



Mr Hon Matthew Swinbourn MLC
Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Swinbourn

RE: Inquiry into functions, processes and procedures of the Standing Committee on Environment and Public Affairs

I refer to your letter of 25 October 2019. Thank you for your invitation for the ACT Legislative Assembly to make a submission to your committee's inquiry.

The ACT has accepted petitions since its second day of operation 1989, when we received one relating to the proposed casino. Since then, we have seen some changes including an e-petitions portal which became available in 2012. In addition since 2012, all petitions including paper petitions are made available on our website.

You have invited information on the history and operation of the petitions process in the Legislative Assembly for the ACT. Please find attached an outline of our petitions process which we hope will be of assistance to your inquiry.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Tom Duncan".

Tom Duncan

Clerk

10 January 2020

Legislative Assembly for the Australian Capital Territory - Petitions

Petitions in the ACT

Petitions can be started and supported by ACT residents to make a formal request to the Legislative Assembly on issues that fall under ACT jurisdiction. Although there are other ways of influencing the process of government¹ (such as through Assembly committees, the Ombudsman or media campaigns) petitions remain a popular option for the public to bring subjects of concern to the Assembly. Indeed, the number of petitions lodged each year has risen from seven in 2013 to 32 in 2019.

Subjects covered routinely concern matters of land use and public planning, such as residential development proposals, zoning issues, the provision of sporting facilities, or the management of public spaces such as parks. Other areas covered by ACT petitions are public policy matters like freedom of speech, educational programs, or public transport services.

Chapter 8 of the Standing Orders contain the procedures relating to petitions and these are attached.

Starting a petition

The petition must be addressed to the Assembly, shall refer to a matter within the power of the Assembly, shall request action by the Assembly and shall be legible (Standing Order (SO) 85). SO 86 provides that only ACT citizens/residents can sign ACT petitions. Any signatures which cannot be confirmed as coming from such are not counted. The terms of the petition are to be reproduced on each page of signatures. Petitions must also be in English or accompanied by a certified translation (SO87). Petitions must be respectful and within ministerial responsibility (SO94).

As well as referring to the Standing Orders, members of the public can access online information which covers practice and procedure relating to petitions. The Clerk's office is also available for help with the process and does receive requests to proof read draft petitions to ensure that they conform with the rules before they are started

The Principal Petitioner is responsible for circulating and promoting their petition and collecting signatures. There is no minimum number of signatures required for a petition to be presented to the Assembly - petitions can and have been presented with only one signature. The Principal Petitioner is also responsible for contacting an MLA to sponsor their petition and present it to the Assembly. This can be a Member from their own electorate or another electorate within the ACT.

Petitions presented to the Assembly attract absolute privilege. The rules that a petition must adhere to, and the requirement that they must be sponsored by an MLA, provide checks and balances to ensure that petitions do not abuse this privilege. The Companion to the Standing Order's chapter on Petitions provides further information in relation to privilege.

E-petitions

As of 29 March 2012, the Standing Orders makes provision for petitions to be lodged electronically (SO100A), as well as for a website to be maintained by the Clerk. Once published on the Assembly's website, an e-petition cannot be altered.

¹M McRae (Editor), Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, para 14.4, page 267

E-petitions must conform to the same rules as paper ones, except that they must be sponsored by a member before being open for online signatures (supporters “sign” by providing their information on the website). There is a 250 word limit on the text of the grievance and request.

Principal Petitioners must complete an ‘e-petition request form’ which is co-signed by an MLA. The MLA then presents the request to the Clerk or Deputy Clerk, who verifies that it conforms to requirements before the petition is posted on the website.

The Principal Petitioner must nominate a time for the petition to remain open that is between one week and six months, and they can request an extension if they desire. As with paper petitions, it is the responsibility of the Principal Petitioner to raise awareness of the petition in the community.

Lodging a petition

A petitions must be lodged by a Member (SO95). A Member must not sign a petition which they are sponsoring, nor can they indicate on the petition that they or any other MLA has initiated it. Although not the practice in most jurisdictions on Australia, the Speaker has accepted and lodged petitions for presentation.²

Petitions must be lodged with the Clerk by 5pm on the day previous to the meeting of the Assembly at which it is proposed to be presented, so that it may be stamped as conforming to the Standing Orders. Non-conforming petitions may be lodged with the Clerk and tabled by a Minister as a paper.

