACT bulk bill, the lowest percentage in the nation;
 - (ii) average out-of-pocket cost for the 94.5 percent of clinics that do not bulk bill is \$49.11 for a standard 15-minute consultation, the highest in the country; and
 - (iii) the Federal electorates of Bean and Canberra have the second and third highest out of pocket costs in the country;
- (b) in 2020-21, 4.7 percent of people in the ACT avoided seeing a GP due to cost, which was double the national average of 2.4 percent;
- (c) according to the Productivity Commission's report on government services for primary and community health, ACT had the lowest number of GPs per capita of any jurisdiction between 2015 and 2019; and
- (d) the Royal Australian College of General Practitioners' *Health of the Nation 2021* report shows that fewer graduates are choosing to specialise as a GP since 2015;

(2) further notes:

- (a) in an interview on 2 February, the ACT Health Minister stated:
 - (i) "The primary care system they really need to kick in significant resources to make primary care more of a viable and sustainable place for people to go."; and
 - (ii) "We have invested more than \$12 million over the last six years to try and grow bulk billing practices in the ACT.";
- (b) in an article on 6 January, the Chief Minister stated that, "As far as I can see the best solutions will need to include more than just augmenting hospital services, they need to include holistic reform of primary health care, and boosting capacity.";
- (c) in an opinion piece on 2 April in the *Canberra Weekly*, Federal Member for Canberra, Alicia Payne stated:
 - (i) "Our bulk billing rate is lower than the national average of 42.7 percent, which means that every time Canberrans need to see their doctor, they'll be out of pocket around \$50 for a 15-minute consultation or \$66 for longer consultations."; and

- (ii) “With the cost of living rising across all aspects of daily life, this means many Canberrans simply can’t access the primary care they need.”;
 - (d) these statements are inconsistent with the decision of the ACT Government, following a NSW Supreme Court decision, to extend ACT payroll tax to the incomes of doctors contracted to ACT medical practices;
 - (e) reports that ACT Revenue has been contacting general practices to advise them of their liability for increased payroll tax, including backpay;
 - (f) the President of the Royal Australian College of General Practitioners, Dr Nicole Higgins, has said this “sick tax” is, “expected to add around \$15 per consult” and “will put more pressure on hospitals, worsen the health system crisis, and undermine the Federal Government’s Medicare reforms.”;
 - (g) Garema Place Surgery Practice Principal, Dr Felicity Donaghy, has said, “We would have no way of absorbing these extra costs. Our only option would be to pass it on to patients. Profit margins in general practice sit at about 5 percent and payroll tax is 6.85 percent in the ACT.”; and
 - (h) comments by the ACT Health Minister, reported on ABC Radio Canberra on 18 April that, “this is not particularly an area that we see as an area of significant concern,” and in *The Canberra Times* of 19 April that, “asking states and territories to wear the cost by exempting a particular group of professionals from payroll tax is something we’re not considering at this point.”; and
- (3) calls on the ACT Government to exempt general practices from the new interpretation of payroll tax that applies to contractor/tenant GPs.

Mr Barr (Chief Minister) moved the following amendment: Omit all text after paragraph (2)(c)(ii), substitute:

- “(3) additionally notes that the Federal Labor Government’s 2023-24 Budget, released on 8 May 2023:
- (a) will triple the bulk billing incentive for most common consultations with children under 16, pensioners and other Commonwealth concession card holders, better supporting GPs to bulk bill around 157,000 eligible people at the 105 practices already providing bulk billing in the ACT; and
 - (b) will significantly reduce costs for general patients by up to \$180 a year if their medicine is able to be prescribed for 60 days;
- (4) finally notes:
- (a) payroll tax is payable by employers on all taxable wages paid to their employees;
 - (b) payments to contractors who provide services to a business are considered taxable wages under the *Payroll Tax Act 2011*;
 - (c) there has been no change to the law regarding the application of the contractor provisions. Recent court cases have found in favour of state revenue offices in relation to the application of payroll tax to medical businesses (Thomas and Naaz in NSW (2022) and Optical Superstores in Victoria (2019));

