



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Economic Policy Scrutiny Committee

Annual Report

2017-18

August 2018

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Chair's Preface

This report outlines the Bill inquiries undertaken by the Economic Policy Scrutiny Committee during its first year of operation. During this period, the Legislative Assembly referred six Bills to the Committee for inquiry and report, all of which the Committee recommended be passed by the Assembly.

The Committee proposed amendments to two of the Bills and, in addition, has made a number of recommendations to the Government regarding broader issues that arose during the inquiries. Of the recommendations that have been considered by the Government, 100% have been accepted.

The workload involved in scrutinising Bills is considerable. Even Bills that appear to be straightforward require a degree of background research, a comparison of proposed amendments with similar legislation in other jurisdictions and consultation with experts and interested parties. Determining that a Bill requires no changes can be as time consuming as identifying what needs to be changed in Bills that require amendments.

Despite the workload involved, the Bill scrutiny process provides an excellent opportunity for Members, and individuals and organisations, to contribute to the legislative process. This enhances the quality of the legislation by ensuring that Bills are only passed if they are drafted in a manner that is clear, precise and unambiguous and have due regard to the rights and liberties of individuals and the institution of Parliament.

On behalf of the Committee, I wish to thank all of the individuals and organisations that made submissions to the Committee and appeared as witnesses at public hearings. Their input, knowledge and expertise has been invaluable to the Committee in scrutinising proposed legislation, making recommendations to the Government and striving to create the best legislation for Territorians.


The Committee also thanks the chief executives of the government agencies and the agency staff that appeared at public briefings and provided additional information and clarification to the Committee. I would also like to thank the Department of the Legislative Assembly for the support it provided to the Committee, and the Committee members for their bipartisan commitment to undertaking this important role in scrutinising proposed legislation.

A handwritten signature in black ink that reads "Tony Sievers". The signature is written in a cursive style and is underlined with a single horizontal line.

Tony Sievers MLA

Chair

Committee Members

	Tony Sievers MLA Member for Brennan	
	Party:	Territory Labor
	Committee Membership	
	Standing:	House, Public Accounts
	Sessional:	Economic Policy Scrutiny
	Chair:	Economic Policy Scrutiny
	Jeff Collins MLA Member for Fong Lim	
	Party:	Territory Labor
	Committee Membership	
	Standing:	Privileges
	Sessional:	Economic Policy Scrutiny
	Select:	Northern Territory Harm Reduction Strategy for Addictive Behaviours
Chair	Northern Territory Harm Reduction Strategy for Addictive Behaviours	
	Gary Higgins MLA Member for Daly	
	Party:	Country Liberals
	Parliamentary Position:	Leader of the Opposition
	Committee Membership	
	Standing:	House, Standing Orders, Members' Interests
	Sessional:	Economic Policy Scrutiny
Select:	Estimates; Northern Territory Harm Reduction Strategy for Addictive Behaviours	
	Lawrence Costa MLA Member for Arafura	
	Party:	Territory Labor
	Committee Membership	
	Sessional:	Economic Policy Scrutiny
	Gerry Wood MLA Member for Nelson	
	Party:	Independent
	Committee Membership	
	Standing:	Privileges, Public Accounts
	Sessional:	Economic Policy Scrutiny
Select:	Estimates	
On 3 July 2018, Member for Arnhem, Ms Selena Uibo MLA was discharged from the Committee and replaced by Member for Arafura, Mr Lawrence Costa MLA.		

Committee Secretariat

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Terms of Reference

Sessional Order 13

Establishment of Scrutiny Committees

- (1) Standing Order 178 is suspended.
- (2) The Assembly appoints the following scrutiny committees:
 - (a) The Social Policy Scrutiny Committee
 - (b) The Economic Policy Scrutiny Committee
- (3) The Membership of the scrutiny committees will be three Government Members and one Opposition Member nominated to the Speaker in writing by the respective Whip and one non-party aligned Member to be appointed by motion.
- (4) The functions of the scrutiny committees shall be to inquire and report on:
 - (a) any matter within its subject area referred to it:
 - (i) by the Assembly;
 - (ii) by a Minister; or
 - (iii) on its own motion.
 - (b) any bill referred to it by the Assembly;
 - (c) in relation to any bill referred by the Assembly:
 - (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
 - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers powers to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

- (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether the bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act.
- (5) The Committee will elect a Government Member as Chair.
- (6) Each Committee will provide an annual report on its activities to the Assembly.