Responses to a petition

One a petition is presented, it is referred to the Minister whose portfolio most closely covers the matter which is the subject of the petition. The Minister has three months in which to respond. Responses to petitions are presented to the Assembly after the petitions. The response is then published on the website and forwarded to the sponsoring Member.

In November 2018 the Assembly inserted SO 99A which provides that once the Clerk announces the details of the petition there is a half hour debate allowed on the question “That the petition and responses so lodged be noted”; with each MLA permitted a 5 minute speech. Petitions with over 500 signatures are automatically referred to a committee, but a Member may move that petitions with fewer signatures also be referred. If it is unclear which committee a petition should be referred to, the Speaker will decide which the most appropriate one is.

In November 2018, petition 18-18 ‘Restore ACT Government Funding to the ‘H course’ delivered for ACT year 11 and 12 music students by the ANU School of Music’ was presented with 1814 signatures and was referred to the Standing Committee on Education, Employment and Youth Affairs. The Committee self-referred an inquiry into the subject in April 2019, and its Report 7 was tabled the following November. This is the first time in the ACT that a petition has prompted a committee inquiry.

² M McRae (Editor), Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, para 14.7, page 268

Chapter 8

Petitions

8

This chapter sets out the procedures relating to petitions.

Petitions to be lodged with Clerk and to bear certificate

83. Every petition shall be lodged with the Clerk by 5 pm on the day previous to the meeting of the Assembly at which it is proposed that it be presented; when presented the petition must bear a certificate signed by the Clerk or the Deputy Clerk that it conforms with the standing orders.

Petitions which do not conform with the Standing Orders

- 83A. Petitions which do not conform with the standing orders may be lodged with the Clerk and may be presented by a Minister in accordance with standing order 74. The Minister may indicate the subject matter of the paper and the number of signatories. *(Adopted 4 May 1995. Amended 6 March 2008)*

Time for presenting certain petitions

84. A petition referring to a motion or an order of the day may be presented when such motion or order of the day is called on. A petition presented in this manner must contain certification from the Clerk or Deputy Clerk that it is in order. *(Amended 6 March 2008)*

To be addressed to the Assembly and legible

85. Every petition shall be addressed to the Assembly, shall refer to a matter within the power of the Assembly, shall request action by the Assembly, and shall be fairly written, typewritten, printed or reproduced by mechanical process, without interlineation or erasure. *(Amended 6 March 2008 and 29 November 2018)*

To be from residents/citizens of the Australian Capital Territory

86. Petitions must only contain signatures of residents/citizens of the Australian Capital Territory. *(Amended 6 March 2008)*

To be in English or accompanied by translation

87. Every petition shall be in the English language or be accompanied by a translation certified to be correct. A person certifying a translation to be correct shall affix his or her name and address to the translation.

To be signed on the same sheet

88. Every petition shall contain the signature and address of at least one person on the sheet on which the petition is inscribed.

To be signed by persons themselves

89. Each signature must be made by the person signing in his or her own handwriting: provided that persons unable to write shall affix their marks in the presence of a witness, who shall, as such, also affix his or her signature and address, and the address of the petitioner. *(Amended 6 March 2008)*

Signatures not to be transferred

90. Every signature must be written on a page bearing the terms of the petition, or the action asked for by the petition. Signatures must not be copied, pasted or transferred on to the petition or placed on a blank page on the reverse of a sheet containing the terms of the petition. *(Amended 6 March 2008)*

To be received only as from persons signing

91. All petitions shall be received only as the petitions of the parties signing the same.

From corporations

92. A petition from a corporation must be made under its common seal; otherwise it will be received as the petition of the individuals who signed it. *(Amended 6 March 2008)*

Documents not to be attached

93. Letters, affidavits, or other documents, may not be attached to a petition.

Must be respectful and within ministerial responsibility

94. Every petition shall be respectful, decorous and temperate in its language, and shall not contain irrelevant statements. If, in the opinion of the Speaker, the subject matter is not within the ministerial responsibility of the Territory or is critical of the character or conduct of a person, contains unbecoming expressions, is not respectful, decorous or temperate in its language or offends any standing order other than those relating to petitions, the paper shall be returned to the Member who lodged it. *(Amended 6 March 2008 and 29 November 2018)*

Must be lodged by a Member

95. Petitions for presentation to the Assembly can be lodged with the Clerk only by Members, but Members cannot lodge petitions from themselves. Petitions shall be free from any indication that a Member may have initiated the petition. *(Amended 6 March 2008 and 29 March 2012)*