- (d) payroll tax is a self-assessed tax regime;
 - (e) there are currently taxpayers operating GP clinics who are registered and paying payroll tax in the ACT; and
 - (f) the contractor provisions are generally harmonised across the states and territories; and
- (5) calls on the ACT Government to:
- (a) investigate how payroll tax applies to various models of General Practitioner clinic arrangements with respect to engaging General Practitioners, and their payment arrangements;
 - (b) consult with key stakeholders in General Practice, and other potentially impacted industries with relevant contractor provisions, before changing the application of existing payroll tax legislation;
 - (c) explore the risks of retrospective application of payroll tax on General Practice clinics owing on wages for General Practitioners who fall under the contractor provisions raised in the NSW and Victorian tribunal cases; and
 - (d) update the Assembly on any changes to the implementation of payroll tax by the last sitting day of August 2023.”.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 14		NOES, 7
Mr Barr	Dr Paterson	Mr Cain
Mr Braddock	Mr Pettersson	Ms Castley
Ms Burch	Mr Rattenbury	Mr Cocks
Ms Cheyne	Mr Steel	Mrs Kikkert
Ms Clay	Ms Stephen-Smith	Ms Lawder
Ms Davidson	Ms Vassarotti	Mr Milligan
Mr Davis		Mr Parton
Mr Gentleman		

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) data from Cleanbill shows that:
 - (i) only 5.5 percent of general practitioner (GP) clinics in the ACT bulk bill, the lowest percentage in the nation;
 - (ii) average out-of-pocket cost for the 94.5 percent of clinics that do not bulk bill is \$49.11 for a standard 15-minute consultation, the highest in the country; and
 - (iii) the Federal electorates of Bean and Canberra have the second and third highest out of pocket costs in the country;

- (b) in 2020-21, 4.7 percent of people in the ACT avoided seeing a GP due to cost, which was double the national average of 2.4 percent;
 - (c) according to the Productivity Commission's report on government services for primary and community health, ACT had the lowest number of GPs per capita of any jurisdiction between 2015 and 2019; and
 - (d) the Royal Australian College of General Practitioners' *Health of the Nation 2021* report shows that fewer graduates are choosing to specialise as a GP since 2015;
- (2) further notes:
- (a) in an interview on 2 February, the ACT Health Minister stated:
 - (i) "The primary care system they really need to kick in significant resources to make primary care more of a viable and sustainable place for people to go."; and
 - (ii) "We have invested more than \$12 million over the last six years to try and grow bulk billing practices in the ACT.";
 - (b) in an article on 6 January, the Chief Minister stated that, "As far as I can see the best solutions will need to include more than just augmenting hospital services, they need to include holistic reform of primary health care, and boosting capacity.";
 - (c) in an opinion piece on 2 April in the *Canberra Weekly*, Federal Member for Canberra, Alicia Payne stated:
 - (i) "Our bulk billing rate is lower than the national average of 42.7 percent, which means that every time Canberrans need to see their doctor, they'll be out of pocket around \$50 for a 15-minute consultation or \$66 for longer consultations."; and
 - (ii) "With the cost of living rising across all aspects of daily life, this means many Canberrans simply can't access the primary care they need.";
- (3) additionally notes that the Federal Labor Government's 2023-24 Budget, released on 8 May 2023:
- (a) will triple the bulk billing incentive for most common consultations with children under 16, pensioners and other Commonwealth concession card holders, better supporting GPs to bulk bill around 157,000 eligible people at the 105 practices already providing bulk billing in the ACT; and
 - (b) will significantly reduce costs for general patients by up to \$180 a year if their medicine is able to be prescribed for 60 days;
- (4) finally notes:
- (a) payroll tax is payable by employers on all taxable wages paid to their employees;
 - (b) payments to contractors who provide services to a business are considered taxable wages under the *Payroll Tax Act 2011*;

- (c) there has been no change to the law regarding the application of the contractor provisions. Recent court cases have found in favour of state revenue offices in relation to the application of payroll tax to medical businesses (Thomas and Naaz in NSW (2022) and Optical Superstores in Victoria (2019));
 - (d) payroll tax is a self-assessed tax regime;
 - (e) there are currently taxpayers operating GP clinics who are registered and paying payroll tax in the ACT; and
 - (f) the contractor provisions are generally harmonised across the states and territories; and
- (5) calls on the ACT Government to:
- (a) investigate how payroll tax applies to various models of General Practitioner clinic arrangements with respect to engaging General Practitioners, and their payment arrangements;
 - (b) consult with key stakeholders in General Practice, and other potentially impacted industries with relevant contractor provisions, before changing the application of existing payroll tax legislation;
 - (c) explore the risks of retrospective application of payroll tax on General Practice clinics owing on wages for General Practitioners who fall under the contractor provisions raised in the NSW and Victorian tribunal cases; and
 - (d) update the Assembly on any changes to the implementation of payroll tax by the last sitting day of August 2023.”—

be agree to—put and passed.