Adopted 24 August 2017

1 Introduction

Establishment and Functions of the Committee

- 1.1 The Economic Policy Scrutiny Committee was established by the Assembly on Thursday, 24 August 2017 under Sessional Order 13.
- 1.2 The functions of the Economic Policy Scrutiny Committee include to inquire into and report on any matter within its subject area referred to it by the Assembly, a Minister or on its own motion.
- 1.3 The Committee also has a duty to examine any Bill referred to it by the Assembly and determine whether the Assembly should pass the Bill or amend the Bill and whether the Bill has sufficient regard to the rights and liberties of individuals and the institution of Parliament.
- 1.4 In accordance with clause 6 of its Terms of Reference, the Committee is required to provide an annual report on its activities.

Report Structure

- 1.5 Chapter 2 provides a summary of Bills referred to and considered by the Committee during the reporting period.
- 1.6 Chapter 3 provides an overview of statistics regarding the number of Bills referred to the Committee, submissions received, inquiry timeframes, reports tabled and recommendations accepted by the Government.

2 Bill Referrals

Introduction

2.1 Over the reporting period the Assembly referred six Bills to the Economic Policy Scrutiny Committee for inquiry and report. In accordance with clause 13(4)(c) of its Terms of Reference, following examination of a Bill the Committee is required to determine:

- (i) whether the Assembly should pass the bill;
- (ii) whether the Assembly should amend the bill;
- (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
- (iv) whether the bill has sufficient regard to the institution of Parliament.

To facilitate the Bill inquiry process, on 18 October 2017 the Committee adopted a *Standard Procedure for Bill Inquiries* (see Appendix A).

2.2 Following is an overview of Bills referred during the reporting period, the outcome of the Committee's considerations and subsequent response by the Government.

Biological Control Amendment Bill 2017

2.3 On 18 October 2017 the Assembly referred the Biological Control Amendment Bill 2017 (Serial 33) to the Committee for inquiry and report by 6 February 2018.

2.4 The Bill introduced amendments to ensure consistency with national biological control programs following changes to the Commonwealth *Biological Control Act 1984*.

2.5 No submissions were received and since the Committee had no matters to bring to the attention of the Assembly, a *No Issues Report* recommending the Bill be passed was tabled in the Assembly on 23 November 2017. The report is available at <https://parliament.nt.gov.au/committees/EPSC/BC>.

Pastoral Land Legislation Amendment Bill 2017

2.6 On 18 October 2017 the Assembly referred the Pastoral Land Legislation Amendment Bill 2017 (Serial 34) to the Committee for inquiry and report by 6 February 2018. On 6 February 2018 the Assembly approved that the due date for the report be extended to 13 March 2018.

2.7 The Bill proposed amendments to implement a new methodology to calculate pastoral rents and to enhance diversification opportunities by enabling the granting of subleases for non-pastoral purposes. Key features of the Bill included:

- Repealing the current pastoral rent methodology which uses the unimproved capital value of land and establishing a rent methodology based on a pastoral estate's estimated carrying capacity.

- Expanding non-pastoral use provisions contained within the Pastoral Land Regulations to allow subleases to be granted for horticulture, agriculture, aquaculture and forestry.
 - Allowing for subleases to be registered as security on the title.
 - Strengthening the consent to transfer provisions to ensure that all proposals to transfer ownership or a controlling interest are assessed, including any foreign interests and maximum holding triggers.
 - Allowing the Minister to appoint additional members to the Pastoral Land Board to provide a wider pool of members to more readily enable a quorum to be reached.
- 2.8 The Committee received submissions from 13 people and organisations and held a public hearing on 2 February 2018.
- 2.9 Following examination of the Bill and consideration of the evidence received, the Committee determined that the Assembly should pass the Bill with three amendments. The Committee made a number of other recommendations to the Government including consideration of:
- Legislative options to facilitate appropriate non-pastoral use of pastoral lands in addition to primary production activity, such as conservation and environmental remediation activities, and also allow such purposes for subleases.
 - Issues relating to increased non-pastoral use of pastoral land in its environmental regulatory reform program.
 - Options to enhance the protection of sacred sites.
 - Options for better protecting the rights of native title holders when granting permits for non-pastoral uses to leaseholders.
 - Increased diversity and experience in and understanding of native title interests and Aboriginal cultural heritage and traditions in the Northern Territory when appointing members to the Pastoral Land Board.
- 2.10 The Committee tabled its report in the Assembly on 13 March 2018. At the time of writing, the Government had not yet responded to the Committee's recommendations. A copy of the Committee's report, associated minutes of proceedings, submissions, tabled papers and transcripts can be found at <https://parliament.nt.gov.au/committees/EPSC/LPP>.

Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017

- 2.11 On 23 November 2017 the Assembly referred the Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017 (Serial 37) to the Committee for inquiry and report by 13 March 2018.
- 2.12 The Bill proposed amendments to provide that a journalist may claim journalist privilege in order to protect the identity of a confidential source of information. The journalist privilege is qualified, meaning that a court can compel a journalist or their

employer to disclose details identifying a source if the court determines that the public interest in identifying the source outweighs any likely adverse outcome to the source or another person, and outweighs the public interest in the communication of facts and opinions to the public and, consequently, the ability of journalists to access sources of information.

- 2.13 The Committee received four submissions and held a public briefing with the Department of the Attorney-General and Justice on 28 February 2018. Following examination of the Bill, consideration of issues raised in evidence and a jurisdictional comparison of equivalent legislation, the Committee recommended the Assembly pass the Bill with no amendments.
- 2.14 The Committee tabled its report in the Assembly on 13 March 2018. The Committee's report, associated minutes of proceedings, submissions and transcripts are available at <https://parliament.nt.gov.au/committees/EPSC/ENUL>.

Residential Tenancies Amendment Bill 2018

- 2.15 On 8 February 2018 the Assembly referred the Residential Tenancies Amendment Bill 2018 (Serial 43) to the Committee for inquiry and report by 1 May 2018.
- 2.16 The purpose of the Bill is to implement the Residential Tenancy Database Model Provisions which provide the minimum rights, obligations and limitations in relation to residential tenancy databases by providing:
- Notification requirements in relation to the use of residential tenancy databases.
 - Restrictions on information that can be placed on residential tenancy databases.
 - Obligations to correct information that is inaccurate, incomplete, ambiguous or out-of-date.
 - Obligations to provide information relating to a person if the person requests it.
 - Time limits for keeping personal information on residential tenancy databases.
- 2.17 The Committee received 10 submissions and held a public briefing with the Department of the Attorney-General and Justice on 21 March 2018.
- 2.18 Following examination of the Bill and consideration of the evidence, the Committee recommended the Assembly pass the Bill with one amendment. During the course of the inquiry, a number of concerns were raised with the Committee about the operation of the *Residential Tenancies Act*. While these issues were outside the scope of the inquiry, the Committee considered that several of these warranted further consideration by the Government. Therefore, the Committee recommended the Government investigate the most appropriate way to provide protections for people that may have been unjustly listed on a tenancy database, as well as a comprehensive review of the *Residential Tenancies Act*.
- 2.19 The Committee tabled its report in the Assembly on 1 May 2018. On 10 May 2018, the Attorney-General and Minister for Justice responded to the Committee's report noting that the Government accepted all four of the Committee's recommendations.

2.20 The Committee's report, associated minutes of proceedings, subsequent response from the Government, submissions and transcripts are available at <https://parliament.nt.gov.au/committees/EPSC/43-2018>.

Gaming Control Amendment Bill 2018

2.21 On 10 May 2018 the Assembly referred the Gaming Control Amendment Bill 2018 (Serial 52) to the Committee for inquiry and report by 14 August 2018.

2.22 The Bill introduced amendments to:

- Create a power for the Minister to approve Community Benefit Fund Guidelines
- Provide for the establishment and functions of the Community Benefit Fund in relation to applications made for grants
- Provide for the establishment of new functions for the Director-General of Licensing in relation to the Community Benefit Fund, including the power to approve certain applications.
- Provide clarity on the treatment of any unspent funds in the Community Benefit Fund which are to be retained in the fund and applied against future applications and not used to offset agency debt or similar.

2.23 No submissions were received and since the Committee had no matters to bring to the attention of the Assembly, a *No Issues Report* recommending the Bill be passed was presented to the Speaker on 25 June 2018, pursuant to Standing Order 200(4), for subsequent tabling in the Assembly on 14 August 2018.

