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**LEGISLATIVE ASSEMBLY FOR THE**

**AUSTRALIAN CAPITAL TERRITORY**

**2016–2017–2018–2019**

**MINUTES OF PROCEEDINGS**

**No 106**

[**Wednesday, 14 August 2019**](http://www.hansard.act.gov.au/hansard/2019/links/download.htm)

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**1** The Assembly met at 10 am, pursuant to adjournment. The Speaker (Ms J. Burch) took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**2 PETITIONs—MINISTERIAL RESPONSES—RESPONSES NOTED**

The Clerk announced that the following responses to petitions had been lodged:

Ms Berry (Minister for Education and Early Childhood Development), dated 13 August 2019—Response to petition No 13-19, lodged by Ms Lee on 16 May 2019, concerning literacy instruction in ACT schools.

Mr Steel (Minister for Transport and City Services), undated—Response to e-petition No 9-19 and petition No 12-19, lodged by Mrs Kikkert on 15 May 2019, concerning Belconnen bus network changes.

The Speaker proposed—That the responses so lodged be noted.

Debate ensued.

Question—put and passed.

**3 Planning and Development (Controlled Activities) Amendment Bill 2019**

Mr Coe(Leader of the Opposition), pursuant to notice, presented a Bill for an Act to amend the *Planning and Development Act 2007*.

*Paper:* Mr Coe presented an explanatory statement to the Bill.

Title read by Clerk.

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

Debate adjourned (Mr Gentleman—Minister for Planning and Land Management) and the resumption of the debate made an order of the day for the next sitting.

**4 Hydrotherapy services in South Canberra**

Mrs Dunne, pursuant to notice, moved—That this Assembly:

1. notes:
   1. the recommendations contained in the report of Nous Group, dated 2 July 2019, titled *Access to Hydrotherapy in the ACT*;
   2. the general community considers the hydrotherapy pool at The Canberra Hospital (the pool) a significantly important resource for the physical and social wellbeing of the people who use it;
   3. during 2018-19 the pool had no closures due to unplanned equipment breakdowns, but the hydrotherapy pool at the University of Canberra Public Hospital had two; and
   4. the Government has stated previously that it would keep the pool open until a suitable alternative facility is available on the south side of Canberra; and
2. calls on the Minister for Health to:
   1. affirm that the Government will keep the pool open until a suitably equipped and specified alternative, with regular and adequate public access is available on the south side of Canberra; and
   2. by the end of the October 2019 sitting period, report to the Assembly on the Government’s plans for a suitably equipped and specified hydrotherapy pool, with regular and adequate public access on the south side of Canberra.

Ms Stephen-Smith (Minister for Health) moved the following amendment: Omit all text after paragraph (1)(a), substitute:

“(b) the Nous Group found that it is ‘implausible that the [Canberra Hospital hydrotherapy] pool can be kept open considering the on-the-record safety and suitability conclusions that have been drawn by responsible managers in the ACT public sector’;

(c) that, in line with Recommendation 1 of the Report, the ACT Health Directorate held a briefing for Arthritis ACT members and users of The Canberra Hospital hydrotherapy pool on 7 August 2019 to present the Nous report and to enable Canberra Health Services to directly outline their concerns about the current condition and safety issues with the pool;

(d) that, in line with Recommendation 2 of the Report, the Health Directorate will work with Arthritis ACT to discuss the terms of the existing Service Funding Agreement to ensure both parties’ future interests are addressed, acknowledging that this will require additional funding to secure access to private facilities and/or transport;

(e) that, in line with Recommendation 3 of the Report, the ACT Health Directorate will work with Arthritis ACT to support members to identify suitable access to alternative hydrotherapy by mapping the current services provided through existing sessions, to build a holistic assessment of need; and

(f) that, in response to Recommendation 4 of the Report, which is that the ACT Health Directorate conduct a study of the costs and benefits and different models for the longer-term establishment of a hydrotherapy facility in the south of Canberra, the Minister for Health has announced that the ACT Health Directorate will undertake a market sounding process to determine whether there are non-government organisations who may be interested in working with the ACT Government in the development of a new public hydrotherapy pool in Canberra’s south;

