

40TH PARLIAMENT



Procedure and Privileges Committee

## Report 8

The Legislative Assembly's  
Response to the COVID-19 Pandemic

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Presented by  
Hon Peter Watson MLA

November 2020

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Published by the Parliament of Western Australia, Perth.  
November 2020  
ISBN: 978-1-925724-55-4

(Series: Western Australia. Parliament. Legislative Assembly. Committees.  
Procedure and Privileges Committee. Report 8)

328.365

## **Procedure and Privileges Committee**

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# **The Legislative Assembly's Response to the COVID-19 Pandemic**

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Report No. 8

Presented by

**Hon Peter Watson MLA**  
**Speaker of the Legislative Assembly**

Laid on the Table of the Legislative Assembly on 17 November 2020



## **Inquiry Terms of Reference**

The Procedure and Privileges Committee will inquire into and report on the Legislative Assembly's response to the COVID-19 pandemic, and how the Assembly could better respond to any future pandemic.



## Chair's Foreword

The entire 2020 sitting year has taken place in the context of the COVID-19 pandemic.

This report provides a record of the ways in which the Legislative Assembly, when confronted with the multiple challenges and restrictions of the COVID-19 pandemic, adapted procedures and practices in the Chamber and within the committee system to enable the House to keep sitting and the committees to keep meeting. As a result, members of this House were safely able to continue carrying out their vital constitutional roles of legislating, scrutinising the Executive and representing their constituents. In addition to chronicling the Assembly's procedural adaptations and innovations, this report logs the pandemic-related legislation passed by the Assembly, and the principal ministerial statements and Opposition-sponsored debates relating to the Government's COVID-19 response measures.

In my 19 years as a member of the Legislative Assembly, including the last four years as Speaker, I have not seen such a high degree of cooperation between members and parties. It has been extremely heartening to see the good faith negotiations, compromises and accommodations as members worked together to keep the Assembly sitting, often very late into the night, if not early into the following morning, so that the COVID-19 related legislation that was so critical to our State's response to the pandemic could be introduced, considered and passed.

I note with quiet pride that the Parliament of Western Australia was the only Parliament in Australia, which not only kept to its original 2020 sitting schedule in the initial stages of the pandemic, but actually added sitting days into its schedule. I also note that in our emergency sittings during what I call the 'panicky' days of the lockdown period, when COVID-19 case numbers were rising rapidly within Western Australia, that far more than a bare quorum of members rotated through the Chamber and sat in the socially distanced 'hot seats' to ensure that urgent COVID-19 related legislation was dealt with.

In the final chapter of this report the Procedure and Privileges Committee considers a different scenario: one in which a future pandemic, or a future second or third wave of the current pandemic, is so virulent that it is impractical or even impossible for Assembly members to physically meet to transact parliamentary business. Unlike some legislatures in the world which transferred their proceedings online this year, with their full cohort of members participating in parliamentary business and voting on measures, it is very far from certain that the Parliament of Western Australia could do the same thing in an emergency. On the contrary, if the Assembly sought to conduct its proceedings virtually, including virtual voting on bills and motions, it could expose itself to legal challenges that it was potentially in breach of Western Australia's *Constitution Acts Amendment Act 1899*.

The Procedure and Privileges Committee recommends that the *Constitution Acts Amendment Act 1899* be amended to ensure that the Assembly has the clear authority to conduct its full range of proceedings virtually if extreme circumstances required this to happen. I urge members to consider this chapter and its recommendations very carefully. It is the considered view of the Procedure and Privileges Committee that the responsible precautionary course of

action is to remove any real or perceived constitutional impediment to this Chamber being able to meet and carry out its vital roles in a virtual mode if the Assembly determined that an extreme pandemic scenario made such a last-resort option necessary.

As Chair of the Procedure and Privileges Committee, I would like to thank my fellow Committee members: the Member for Maylands, the Member for Hillarys, the Member for Pilbara, and the Member for Roe, for their thoughtful and bipartisan approach to the issues considered in this report. I also thank the Committee secretariat for their procedural expertise and support.

As Speaker of the House, I would like to thank all Assembly members for their cooperation and hard work in this difficult year. I would also like to thank all Assembly staff who worked with unfailing grace and conscientiousness to keep the Chamber and committee system functioning under exceedingly difficult conditions. I would also like to express appreciation to the staff from the Parliamentary Services Department who likewise supported Assembly operations this year.



**HON PETER WATSON MLA**  
**CHAIR**



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# Recommendations

## Recommendation 1

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That the walk-through division arrangement adopted under the Division Temporary Order be retained on a permanent basis and the Standing Orders be amended accordingly.