15 A.C.T. RENTAL OMBUDSMAN OR COMMISSIONER—PROPOSED ESTABLISHMENT

Mr Davis, pursuant to notice, moved—That this Assembly:

- (1) notes that:
- (a) the ACT’s housing crisis negatively impacts the ACT’s rental market:
 - (i) Canberra is among the most expensive capital cities in Australia to rent;
 - (ii) there are high rates of rental stress amongst essential workers, including nurses, teachers and aged care workers; and
 - (iii) there are no affordable rentals for people on income support payments such as Jobseeker, the Disability Support Pension or Youth Allowance;
 - (b) for a tenant to challenge a breach of their rights under the Residential Tenancies Act, the dispute must be escalated to the ACT’s Civil and Administrative Tribunal (ACAT); and
 - (c) potential barriers for renters relying on ACAT to enforce their renters’ rights or to resolve disputes include:
 - (i) lack of awareness or understanding of rental laws;

- (ii) lack of understanding of the tribunal system;
 - (iii) financial barriers;
 - (iv) power imbalance, intimidation and reluctance to confront a landlord in an adversarial legal environment; and
 - (v) reduced capacity to engage with ACAT, such as difficulty taking time off work;
- (2) further notes that:
- (a) the ACT's strong renters' rights are most effective if those rights can be applied in practice without barriers, including through:
 - (i) information, communications and engagement with renters, lessors and the real estate industry; and
 - (ii) monitoring, enforcement and easy resolution of disputes;
 - (b) efficient and effective enforcement of rental laws requires a multi-tiered system for dispute resolution between renters and landlords;
 - (c) a rental ombudsman or commissioner would ensure renters in the ACT experience the benefits of their nation-leading renters' rights under the Residential Tenancies Act;
 - (d) rental commissioners and statutory bodies around Australia and internationally provide the following functions:
 - (i) investigate breaches of rental laws;
 - (ii) maintain a register of landlords and renters who have breached their obligations under local rental laws;
 - (iii) issue infringement notices;
 - (iv) provide free, voluntary mediation or conciliation between renters and landlords;
 - (v) commence legal proceedings;
 - (vi) provide community education on the rights and responsibilities for landlords and renters;
 - (vii) undertake research and data gathering related to the private rental sector; and
 - (viii) advise and advocate to government on behalf of renters, including for the improvement of renters' rights;
 - (e) research shows that resolving disputes outside of tribunal processes has broad benefits, such as:
 - (i) providing a less challenging and intimidating process;
 - (ii) alternative dispute resolution processes can be better for maintaining a productive relationship between parties by preventing the escalation of some types of disputes;
 - (iii) disputes can be resolved earlier;
 - (iv) improve the accessibility of dispute resolution for renters; and

- (v) reduce demand on ACAT to enable the faster resolution of complex disputes and other categories of disputes; and
 - (f) with the establishment of a rental ombudsman or commissioner, ACAT would still play a necessary role in resolving complex disputes; and
- (3) calls on the ACT Government to:
 - (a) investigate the role that rental commissioners, ombudsmen or statutory bodies play in other Australian states in supporting the enforcement of renters' rights, breaches of rental laws and the resolution of disputes outside tribunal processes;
 - (b) consider options for developing a rental ombudsman or commissioner in the ACT, with powers and responsibilities such as:
 - (i) ability to investigate breaches of rental law;
 - (ii) free mediation or conciliation to resolve disputes;
 - (iii) issue infringement notices;
 - (iv) advise government to improve renters' rights;
 - (v) monitor rental markets and undertake research; and
 - (vi) provide information, communication and engagement to increase understanding of legal responsibilities for renters, landlords and real estate agencies; and
 - (c) report back to the Assembly by the final sitting day of 2023 on the progress of establishing a rental ombudsman or commissioner in the ACT.

Debate ensued.

Mr Parton, by leave, moved the following amendments together:

- (1) Insert new paragraphs (2A)(a) to (e): "(2A) acknowledges that:
 - (a) the ACT Greens Leader is the Attorney-General and sits on the ACT Government Expenditure Review Committee (ERC);
 - (b) the Attorney-General has portfolio responsibility for "policy relating to the registration of land titles and tenancies";
 - (c) the Attorney-General has not brought forth any proposal to Cabinet or ERC for a rent freeze through the government processes despite his senior position within it;
 - (d) in 2020 the ACT Greens promised, if elected that they would provide a "home for all"; and
 - (e) three years later and despite the highest number of Greens elected, appointed to the Ministry, included in the ERC and having policy responsibility for tenancies and housing and homelessness, the Greens have not delivered a "home for all" and have only delivered higher rents and more homelessness;"