(2) further notes the resolution of the Legislative Assembly of 15 May 2019 that called on the ACT Government to:

(a) agree not to close The Canberra Hospital pool until an appropriate level of access at other suitable locations, readily accessible for those on Canberra’s southside can be continued;

(b) continue to work collaboratively with local stakeholders to include their input in the work that is currently underway to determine the current demand and usage of hydrotherapy and warm water facilities across the ACT; and

(c) report to the Assembly on these matters by the last sitting day in August 2019;

(3) further notes that:

(a) the Minister for Health reported to the Assembly on 13 August 2019;

(b) the Minister reiterated the ACT Government’s commitment not to close The Canberra Hospital hydrotherapy pool until an appropriate level of access at other suitable locations can be continued for those on Canberra’s southside;

(c) the ACT Government remains committed to working with Arthritis ACT and Canberra Hospital hydrotherapy pool users to establish an appropriate level of access at other suitable locations, aiming to provide continuity of support for individuals and groups to the greatest extent possible; and

(d) Canberra Health Services has clearly advised the Minister and the community of the risks associated with keeping the pool open, and that these risks cannot be sustained for an extended period; and

(4) calls on the Minister for Health to report back to the Assembly by the last sitting day of 2019 on the further progress in implementing the recommendations in the Nous Report, including in relation to the market sounding process and the process of supporting pool users to access other suitable locations.”.

Debate continued.

Amendment agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes:
   1. the recommendations contained in the report of Nous Group, dated 2 July 2019, titled *Access to Hydrotherapy in the ACT*;
   2. the Nous Group found that it is ‘implausible that the [Canberra Hospital hydrotherapy] pool can be kept open considering the on-the-record safety and suitability conclusions that have been drawn by responsible managers in the ACT public sector’;
   3. that, in line with Recommendation 1 of the Report, the ACT Health Directorate held a briefing for Arthritis ACT members and users of The Canberra Hospital hydrotherapy pool on 7 August 2019 to present the Nous report and to enable Canberra Health Services to directly outline their concerns about the current condition and safety issues with the pool;
   4. that, in line with Recommendation 2 of the Report, the Health Directorate will work with Arthritis ACT to discuss the terms of the existing Service Funding Agreement to ensure both parties’ future interests are addressed, acknowledging that this will require additional funding to secure access to private facilities and/or transport;
   5. that, in line with Recommendation 3 of the Report, the ACT Health Directorate will work with Arthritis ACT to support members to identify suitable access to alternative hydrotherapy by mapping the current services provided through existing sessions, to build a holistic assessment of need; and
   6. that, in response to Recommendation 4 of the Report, which is that the ACT Health Directorate conduct a study of the costs and benefits and different models for the longer-term establishment of a hydrotherapy facility in the south of Canberra, the Minister for Health has announced that the ACT Health Directorate will undertake a market sounding process to determine whether there are non-government organisations who may be interested in working with the ACT Government in the development of a new public hydrotherapy pool in Canberra’s south;
2. further notes the resolution of the Legislative Assembly of 15 May 2019 that called on the ACT Government to:
   1. agree not to close The Canberra Hospital pool until an appropriate level of access at other suitable locations, readily accessible for those on Canberra’s southside can be continued;
   2. continue to work collaboratively with local stakeholders to include their input in the work that is currently underway to determine the current demand and usage of hydrotherapy and warm water facilities across the ACT; and
   3. report to the Assembly on these matters by the last sitting day in August 2019;
3. further notes that:
   1. the Minister for Health reported to the Assembly on 13 August 2019;
   2. the Minister reiterated the ACT Government’s commitment not to close The Canberra Hospital hydrotherapy pool until an appropriate level of access at other suitable locations can be continued for those on Canberra’s southside;
   3. the ACT Government remains committed to working with Arthritis ACT and Canberra Hospital hydrotherapy pool users to establish an appropriate level of access at other suitable locations, aiming to provide continuity of support for individuals and groups to the greatest extent possible; and
   4. Canberra Health Services has clearly advised the Minister and the community of the risks associated with keeping the pool open, and that these risks cannot be sustained for an extended period; and
4. calls on the Minister for Health to report back to the Assembly by the last sitting day of 2019 on the further progress in implementing the recommendations in the Nous Report, including in relation to the market sounding process and the process of supporting pool users to access other suitable locations.”—

be agreed to—put and passed.