2.24 The Committee tabled its report in the Assembly on 23 August 2018. The Committee's report and associated minutes of proceedings are available at <https://parliament.nt.gov.au/committees/EPSC/52-2018>.

Northern Territory Civil and Administrative Tribunal Amendment Bill 2018

2.25 On 10 May 2018 the Assembly referred the Northern Territory Civil and Administrative Tribunal Amendment Bill 2018 (Serial 54) to the Committee for inquiry and report by 14 August 2018.

2.26 The primary purpose of the Bill is to provide for the NTCAT to make costs orders and to clarify the circumstances in which it can make a default decision. More specifically, the amendments in the Bill aim to provide that:

- a) One of the grounds for the Northern Territory Civil and Administrative Tribunal (NTCAT) reopening a matter under section 80 of the Act is that a default decision was made under section 101A;
- b) NTCAT can make a decision against a party who has not responded to an application for the recovery of a debt (new section 101A);

- c) There is an expectation that a successful party can recover application fees, service fees and search fees that are necessary and reasonable for the conduct of a matter;
- d) The seal of NTCAT can be affixed electronically; and
- e) New section 101A of the Act does not apply to proceedings commenced prior to the commencement of that section.¹

2.27 The Committee received three submissions and two supplementary submissions to its inquiry. The Committee will table its report on 23 August 2018. The Committee's report, associated minutes of proceedings, submissions, and departmental response to the Committee's questions on the Bill are available at <https://parliament.nt.gov.au/committees/EPSC/54-2018>. Further details regarding this inquiry will be published in the Committee's 2018-19 Annual Report.

¹ *Explanatory Statement*, Northern Territory Civil and Administrative Tribunal Amendment Bill 2018 (Serial 54), p.1, https://parliament.nt.gov.au/_data/assets/pdf_file/0006/502359/Serial-54-Explanatory-Statement-NT-CAT.pdf

3 Committee Statistics

Introduction

- 3.1 In accordance with Sessional Order 12.5(1), following the first reading of a Bill, other than an annual appropriation Bill, the Member in charge of the Bill is to immediately move:
- (a) a motion referring the Bill to a particular scrutiny committee for report by a particular date; or
 - (b) “that the Bill be declared urgent”; or
 - (c) “that the second reading of the Bill be made an order of the day for the first Assembly meeting after 30 days have elapsed.”
- 3.2 As highlighted in Table 1 below, of the 24 Bills introduced during the reporting period 15 were referred to scrutiny committees, three were dealt with on urgency and six were made an order of the day for the first Assembly meeting after 30 days have elapsed following introduction.

Table 1: Bill Referrals

Serial #	Title	Scrutiny Committee	Urgent	30 days
30	Independent Commissioner Against Corruption Bill 2017	Social		
31	Misuse of Drugs Amendment Bill 2017	Social		
32	Parks and Wildlife Commission Amendment Bill 2017	Social		
33	Biological Control Amendment Bill 2017	Economic		
34	Pastoral Land Legislation Amendment Bill 2017	Economic		
35	Independent Commissioner Against Corruption (Consequential and Related Amendments) Bill 2017	Social		
36	Liquor Amendment Bill 2017		✓	
37	Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017	Economic		
38	Criminal Code Amendment (Intimate Images) Bill 2017	Social		
39	Adoption of Children Legislation Amendment (Equality) Bill 2017	Social		
40	Domestic and Family Violence Amendment (Information Sharing) Bill 2017	Social		
41	Liquor Commission Bill 2018		✓	
42	Liquor Legislation Amendment (Licensing) Bill 2018		✓	
43	Residential Tenancies Amendment Bill 2018	Economic		
44	Animal Protection Bill 2018	Social		
45	Expungement of Historical Homosexual Offence Records Bill 2018			✓
46	Statute Law Revision Bill 2017			✓
47	Liquor Amendment (Point of Sale Intervention) Bill 2018			✓
48	Youth Justice Legislation Amendment Bill 2018			✓
51	Monetary Units Bill 2018			✓
52	Gaming Control Amendment Bill 2018	Economic		
53	Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2018	Social		
54	Northern Territory Civil and Administrative Tribunal Amendment Bill 2018	Economic		
55	Liquor Amendment (Minimum Pricing) Bill 2018			✓

Committee Inquiries

3.3 As highlighted in Table 1 above, six Bills were referred to the Economic Policy Scrutiny Committee. During the reporting period, the Committee held a total of 13 meetings which included:

- 2 public briefings with government agencies.
- 1 public hearing with 19 witnesses appearing before the Committee.