## Recommendation 2

Page 62

That suborder 2 in Standing Order 259 be deleted and the following new suborder be substituted:

- (2) Committee members participating in committee proceedings through any electronic means of communication approved by the Speaker will be counted as present for the purpose of a quorum.

The amended Standing Order will then read:

### Quorum

259. (1) A quorum for committees is two to take evidence and three to deliberate and pass resolutions.
- (2) Committee members participating in committee proceedings through any electronic means of communication approved by the Speaker will be counted as present for the purpose of a quorum.
- (3) If a quorum is not present within 15 minutes of the time set for a meeting, the members present may retire and the Clerk will enter their names in the minutes.
- (4) If during a committee meeting attention is drawn to the absence of a quorum, the Chairman may suspend the committee until a quorum is present or adjourn the committee to some future time.

## Recommendation 3

Page 62

That suborders 3 and 4 in Standing Order 267 be deleted and the following new suborders be inserted:

- (3) Any electronic means of communication approved by the Speaker may be used by a committee to examine a witness.
- (4) Any secure electronic means of communication approved by the Speaker may be used by a committee to take *in camera* evidence.

The amended Standing Order will then read:

### Examination of witnesses

267. (1) The examination of witnesses by a committee will follow the procedural rules determined by the Speaker from time to time.
- (2) Under exceptional circumstances a procedural rule may be varied with the prior approval of the Speaker.
- (3) Any electronic means of communication approved by the Speaker may be used by a committee to examine a witness.
- (4) Any secure electronic means of communication approved by the Speaker may be used by a committee to take *in camera* evidence.

- (5) If a portfolio-related committee, or the Public Accounts Committee in relation to portfolio-related matters allocated to it, is examining a witness, any member of the Assembly, not being a Minister, may attend and at the discretion of the Chairman, ask questions of the witness. That member is not a member of the committee and may not vote, move any motion, be counted for the purpose of a quorum, or be involved in any deliberative part of the committee meeting.

#### **Recommendation 4**

**Page 63**

That Rules 1 to 5 in Part 2 of the Speaker's Procedural Rules be deleted and the following new Rules 1 to 4 be substituted:

1. While it is preferable for committee hearings to take place in person, they may at the discretion of the committee take place through any electronic means of communication approved by the Speaker.
2. Electronic means of communication to take closed evidence from witnesses should only proceed once the committee is satisfied the transmission is secure and the closed evidence will not be overheard or recorded by an unauthorised person.
3. Audio-only technology should be used for examination of a witness only when videoconferencing is not available or appropriate.
4. The use of electronic means of communication to take evidence from a witness outside of Western Australia will proceed only after appropriate warnings regarding parliamentary privilege and defamation have been provided in writing to the witness and the Chair is satisfied the witness has received the written warning and understood its implication for evidence about to be given.

The amended *Speaker's Procedural Rules* will then read:

#### **Part 2. Procedures for formal examination of witnesses when using videoconferencing**

Unless a variation is approved by the Speaker, all committees will observe the following procedures when using video-conferencing to examine witnesses —

1. While it is preferable for committee hearings to take place in person, they may at the discretion of the committee take place through any electronic means of communication approved by the Speaker.
2. Electronic means of communication to take closed evidence from witnesses should only proceed once the committee is satisfied the transmission is secure and the closed evidence will not be overheard or recorded by an unauthorised person.
3. Audio-only technology should be used for examination of a witness only when videoconferencing is not available or appropriate.
4. The use of electronic means of communication to take evidence from a witness outside of Western Australia will proceed only after appropriate warnings regarding parliamentary privilege and defamation have been provided in writing to the witness and the Chair is satisfied the witness has received the written warning and understood its implication for evidence about to be given.

**Recommendation 5****Page 76**

That the *Constitution Acts Amendment Act 1899* be amended to enable remote participation and remote voting.

**Recommendation 6****Page 76**

That the Government of Western Australia prioritise funding to develop the technological capacity to enable members to participate and vote remotely.



# Chapter 1

## The Legislative Assembly's Response to the COVID-19 Pandemic

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So, together, and with the rest of the world, we face this unprecedented challenge ... For many—young and old—2020 will be the toughest year of our lives.<sup>1</sup>

Hon Scott Morrison

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### Introduction

On 11 February 2020, the Legislative Assembly met for the first time following the summer recess. At the commencement of proceedings, the Premier, Hon Mark McGowan, acknowledged the bushfires which had ravaged large swathes of Australia over the summer and which for months had been a dominant news item nationally and, on a number of occasions, internationally. The Premier then turned to the other subject which increasingly had been receiving news coverage: 'the emerging global challenge of novel coronavirus'.<sup>2</sup> In his statement, the Premier acknowledged community concerns, but reassured Western Australians that:

there is no need for alarm and that the State Government is both prepared and doing what it can to mitigate any impacts. As I speak, there are still no confirmed cases in Western Australia and the risk remains low. ... This has the potential to be a difficult period for Western Australia, but I am confident that we will get through it. If we work together—from business through to the community—we will show the resilience Western Australia is famous for. As a State Government, we are taking appropriate steps to mitigate any impact on the WA economy, and we continue to monitor the situation closely.<sup>3</sup>