**5** **National Disability Insurance Scheme—Provision for sex therapy and sex work services**

Notice No 3, Private Members’ business, having been called on—

Mr Wall raised a point of order as to whether Notice No 3, Private Members’ business, contravened Continuing Resolution 10, as a Notice of Appeal from a Tribunal had been lodged with the Federal Court of Australia, New South Wales Registry.

*Paper:* Mr Wall, by leave, presented the following paper:

National Disability Insurance Agency v WRMF—Notice of Appeal from a Tribunal—Federal Court of Australia, New South Wales Registry—Filed 5 August 2019.

*Speaker’s ruling—Sub judice convention and Continuing Resolution 10:* The Speaker ruled that the matter could proceed, but advised Members to continue with caution.

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

1. notes that:
   1. the National Disability Insurance Scheme (NDIS) provides people with a permanent and significant disability, aged under 65, with the reasonable and necessary supports they need to live an ordinary life;
   2. the ACT was the first state or territory to sign up to the NDIS in 2013 and the first to transition all eligible participants into the Scheme in 2016‑17; and
   3. the NDIS has tripartisan support at the Commonwealth and territory level;
2. further notes that:
   1. the Administrative Appeals Tribunal (AAT) recently ruled that sex therapy should be considered a “necessary and reasonable support” for a NDIS participant;
   2. the Federal Minister for the NDIS has indicated that the AAT ruling would be appealed to the Federal Court, stating that the services were “not in line with community expectations of what are reasonable and necessary supports”;
   3. any changes to the NDIS (Support for Participants) Rules 2013 to exclude sex or services intended to cause sexual release from participants plans would be a Category A change and require agreement of all state and territory governments; and
   4. the ACT Minister for Disability has stated that the ACT Government will not support any such rule change; and
3. calls on the ACT Legislative Assembly to:
   1. recognise that, like everyone else, people with disability have sexual needs; and
   2. make a tripartisan statement in support of the provision of sex therapy and sex work under the NDIS by forwarding this motion to the Prime Minister and Minister for the NDIS, signed by the leaders of all ACT Legislative Assembly parties.

Debate ensued.

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.

**6 QUESTIONS**

Questions without notice were asked.

**7 SUB JUDICE CONVENTION AND CONTINUING RESOLUTiON 10**

Mr Wall raised a further point of order in relation to Notice No 3, Private Members’ business, as to whether it was contravening the sub judice convention and Continuing Resolution 10.

Further points of order being raised, the Speaker suggested that the mover of the motion consider moving an amendment to address the issues raised.

**8 National Disability Insurance Scheme—Provision for sex therapy and sex work services**

The order of the day having been read for the resumption of the debate on the motion of Ms Cody (*see* [entry 5](#Entry5))—

Ms Cody, by leave, moved the following amendment: Omit paragraph (2)(b).

Debate continued.

Amendment agreed to.

Ms Cheyne, by leave, moved the following amendment to the motion, as amended: Omit paragraph (3)(b), substitute:

“(b) make a tripartisan statement in support of sex therapy and sex work under the NDIS and, specifically, in opposition to any change to the NDIS (Support for Participants) Rules 2013 that would preclude such services, by forwarding this motion to the Prime Minister and Minister for the NDIS, signed by the leaders of all ACT Legislative Assembly parties.”.

Amendment agreed to.