3.4 The Committee notes that the input from individuals and organisations through submissions, and appearing as witnesses at public hearings, has been invaluable in assisting the Committee to scrutinise proposed legislation. As noted in Table 2 below, the level of public participation in the Committee's inquiries varied according to the nature of the Bill under consideration.

Table 2: Submissions Received

Serial #	Title	No. of Submissions Received
33	Biological Control Amendment Bill 2017	0
34	Pastoral Land Legislation Amendment Bill 2017	16
37	Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017	4
43	Residential Tenancies Amendment Bill 2018	10
52	Gaming Control Amendment Bill 2018	0
54	Northern Territory Civil and Administrative Tribunal Amendment Bill 2018	5

Reports and Recommendations

3.5 Pursuant to Sessional Order 12.5(2), Bill inquiries and associated reporting timeframes are subject to the following provision:

The date by which the committee must report must not be earlier than the first meeting day of the second set of meetings following the first reading (i.e. the second resumption of meetings after a period of at least two weeks when the Assembly has not met).

3.6 As summarised in Table 3 below, the Committee met its reporting due dates for all inquiries, with the exception of the Pastoral Land Legislation Amendment Bill 2017 where the Assembly approved that the reporting date be extended to 13 March 2018. Pursuant to Standing Order 200(4), one report was presented to the Speaker out of session, and one report was tabled in the first sittings after introduction of the Bill.

Table 3: Inquiry Timeframes

Serial #	Title	Date Referred	Report Due	Report Tabled
33	Biological Control Amendment Bill 2017	18/10/17	6/2/18	27/11/17
34	Pastoral Land Legislation Amendment Bill 2017	18/10/17	13/3/18	13/3/18
37	Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017	23/11/17	13/3/18	13/3/18
43	Residential Tenancies Amendment Bill 2018	8/2/18	1/5/18	1/5/18
52	Gaming Control Amendment Bill 2018	10/5/18	14/8/18	25/6/18
54	Northern Territory Civil and Administrative Tribunal Amendment Bill 2018	10/5/18	14/8/18	To be tabled 14/8/18

- 3.7 The Committee recommended that the Assembly pass all of the Bills referred to the Committee. However, as detailed in Chapter 2, the Committee proposed amendments to two of the Bills and made broader recommendations to the Government regarding issues that arose during the course of the inquiries.
- 3.8 At the time of writing, the Government had responded to three of the five reports tabled. As summarised in Table 4, of the 6 recommendations put forward by the Committee and considered by the Government, 100% were accepted.

Table 4: Proposed Amendments and Recommendations

Serial #	Title	No. of Recommendations Proposed	No. of Recommendations Accepted
33	Biological Control Amendment Bill 2017	1	1
34	Pastoral Land Legislation Amendment Bill 2017	9	Awaiting Response
37	Evidence (National Uniform Legislation) Amendment (Journalist Privilege) Bill 2017	1	1
43	Residential Tenancies Amendment Bill 2018	4	4
52	Gaming Control Amendment Bill 2018	1	Awaiting Response

Appendix A: Standard Procedures for Bill Inquiries

1. The Committee will call for submissions on the Bill to be due by the Wednesday that falls two weeks before the next sittings of the Assembly or another date that has been approved by the Committee;
2. Following the end of a sittings period, the Chair of the Committee will issue a notice listing the bills on which the Committee is calling for submissions and the date by which submissions are due;
3. The Chair will invite Committee Members to provide details of persons and organisations they would like to invite to provide a submission to the Bill;
4. Notices calling for submissions will be distributed on the Assembly's website, by email to subscribers of the committee email alert service, by Facebook and Twitter posts, by media release, and by email or letter to persons and organisations determined by the Chair following consultation with Committee Members;
5. The Chair will write to the Minister who introduced the Bill to request a Departmental briefing on the Bill from the responsible Department for Committee Members;
6. After the due date for submissions, the Chair will determine whether and when to hold public hearings and who shall be invited to appear at the hearings, following consultation with Committee Members;
7. Unless circumstances require otherwise, the public hearings will be held on Wednesday mornings of sittings weeks;
8. If any Member wishes to amend this standard procedure for a particular bill, they shall advise the Chair who will then convene a meeting to consider that Bill's inquiry process at the earliest convenient opportunity.