By the end of the following month, Western Australia had recorded 364 cases of novel coronavirus and two deaths, and was operating under a state of emergency in a continent that was in lockdown.<sup>4</sup> Only days later, on 2 April, the Premier would announce that the State Government would be implementing a temporary closure of Western Australia's borders: 'In effect we'll be turning Western Australia into an island within an island—our own country'.<sup>5</sup> Times were, to use the byword of the pandemic, 'unprecedented'.

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<sup>1</sup> Hon Scott Morrison MP, House of Representatives, *Parliamentary Debates* (Hansard), 23 March 2020, p. 2772.

<sup>2</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 February 2020, p. 60.

<sup>3</sup> Ibid, pp. 60–61.

<sup>4</sup> Government of Western Australia, Department of Health, 'COVID-19 update – 31 March 2020' <https://ww2.health.wa.gov.au/Media-releases/2020/COVID-19-update-31-March-2020>

<sup>5</sup> Hon Mark McGowan MLA quoted in Eliza Laschon and Rebecca Trigger, 'Coronavirus sees WA close its borders from midnight on Sunday to stop COVID-19 spread from eastern states', *ABC News Online*, 2 April 2020 <https://www.abc.net.au/news/2020-04-02/coronavirus-sees-wa-close-state-borders-from-midnight-sunday/12114648>

The Procedure and Privileges Committee (PPC) resolved to produce this report to provide an authoritative record of the ways in which the Legislative Assembly, when faced with the challenges and restrictions of the novel coronavirus pandemic, adapted procedures and practices in the Chamber and within the committee system to enable members to safely carry out their vital constitutional roles of passing legislation, scrutinising the Executive, and representing constituents. As an integral part of this record, this report will log the pandemic-related legislation passed by the Assembly, the principal ministerial statements relating to Western Australia's COVID-19 response, and those Opposition-sponsored debates which sought to elicit further information or suggest alternative policy responses. Documenting the legislation and debates; the good faith negotiation, compromises and accommodations among the parties; and the many procedural and operational adaptations, workarounds and innovations that were introduced to facilitate safe sittings of the Assembly and meetings of its committees, is important for the historical record—and provides a knowledge repository should a similar situation occur again in the future.

The most critical part of this report, however, is the PPC's consideration of, and recommendation for, amendment of Western Australia's Constitution to guarantee the capacity of the Legislative Assembly to perform its constitutional roles if it were to be confronted by an equal or even more virulent pandemic in the future—or a more virulent second or third wave of the current pandemic.

Specifically, the PPC notes that since the advent of the pandemic, a number of legislatures worldwide—with the participation of the full complement of their members—have been able to conduct their entire range of parliamentary proceedings, including taking votes, in an online (aka 'remote' or 'virtual') mode, or in a 'hybrid' mode (part online; part in person). These legislatures have achieved their fully or partially virtual sittings by means of audio and/or video technology—and because they do not have a constitutional impediment to doing so.

The Parliament of Western Australia, by contrast, is bound by the *Constitution Acts Amendment Act 1899* (CAAA) which prescribes that: 'The presence of at least one-third of the members' of each House, excluding the Speaker and the President respectively, 'shall be necessary to constitute a quorum for the despatch of business' and, further, that all questions that arise in the course of proceedings 'shall be decided by a majority of votes of the members present' other than the Speaker or the President who each have a casting vote.<sup>6</sup> These references to 'presence' and 'present' in the CAAA—and in analogous constitutions governing other parliaments in the Westminster tradition—are widely interpreted as mandating a *physical* or corporeal presence of members in the Chamber for the purposes of establishing a quorum and voting. Some constitutional authorities now challenge this long-standing interpretation, but at present the validity of virtual presence for the purposes of establishing quorums and allowing voting has never been tested and determined in a court, so there is considerable doubt surrounding the subject.<sup>7</sup>

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<sup>6</sup> See sections 14 and 24 of the *Constitution Acts Amendment Act 1899*.