Debate continued.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes that:
   1. the National Disability Insurance Scheme (NDIS) provides people with a permanent and significant disability, aged under 65, with the reasonable and necessary supports they need to live an ordinary life;
   2. the ACT was the first state or territory to sign up to the NDIS in 2013 and the first to transition all eligible participants into the Scheme in 2016‑17; and
   3. the NDIS has tripartisan support at the Commonwealth and territory level;
2. further notes that:
   1. the Administrative Appeals Tribunal (AAT) recently ruled that sex therapy should be considered a “necessary and reasonable support” for a NDIS participant;
   2. any changes to the NDIS (Support for Participants) Rules 2013 to exclude sex or services intended to cause sexual release from participants plans would be a Category A change and require agreement of all state and territory governments; and
   3. the ACT Minister for Disability has stated that the ACT Government will not support any such rule change; and
3. calls on the ACT Legislative Assembly to:
   1. recognise that, like everyone else, people with disability have sexual needs; and
   2. make a tripartisan statement in support of sex therapy and sex work under the NDIS and, specifically, in opposition to any change to the NDIS (Support for Participants) Rules 2013 that would preclude such services, by forwarding this motion to the Prime Minister and Minister for the NDIS, signed by the leaders of all ACT Legislative Assembly parties.”—

be agreed to—put and passed.

**9 Network19—Weekend bus services**

Miss C. Burch, pursuant to notice, moved—That this Assembly:

1. notes that:
   1. thousands of Canberrans rely on weekend bus services to travel around the city, and weekend service cancellations have led to many Canberrans being stranded at bus stops without any alternative;
   2. since the commencement of Network19, Transport Canberra has failed to achieve its stated target of 99.5 percent of total services delivered to completion on weekends;
   3. over the two-month period from May to June this year there have been well over 2000 cancellations of weekend bus services;
   4. the Transport Workers’ Union raised concerns to the ACT Government regarding weekend staffing levels before the new network was implemented and these concerns were not addressed; and
   5. as of today, the ACT Government has failed to deliver the bus network it promised Canberrans; and
2. calls on the Minister for Transport and City Services to:
   1. explain to the Assembly what the Government is doing to improve the provision of real-time information about cancelled services to customers; and
   2. provide an updated weekend timetable that reflects the availability of weekend bus drivers by Wednesday of each week, so that Canberrans can plan their weekend travel accordingly.

Mr Steel (Minister for Transport and City Services) moved the following amendment: Omit paragraph (1), substitute:

“(1) notes that:

(a) 27 percent more journeys on public transport were recorded over the first 10 weekends of the new network, compared with the same weekends in 2018;

(b) the additional Rapid routes available on the weekends are offering a more direct route and keeping Canberrans connected;

(c) an additional 1377 weekend services have been put on since the commencement of Network19;

(d) Transport Canberra are currently undertaking rolling recruitment for new drivers; and

(e) average weekend reliability is 89 percent and the Government has acknowledged this is not meeting community expectations;”.

Amendment agreed to.

Ms Le Couteur moved the following amendment to the motion, as amended: Omit all text after paragraph (1)(e), substitute:

* 1. Canberrans are flocking to Network19’s expanded weekend bus services, with average Saturday journeys rising from 12 768 in June 2018 to 16 985 in June 2019, and average Sunday journeys rising from 9013 in June 2018 to 12 535 in June 2019; and

1. calls on the ACT Government to:
   1. acknowledge that many Canberrans have been impacted by weekend bus reliability;
   2. commit to improving weekend services reliability provided by Network19 and restoring weekend reliability rates;
   3. release, within one month, an action plan that:
      1. examines how more timely cancellation information for passengers could be provided;
      2. examines better ways of notifying passengers of service cancellations;
      3. improves weekend bus reliability by increasing bus driver numbers through continued bus driver recruitment;
      4. considers short-term actions like incentives that can be provided to drivers to encourage them to deliver weekend services, whilst the recruitment of more drivers continues; and
      5. provides the community with a timeframe for when weekend service reliability will improve; and
   4. report to the community and the Assembly on weekend service reliability and progress on the action plan quarterly until reliability on the weekends is restored.”.