- (2) Insert new paragraphs (2B)(a) to (z): “(2B) acknowledges that Housing ACT is the single worst landlord in the ACT with tenants being subjected to:
- (a) tenants subjected to live in uninhabitable properties;
 - (b) lengthy delays in core maintenance work to be completed;
 - (c) vermin infestations including properties rampant with mice and rats;
 - (d) maggots falling from ceiling and in carpet;
 - (e) extreme black mould covering multiple surfaces with the blame put on the tenant;
 - (f) dangerous asbestos in properties;
 - (g) lack of proper heating right across the winter;
 - (h) flooding bathrooms;
 - (i) leaking roofs around electrical installations;
 - (j) Housing ACT complexes having broken locks that are not repaired in a timely manner;
 - (k) blown electrical fuses not being repaired in a timely manner;
 - (l) lack of permanent maintenance fixes after temporary fixes put in place;
 - (m) known illegal activity by tenants;
 - (n) known anti-social behaviour by tenants heavily impacting neighbouring properties;
 - (o) build-up of rubbish and dumped goods in common areas of complexes;
 - (p) build-up of dumped household items on single dwelling properties;
 - (q) mouldy carpet replacements taking months;
 - (r) taking more rent than agreed to with a broken rebate system;
 - (s) tenants being eligible for sustainable household upgrades and then being told program has finished with no upgrades completed;
 - (t) lack of support during property renovations;
 - (u) lack of notice for property inspections;
 - (v) lack of window seals causing drafts and moisture in homes;
 - (w) fence repairs and replacements taking months to be completed causing security risks;
 - (x) delayed relocation of tenants from domestic violence situations;
 - (y) broken hot water systems taking weeks to be repaired; and
 - (z) disability requirements not being sufficiently met;”
- (3) Add new paragraph 4: “(4) calls upon the Assembly to condemn Housing Ministers Berry and Vassarotti as the worst landlords in the ACT.”.

Debate continued.

Question—That the amendment be agreed to—put.

The Assembly voted—

AYES, 7

Mr Cain
Ms Castley
Mr Cocks
Mrs Kikkert
Ms Lawder
Mr Milligan
Mr Parton

NOES, 14

Mr Barr
Ms Berry
Mr Braddock
Ms Burch
Ms Cheyne
Ms Clay
Ms Davidson
Mr Davis
Mr Gentleman
Dr Paterson
Mr Pettersson
Mr Rattenbury
Mr Steel
Ms Vassarotti

And so it was negatived.

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

16 FREEDOM OF INFORMATION AMENDMENT BILL 2022

The Assembly, according to order, resumed consideration at the agreement in principle stage (see [entry 12](#))—

Debate resumed.

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

Detail Stage

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

Clause 6 agreed to, after debate.

Clause 7 agreed to, after debate.

Clause 8 agreed to, after debate.

Clause 9 agreed to, agreed to.

Clause 10 agreed to, after debate.

Clause 11 agreed to.

Clause 12—

Debate ensued.

Question—put.

The Assembly voted—

AYES, 14

Mr Barr
Ms Berry
Mr Braddock
Ms Burch
Ms Cheyne
Ms Clay
Ms Davidson
Mr Davis
Mr Gentleman
Dr Paterson
Mr Pettersson
Mr Rattenbury
Mr Steel
Ms Vassarotti

NOES, 7

Mr Cain
Ms Castley
Mr Hanson
Mrs Kikkert
Ms Lawder
Mr Milligan
Mr Parton

And so it was resolved in the affirmative.

Clause 13 agreed to, after debate.

Clause 14 agreed to, after debate.

Remainder of Bill, by leave, taken as a whole and agreed to.

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

17 ADJOURNMENT

Ms Cheyne (Minister for Business and Better Regulation) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 5.53 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Ms Lee* and Ms Orr*.

*on leave.

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULE OF AMENDMENTS

Schedule 1

FREEDOM OF INFORMATION AMENDMENT BILL 2022

Amendments circulated by Mr Cain

1

Clause 6

Page 3, line 9—

oppose the clause

2

Clause 7

Page 3, line 20—

oppose the clause

3

Clause 8

Page 4, line 1—

oppose the clause

4

Clause 10

Page 4, line 14—

oppose the clause

5

Clause 12

Page 5, line 2—

oppose the clause

6

Clause 13

Page 5, line 7—

oppose the clause

7

Clause 14

Page 5, line 12—

oppose the clause