<sup>7</sup> See Professor Anne Twomey, 'A virtual Australian parliament is possible – and may be needed – during the coronavirus pandemic', *The Conversation*, 25 March 2020 <https://theconversation.com/a-virtual-australian-parliament-is-possible-and-may-be-needed-during-the-coronavirus-pandemic-134540> and also her contribution to the Electoral Regulation Research Network seminar, 'Is a Virtual Parliament



The PPC is of the view that any real or perceived constitutional impediment to the Assembly conducting business and voting virtually, if remote proceedings were required in extreme circumstances, could expose the Assembly to inordinately dangerous choices: maintain physical sittings at the risk of the health and wellbeing of members and parliamentary staff and, by extension, their families and other members of the community; or suspend sittings and block the Parliament's ability to pass necessary legislation and undertake necessary oversight; or take proceedings online and run the risk of protracted and expensive legal challenges to the validity of the legislation passed thereby. The PPC is of the view that the responsible precautionary course of action is for the Parliament of Western Australia to make the required constitutional amendment to authorise virtual sittings and voting, should such a last-resort option ever be required.

This report is structured chronologically, charting the Legislative Assembly's unfolding response to the pandemic from the commencement of sittings in February 2020 up to the date of this report's completion on 3 November 2020—close to the conclusion of the 40th Parliament. Extensive running references will be made to pandemic events, virus tallies and milestones in Australia and globally to set the context—and to make palpable the sense of escalating urgency—in which the Assembly's responses evolved. This is a report, but, inevitably, also a narrative. The first section of this report deals with the Legislative Assembly's response to the pandemic in the Chamber; the second section covers the Legislative Assembly's response with respect to committees. The final section deals with ways in which the Assembly could better respond to any future pandemic—and focuses on the PPC's recommendation that for safety and also equity reasons, the Legislative Assembly needs to have the constitutional authority and technological capacity to conduct all of its vital constitutional roles in a virtual fashion should such extraordinary circumstances present themselves again.

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Desirable and Workable?', Melbourne Law School, University of Melbourne, 30 September 2020 <https://law.unimelb.edu.au/centres/errn/about/past-events/is-a-virtual-parliament-desirable-and-workable> and also see Professor David Kenny, 'Remote sittings for Ireland's parliament: questionable constitutional objections', The Constitution Unit, Department of Political Science, University College London, 23 May 2020 <https://constitution-unit.com/2020/05/23/remote-sittings-for-irelands-parliament-questionable-constitutional-objections/>



## Chapter 2

### The Legislative Assembly's Response to the COVID-19 Pandemic in the Chamber

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My view is that Parliament must continue to sit. We need to keep doing our jobs and set that example for the rest of the community. ... Let us set the example in this Parliament. Let us make sure that we provide assurance to the people of our State.<sup>8</sup>

Hon Mark McGowan

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#### Business as Usual

##### Tuesday 11 February to Monday 9 March

On the eve of Australia Day 2020, Australia recorded its first case of novel coronavirus: a new and highly transmissible disease which had first been reported in Wuhan, in Hubei Province in central China, on 31 December 2019.

From the first report of cases on New Year's Eve, the novel coronavirus spread quickly, widely and inexorably. Within a fortnight, on 13 January 2020, Thailand reported the first case of the disease outside China.<sup>9</sup> Three days later, on 16 January, the first case was recorded in Japan; on 21 January, the United States posted its first case; and on 24 January, France recorded three cases: the first appearance of the virus in Europe. On 30 January, the World Health Organisation (WHO) declared the novel coronavirus outbreak a Public Health Emergency of International Concern. The United States was sufficiently concerned to restrict travel from China the following day, and on 1 February, the Australian Government likewise announced the closure of Australia's borders to visitors travelling from mainland China. The first coronavirus death outside China was confirmed on 2 February 2020.

On 11 February, WHO designated the disease caused by the novel coronavirus 'COVID-19' and confirmed there were now globally 43,103 cases.<sup>10</sup> On the same day, the Legislative Assembly sat for the first time in 2020. As referenced above, Premier McGowan delivered a brief ministerial statement which conveyed the Government's awareness and vigilance about the

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<sup>8</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 March 2020, p. 1705.

<sup>9</sup> Dates for COVID-19 milestones have been primarily sourced from the World Health Organisation, 'Timeline of WHO's response to COVID-19' <https://www.who.int/news-room/detail/29-06-2020-covid-timeline>. Additional dates have been sourced from the British Foreign Policy Group, 'COVID-19 Timeline' <https://bfp.org.uk/2020/04/covid-19-timeline/>, from *The New York Times*, 'A Timeline of the Coronavirus Pandemic' <https://www.nytimes.com/article/coronavirus-timeline.html>, and from Jenny Lei Ravelo and Sara Jerving, Devex, 'COVID-19 — a timeline of the coronavirus outbreak' <https://www.devex.com/news/covid-19-a-timeline-of-the-coronavirus-outbreak-96396>