Amendment agreed to.

Debate continued.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes that:
   1. 27 percent more journeys on public transport were recorded over the first 10 weekends of the new network, compared with the same weekends in 2018;
   2. the additional Rapid routes available on the weekends are offering a more direct route and keeping Canberrans connected;
   3. an additional 1377 weekend services have been put on since the commencement of Network19;
   4. Transport Canberra are currently undertaking rolling recruitment for new drivers;
   5. average weekend reliability is 89 percent and the Government has acknowledged this is not meeting community expectations;” and
   6. Canberrans are flocking to Network19’s expanded weekend bus services, with average Saturday journeys rising from 12 768 in June 2018 to 16 985 in June 2019, and average Sunday journeys rising from 9013 in June 2018 to 12 535 in June 2019; and
2. calls on the ACT Government to:
   1. acknowledge that many Canberrans have been impacted by weekend bus reliability;
   2. commit to improving weekend services reliability provided by Network19 and restoring weekend reliability rates;
   3. release, within one month, an action plan that:
      1. examines how more timely cancellation information for passengers could be provided;
      2. examines better ways of notifying passengers of service cancellations;
      3. improves weekend bus reliability by increasing bus driver numbers through continued bus driver recruitment;
      4. considers short-term actions like incentives that can be provided to drivers to encourage them to deliver weekend services, whilst the recruitment of more drivers continues; and
      5. provides the community with a timeframe for when weekend service reliability will improve; and
   4. report to the community and the Assembly on weekend service reliability and progress on the action plan quarterly until reliability on the weekends is restored.”—

be agreed to—put and passed.

**10 Tuggeranong—Anketell Street—Re-routing of buses**

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

1. notes:
   1. that Anketell Street has recently been refurbished;
   2. that there are a number of cafes and restaurants with indoor and outdoor seating areas along Anketell Street; and
   3. the community opposition to buses running along Anketell Street, including a previous petition from Tuggeranong Community Council; and
2. calls on the ACT Government to:
   1. recognise community opposition to buses along Anketell Street;
   2. recognise a more pleasant and conducive dining environment would be achieved without buses running along Anketell Street; and
   3. re-route buses away from Anketell Street.

Mr Steel (Minister for Transport and City Services) moved the following amendment: Omit all text after “That this Assembly”, substitute:

“(1) notes:

* 1. that construction on upgrades to the public realm along Anketell Street have recently concluded;
  2. the ACT Government’s upgrades to Anketell Street have improved Tuggeranong’s main street through a raised pedestrian zone, a low speed traffic environment, an off-road cycle lane, improvements to paved areas, tree replacements with 27 additional trees along the street, wider pavements for outdoor dining, improved lighting, and additional street furniture;
  3. that there are a number of cafes and restaurants with indoor and outdoor seating areas along Anketell Street;
  4. the previous petition from Tuggeranong Community Council regarding the removal of buses along Anketell Street;
  5. buses have returned to Anketell Street in the short term; and
  6. the Minister for Transport and City Services wrote to business owners on Anketell Street on 9 August, noting that the Government was genuinely considering the option of removing buses on Anketell Street in consultation with bus drivers, including investigating what capital upgrades may be required for buses to safely move along Cowlishaw Street;

1. calls on the ACT Government to:
   1. ensure Transport Canberra continues to engage with members of the Tuggeranong community on the future of buses along Anketell Street;
   2. work with businesses along Anketell Street to ensure the benefits of the upgrades to Anketell Street are fully realised;
   3. consult with bus drivers on any future plans to remove buses from Anketell Street;
   4. continue to investigate what capital upgrades may be required for buses to safely move along Cowlishaw Street as an alternative route on a permanent basis; and
   5. report back to the Assembly by July 2020.”.

Debate continued.

Ms Lawder moved the following amendment to Mr Steel’s proposed amendment: Omit paragraph (2)(e), substitute:

“(e) report back to the Assembly by the last sitting day of 2019.”.