Members to sign and indicate number of petitioners

96. Every Member lodging a petition with the Clerk for presentation to the Assembly shall sign the beginning of that petition and indicate the number of eligible petitioners. *(Amended 6 March 2008)*

Standing orders to be observed

97. Every Member lodging a petition shall take care that the petition conforms to these standing orders. *(Amended 6 March 2008)*

Clerk to announce particulars of petitions lodged

98. The Clerk shall make an announcement as to the petitions lodged for presentation to the Assembly, indicating in the case of each petition the Member who lodged it, the identity and number of the eligible petitioners and the subject matter of the petition, and any Ministerial responses to petitions previously presented. *(Amended 6 March 2008 and 29 November 2018)*
- 98A. Following the Clerk's announcement of petitions and petition responses, the Speaker shall propose the question—That the petitions and responses so lodged be noted. The time allocated for the debate shall be 30 minutes with each member speaking for not more than 5 minutes. *(Inserted 29 November 2018)*

Question on presentation

99. Upon the presentation of a petition to the Assembly, or on the next sitting day, a Member may move without notice that a particular petition be referred to a committee. *(Amended 6 March 2008)*

Referred to committee

- 99A. A petition and/or e-petition with at least 500 signatories in total from residents/citizens of the Australian Capital Territory presented to the Assembly on the same day shall be referred to the relevant Assembly standing committee for consideration. In the event that the subject matter of the petition makes it unclear which committee it should be referred to, the Speaker will determine the appropriate committee. *(Adopted 19 November 2015. Amended 29 November 2018)*

Referred to Ministers – Minister’s response

100. A copy of every petition and/or e-petition lodged with the Clerk and received by the Assembly shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition. A Minister must respond to that petition within 3 months of the tabling of the petition by lodging a response with the Clerk for presentation to the Assembly, such response being announced at the end of the petitions announcement. *(Amended 6 March 2008 and 29 November 2018)*

Electronic petitions (“e-petitions”)

- 100A. (a) An e-petition is a petition:
- (i) in the correct form, stating a grievance and containing a request for action by the Assembly;
 - (ii) sponsored by a Member and lodged with the Clerk for publication on the Assembly’s website for a nominated period (“posted period”); and
 - (iii) in which persons elect to indicate their support (“join the petition”) by electronically providing their name, address (including postcode), email address and signifying their intention to join the petition.
- (b) The posted period for an e-petition is to be a minimum of one week and a maximum of six months from the date of publication on the Assembly’s website.
- (c) A Member sponsoring an e-petition must provide the Clerk with the details of the petition in the correct form, the posted period and a signed acknowledgment that they are prepared to sponsor the e-petition.
- (d) Once published on the Assembly’s website an e-petition cannot be altered.
- (e) Only one e-petition dealing with substantially the same grievance and requesting substantially the same action by the Assembly shall be published on the Assembly’s website at the same time.
- (f) Once the posted period for an e-petition has elapsed, a paper copy of the petition shall be printed by the Clerk in full (including the details of the persons who joined the petition) and presented to the Assembly.
- (g) An e-petition published on the Assembly’s website, but not presented to the Assembly prior to the expiration of an Assembly, may be presented to the subsequent Assembly to become a petition of the subsequent Assembly.

- (h) An e-petition cannot be sponsored after the expiration of an Assembly and until the new Assembly has met and Members sworn.
- (i) Persons may join an e-petition themselves and not on behalf of others, except in the case of a person who is not able to join due to an incapacity, in which case, with the agreement of that person, another person may join on behalf of that person.
- (j) A person cannot sign or join the same e-petition more than once. *(Adopted 29 March 2012. Amended 29 November 2018)*

Duties and powers of the Clerk and Speaker regarding e-petitions

- 100B. (a) The Clerk may decline to publish an e-petition on the Assembly's website not in conformity with these standing orders and advise the sponsoring Member accordingly.
- (b) The Clerk or a Member may seek a ruling from the Speaker about the conformity of any petition with these standing orders.
- (c) The Clerk is authorised to create and maintain an appropriate website on which to publish electronic petitions, responses to petitions and explanatory information and do all things necessary in order to give effect to these standing orders.
- (d) The Clerk must dispose of all electronic personal data related to the posting and joining of an e-petition within six months after an electronic petition is printed and presented to the Assembly. *(Adopted 29 March 2012)*

Application of standing orders to e-petitions

- 100C. The standing orders relating to petitions apply to e-petitions insofar as they can be applied. *(Adopted 29 March 2012)*