<sup>10</sup> Coronavirus statistics have been sourced from the World Health Organisation's 'Coronavirus disease 2019 (COVID-19) Situation Reports' <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>

disease, but also its belief that at that time there was ‘no need for alarm’. The Premier subsequently referenced coronavirus in some of his answers during Question Time, and in his annual Premier’s Statement in which he outlined the Government’s legislative and priority initiatives for 2020. With the exception of a brief ministerial statement by the Minister for Tourism on Thursday 13 February which advised the Government’s response to the downturn in Western Australian tourism due to the bushfires and the closure of Australian borders to Chinese travellers, there were only scattered references to coronavirus in the first parliamentary sitting week of 2020. Indeed, the situation seemed so business as usual, that the Minister for Youth made a statement in the House on 13 February encouraging young Western Australians to apply to participate in the YMCA Youth Parliament due to be hosted at Parliament House in the middle of July; and on the same day, the Speaker, Hon Peter Watson, approved an investigative committee trip to Geraldton in April. The working week closed with the first case of coronavirus reported from the continent of Africa; the first death in Europe; and 1,500 deaths worldwide.

The Australian Government issued the *Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19)* on 18 February.<sup>11</sup> In Western Australia, the second sitting week for the year—Tuesday 18 February to Thursday 20 February—saw the introduction of four Government bills, but minimal discussion of coronavirus in the House, although during the week *The West Australian* newspaper reported on its front page the return of 200 Australians from the coronavirus stricken *Diamond Princess* cruise ship to quarantine in Darwin, and Prime Minister Hon Scott Morrison’s efforts to airlift Australians out of Wuhan.<sup>12</sup> The Assembly rose on Thursday 20 February for a two-week recess. The following day, Western Australia reported its first case of COVID-19.

The two-week recess saw an accelerated spread of coronavirus throughout the world and sobering footage of stricken patients on ventilators and medical personnel in full-body protective suits. On 23 February, towns in the north Italian Lombardia and Veneto regions were put into lockdown after a surge of cases; on 26 February, the first case of COVID-19 was reported in South America; and on 27 February, Japan announced that it would close all schools for a month to contain the virus. On 27 February, Prime Minister Morrison declared that the Australian Government was ‘effectively operating now on the basis that there is a pandemic’.<sup>13</sup> February ended with the United State recording its first COVID-19 death on 29 February; Iran becoming a new locus of COVID-19 cases with high mortality rates; and WHO

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<sup>11</sup> Australian Government, Department of Health, *Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19)*, February 2020  
[https://www.health.gov.au/sites/default/files/documents/2020/02/australian-health-sector-emergency-response-plan-for-novel-coronavirus-covid-19\\_2.pdf](https://www.health.gov.au/sites/default/files/documents/2020/02/australian-health-sector-emergency-response-plan-for-novel-coronavirus-covid-19_2.pdf)

<sup>12</sup> *The West Australian*, Tuesday 18 February 2020, p. 1.

<sup>13</sup> Hon Scott Morrison MP quoted in Eryk Bagshaw, ‘Australia ready for a coronavirus pandemic and sustained outbreak’, *The Sydney Morning Herald*, 27 February 2020  
<https://www.smh.com.au/politics/federal/australia-to-declare-coronavirus-pandemic-20200227-p5452c.html>

estimating that worldwide there were 85,403 cases of the virus.<sup>14</sup> Panic-buying of toilet paper, hand sanitiser and masks reached Australian supermarkets.

On Sunday 1 March 2020, more than 150,000 Western Australians lined a 10-kilometre stretch of Canning Highway for the Perth Festival's *Highway to Hell* ACDC tribute concert (many attendees having spent five hours confined inside His Majesty's Theatre the previous evening watching a performance of Tim Winton's *Cloudstreet*). On the same day, the first COVID-19 related death was reported in Australia: a 78-year-old Western Australian man who had contracted the disease aboard the *Diamond Princess*. In a joint media release, the Australian Health Minister, Hon Greg Hunt, and the Australian Chief Medical Officer, Professor Brendan Murphy, advised:

With the international spread of this virus, it is almost inevitable that we will see more cases of COVID-19 in Australia in coming weeks.

Australia is not immune to COVID-19, but there is no country in the world better prepared for a health challenge like this.

We have a national COVID-19 Plan and are undertaking a large range of preparatory activities right across the health system.<sup>15</sup>

On 2 March, the first cases of community transmission of the virus were reported in Australia.<sup>16</sup>

Recognising the increasing seriousness of the situation, and that soon parliamentary business could be very far from normal, the Legislative Assembly, in conjunction with the other parliamentary departments—and in close communication and information-sharing with other Australian parliaments—formally stepped up pandemic response planning. On Wednesday 4 March, the Assembly was represented on the first Parliament House Crisis Management Team (CMT) meeting, which had been convened to consider the risk of a pandemic to parliamentary operations. The CMT recommended to the Heads of Department that each business unit of Parliament review their Business Continuity Plans with the coronavirus threat in mind. Over the following days, the Assembly leadership team consulted with Assembly staff on the logistics of working from home, staff rosters, enhanced hygiene in and around the Chamber—including water service and distribution by hand of documents and papers, and discussed protocols if staff were to fall ill. ICT support was requested to enable VPN access for senior officers to enable a trial of accessing the work network remotely, including the intranet, Lotus Notes, Objective and Word templates.