Debate continued.

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes:
   1. that construction on upgrades to the public realm along Anketell Street have recently concluded;
   2. the ACT Government’s upgrades to Anketell Street have improved Tuggeranong’s main street through a raised pedestrian zone, a low speed traffic environment, an off-road cycle lane, improvements to paved areas, tree replacements with 27 additional trees along the street, wider pavements for outdoor dining, improved lighting, and additional street furniture;
   3. that there are a number of cafes and restaurants with indoor and outdoor seating areas along Anketell Street;
   4. the previous petition from Tuggeranong Community Council regarding the removal of buses along Anketell Street;
   5. buses have returned to Anketell Street in the short term; and
   6. the Minister for Transport and City Services wrote to business owners on Anketell Street on 9 August, noting that the Government was genuinely considering the option of removing buses on Anketell Street in consultation with bus drivers, including investigating what capital upgrades may be required for buses to safely move along Cowlishaw Street;
2. calls on the ACT Government to:
   1. ensure Transport Canberra continues to engage with members of the Tuggeranong community on the future of buses along Anketell Street;
   2. work with businesses along Anketell Street to ensure the benefits of the upgrades to Anketell Street are fully realised;
   3. consult with bus drivers on any future plans to remove buses from Anketell Street;
   4. continue to investigate what capital upgrades may be required for buses to safely move along Cowlishaw Street as an alternative route on a permanent basis; and
   5. report back to the Assembly by the last sitting day of 2019.”—

be agreed to—put and passed.

**11 Light Rail Stage 1—INCREASED DEMAND**

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

1. notes the popularity of Stage 1 of the Light Rail since it opened in April, including:
   1. 20 percent of all boardings across the entire public transport network are now on a Light Rail service;
   2. public transport journeys starting in Gungahlin have increased 32 percent compared to the same period last year;
   3. the millionth Light Rail passenger boarded Light Rail in mid-July;
   4. since the commencement of services, 15 125 passengers on average per day have used Light Rail. The estimated daily Light Rail patronage in the Light Rail Stage 1 business case was 15 120 per day in 2021; and
   5. the early success has led Canberra Metro to putting on an additional service on the morning and evening peaks, together with two extra services for students in the afternoon peak;
2. notes that, due to the success of Light Rail, services are nearing capacity in peak periods; and
3. calls on the Government to work with Canberra Metro to explore the possibility of increasing services during the peak periods.

Debate ensued.

Mr Rattenbury moved the following amendment: In paragraph (3), after “peak periods”, add: “, and to report back to the Assembly by the end of its November 2019 sittings on the progress of this work.”.

Debate continued.

Amendment agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

1. notes the popularity of Stage 1 of the Light Rail since it opened in April, including:
   1. 20 percent of all boardings across the entire public transport network are now on a Light Rail service;
   2. public transport journeys starting in Gungahlin have increased 32 percent compared to the same period last year;
   3. the millionth Light Rail passenger boarded Light Rail in mid-July;
   4. since the commencement of services, 15 125 passengers on average per day have used Light Rail. The estimated daily Light Rail patronage in the Light Rail Stage 1 business case was 15 120 per day in 2021; and
   5. the early success has led Canberra Metro to putting on an additional service on the morning and evening peaks, together with two extra services for students in the afternoon peak;
2. notes that, due to the success of Light Rail, services are nearing capacity in peak periods; and
3. calls on the Government to work with Canberra Metro to explore the possibility of increasing services during the peak periods, and to report back to the Assembly by the end of its November 2019 sittings on the progress of this work.”—

be agreed to—put and passed.

**12 ADJOURNMENT**

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

Debate ensued.

Question—put and passed.

And then the Assembly, at 6:10 pm, adjourned until tomorrow at 10 am.

**MEMBERS’ ATTENDANCE:** All Members were present at some time during the sitting, except Ms Lee\*.

\*on leave

**Tom Duncan**

Clerk of the Legislative Assembly