On Monday 9 March, Assembly parliamentary staff met to consider how the Chamber could respond most effectively to the COVID-19 crisis, and workshopped the Chamber Business Continuity Plan to determine the bare minimum procedures, resources and officers necessary

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<sup>14</sup> World Health Organisation, 'Coronavirus disease 2019 (COVID-19) Situation Report – 40', 29 February 2020 [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200229-sitrep-40-covid-19.pdf?sfvrsn=849d0665\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200229-sitrep-40-covid-19.pdf?sfvrsn=849d0665_2)

<sup>15</sup> Australian Government, Department of Health, Hon Greg Hunt MP and Professor Brendan Murphy, Joint Media Release, 'Western Australian COVID-19 case', 1 March 2020 <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/western-australian-covid-19-case>

<sup>16</sup> Stephen Duckett and Anika Stobart, 'Australia's COVID-19 response: the story so far', Grattan Institute, 11 June 2020 <https://grattan.edu.au/news/australias-covid-19-response-the-story-so-far/>

to run a functioning House. Staff next considered how the Pandemic Plan would be implemented if the coronavirus started to make people sick who would otherwise attend Parliament (both members and staff). The capacity to roster staff to work from home and support Chamber proceedings *remotely* was seen as the key continuity measure as well as a key risk mitigation measure—lessening the likelihood that all staff could become infected simultaneously. In operational terms, all Chamber staff were regarded as critical staff who would require offsite access to the Parliament’s network and ICT support. Given that rapid and reliable communication would be imperative in any emergency situation, especially with offsite work, staff emergency contact details were updated and it was decided to set up dedicated Whatsapp groups: ‘LA Emergency’ for all Assembly staff, and separate groups for Chamber and committee staff.

The Assembly also cancelled the United Nations Association of Australia’s April Chamber booking to host its annual student parliament. (By the end of the year all Chamber bookings would be cancelled.)

As community anxiety increased in the State, one poignant upside were myriad social media posts of Italians in lockdown resolutely singing ‘Nessun Dorma’ or playing piano accordions from the confines of their balconies.

### **Business Decidedly Not as Usual ...**

#### **Tuesday 10 March to Monday 30 March**

The Legislative Assembly met on Tuesday 10 March and brief ministerial statements at the commencement of proceedings foregrounded the coronavirus. The Premier updated the House on the Government’s coronavirus response measures, including the opening of three walk-in COVID-19 clinics at hospitals, discussed the State’s pandemic preparedness, and urged Western Australians not to engage in panic buying and to practise good personal hygiene. The Minister for Health, Hon Roger Cook, advised that Western Australia now had six active cases of the virus and outlined Department of Health measures to test for the virus and minimise its spread. The Minister for Police advised that the Western Australian Police Force would have a key role in the State’s emergency management framework and would be available to assist with any possible ‘isolation, quarantine and evacuation to deal with a human epidemic’.<sup>17</sup> The Treasurer provided an update on ‘work being undertaken to model the potential impacts of coronavirus on the State’s economy and finances’.<sup>18</sup> Following Question Time, which saw a further canvassing of coronavirus topics, the Leader of the Opposition, Hon Liza Harvey, used the weekly matter of public interest debate to move: ‘That this House calls on the McGowan Labor Government to outline its medical and economic response to the coronavirus’.<sup>19</sup> During debate on this motion, the Minister for Health presciently advised that ‘the COVID virus has pretty much achieved technical global pandemic status’.<sup>20</sup>

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<sup>17</sup> Hon Michelle Roberts MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 10 March 2020, p. 1049.

<sup>18</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 10 March 2020, p. 1050.

<sup>19</sup> Hon Liza Harvey MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 10 March 2020, p. 1062.

<sup>20</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 10 March 2020, p. 1070.

On Wednesday 11 March, WHO declared the coronavirus a 'pandemic' and confirmed there were 118,319 cases of COVID-19 in 114 countries, with a tally of 4,292 deaths thus far.<sup>21</sup> The Premier commenced proceedings in the House by announcing that the Government had released an updated *Western Australian Government Pandemic Plan* to respond directly to the potential impacts of COVID-19.<sup>22</sup> Multiple pandemic-related questions were asked during Question Time; a suspension of Standing Orders debate adverted to the economic uncertainty caused by the pandemic; and the whole of private members' business was dedicated to discussing regional health and mental health services in the context of the COVID-19 situation.

The sitting on Thursday 12 March commenced with early news reports of the world's first 'celebrity' cases of COVID-19—actors Tom Hanks and Rita Wilson—who were filming on the Gold Coast when diagnosed. By Thursday evening it was reported that the Canadian Prime Minister, Rt Hon Justin Trudeau, would be self-isolating at home for a fortnight after his wife had been diagnosed with the virus. In the Legislative Assembly, Thursday was spent largely discussing the pandemic: in a brief ministerial statement on the mining industry response to managing COVID-19, in a grievance, during a suspension debate, during private members' statements, and in multiple questions during Question Time. The Minister for Health, in response to one question, advised the House:

... the COVID-19 virus is galloping across our globe. We have nine cases confirmed in Western Australia and no reported communication of that disease within our own community, so we are in a very good position. We are already in our pandemic plan. We know that the World Health Organisation declared the global pandemic yesterday, last night, but essentially, throughout Australia, all governments have been pretty much at pandemic status pretty much since Scott Morrison, the Prime Minister, announced as much some time ago. ... The pandemic plan anticipates that at some point we are going to have to undertake a certain amount of either isolation or social distancing. Those decisions will be taken as the Chief Health Officer advises us as we go through.<sup>23</sup>

Friday 13 March, saw the Australian Minister for Home Affairs, Hon Peter Dutton, admitted to hospital with COVID-19; the Council of Australian Governments (COAG) met and, following a briefing from Australia's Chief Medical Officer, agreed that all non-essential organised mass gatherings of 500 or more people should no longer take place—although this directive excluded schools, universities, workplaces and public transport.<sup>24</sup> Following this meeting, the Prime Minister announced that COAG had agreed that a National Cabinet would be formed. On the same day, news came through that a national emergency had been declared in the United States and that the Canadian Parliament had cancelled sittings for five weeks. Closer to home, that night's Wildcats final in Perth was played in front of an empty stadium, and the

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<sup>21</sup> World Health Organisation, 'Coronavirus disease 2019 (COVID-19) Situation Report – 51', 11 March 2020 [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57\\_10](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200311-sitrep-51-covid-19.pdf?sfvrsn=1ba62e57_10)

<sup>22</sup> Hon Mark McGowan, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 March 2020 p. 1173, and Government of Western Australia, *Western Australian Government Pandemic Plan*, March 2020 <https://www.wa.gov.au/sites/default/files/2020-06/Western%20Australia%20Government%20Pandemic%20Plan.pdf>

<sup>23</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 March 2020, p. 1340.

<sup>24</sup> Prime Minister of Australia, Transcript of Press Conference with Premiers and Chief Ministers – Parramatta, NSW, 13 March 2020 <https://www.pm.gov.au/media/press-conference-premiers-and-chief-ministers-parramatta-nsw>

Mandurah Crab Fest, the largest free event in Western Australia, scheduled for the following day, was cancelled. On 13 March, the Parliament's Crisis Management Team was activated.

The newly formed National Cabinet met on Sunday 15 March and agreed a number of national measures including precautionary 14-day self-isolation for anyone returning to Australia from overseas from midnight that night, and a 30-day ban on international cruise ships from foreign ports docking in Australia.<sup>25</sup> It also adopted the COAG recommendation that non-essential gatherings of more than 500 people not take place—and that social distancing be practised. Later the same day, the Western Australian Government declared a state of emergency under the *Emergency Management Act 2005* and, on the following day, declared a public health emergency under the *Public Health Act 2016*. These declarations, in the Premier's words, provided 'State Government officers with the powers and flexibility they need to enforce the quarantine and self-isolation measures that have been agreed at a national level'.<sup>26</sup> The declarations have been renewed multiple times and remain in force at the date of completing this report.

Given the significant escalation in the National and State COVID-19 response, the Presiding Officers of the Parliament of Western Australia issued a joint statement on 16 March. This statement (attached at Appendix 2) outlined that the Western Australian Parliament would remain open to carry out its vital constitutional roles, but to protect its capacity to function and to reduce the risk of transmission of the virus, a number of precautionary measures would be introduced from Tuesday 17 March. These measures included the cancellation of school and public tours, all functions at Parliament House, and all Dining Room bookings with guests—and advice that applications to hold rallies in the parliamentary precinct would not be approved. With respect to the Public Galleries of both Chambers, these would remain open, but to comply with social distancing, only ten people would be allowed in each Gallery at the same time. To ensure continued transparency with respect to proceedings in the Chambers, accredited media would retain access to the Press Gallery, and members of the public were encouraged to follow events via the live broadcast or through Hansard reports.

The Assembly returned to sit on Tuesday 17 March. On the same day France went into countrywide lockdown; the European Union (EU) introduced a 30-day ban on non-essential travel to 26 EU countries; the Parliament at Westminster—the 'mother of parliaments'—closed its estate and galleries to the public; QANTAS announced it was reducing its international flights by 90%; and three Australian Senators were diagnosed with COVID-19, while another three Senators were in voluntary self-isolation.<sup>27</sup> Proceedings in the Assembly were commensurately focused on the pandemic. All brief ministerial statements provided information about the pandemic. The Premier provided updates on the Government's and the Western Australian education sector's responses to the coronavirus; the Minister for Health provided advice relating to the Department of Health's preparations and protocols to deal

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<sup>25</sup> Prime Minister of Australia, Transcript of Press Conference following meeting of National Cabinet, 15 March 2020 <https://www.pm.gov.au/media/transcript-press-conference>

<sup>26</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 17 March 2020, p. 1441.

<sup>27</sup> Paul Osborne, 'Three federal politicians have coronavirus', *The Canberra Times*, 17 March 2020 <https://www.canberratimes.com.au/story/6684060/three-federal-politicians-have-coronavirus/?cs=14231>



with the virus; the Minister for Commerce advised early opening hours at supermarkets for vulnerable shoppers given recent panic buying; the Minister for Transport advised that public transport vehicles were now receiving enhanced cleaning and daily sanitation; and the Minister for Veterans Issues announced the cancellation of all ANZAC Day services. All questions in Question Time related to the virus and, indicating a heightened seriousness of purpose, not a single member was called to order. Following Question Time, the Treasurer moved a suspension of Standing Orders to enable the introduction and passage of the *Supply Bill 2020*. By way of explanation, the Treasurer advised:

The 2020–21 Budget is due to be delivered on 14 May 2020 and the *Financial Management Act 2006* provides two months' automatic supply if the appropriation bills are not passed before the end of the financial year. However, COVID-19 could delay the introduction and passage of the appropriation bills for the 2020–21 Budget, meaning their passing by the end of August 2020 may not be possible. In that event, a standalone supply bill authorising supply will be required. Accordingly, the Supply Bill 2020 provides for interim appropriations out of the consolidated account to fund the core activities of Government agencies until around December 2020. This will ensure crucial public services can continue to operate and that all public sector workers such as nurses, teachers, police officers and public transport staff can continue to be paid. It is the intention that this bill will only be proclaimed in the event that the passage of the budget appropriation bills by 1 September 2020 does not happen.

Given the uncertainty of COVID-19 and its impact on the community, the Government believes this precautionary measure is prudent. The Leader of the Opposition has been consulted on this approach and I thank her for her support.<sup>28</sup>

Following debate, the bill was third read and forwarded to the Legislative Council.

This sitting day also featured the first of the COVID-related changes to Assembly practices: water service was discontinued in the Chamber to prevent the handling of glasses which could potentially become *fomites*, i.e. objects that are contaminated by, and further spread, the virus. Instead, jugs of iced water were provided at the back of the Chamber as well as paper cups which members could fill and refill for themselves. Many members, from this stage, started to bring in their own reusable water bottles. In addition, the doors into the Assembly Division Corridor and to the Speaker's Corridor were propped open to minimise handling of door handles, and Assembly officers regularly wiped the Bar of the House with antibacterial wipes.

On Wednesday 18 March, the Australian Governor General declared that a human biosecurity emergency period was in place in Australia.<sup>29</sup> Australians were also advised of the latest COVID-19 restrictions announced by the National Cabinet, following its videoconference the previous evening: the introduction of Level 4 overseas travel bans for Australians; the banning of non-essential indoor gatherings of more than 100 people; the requirement for venues to provide space for 1.5-metre social distancing between patrons; that outdoor events of fewer than 500 people could continue but there could not be more than one person per four square metres of ground space; cancellation of ANZAC Day ceremonies; restrictions to visiting and

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<sup>28</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 17 March 2020, pp. 1453–1454.

<sup>29</sup> Parliament of Australia, 'COVID-19 Legislative response — Human Biosecurity Emergency Declaration Explainer', 19 March 2020  
[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2020/March/COVID-19\\_Biosecurity\\_Emergency\\_Declaration](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/March/COVID-19_Biosecurity_Emergency_Declaration)

activities at aged care facilities to protect vulnerable elderly residents; banning of non-essential travel to remote Aboriginal communities; and that schools and universities were to remain open.<sup>30</sup> News also came through that the Queensland Parliament had cancelled that day's sitting and had passed an emergency motion the previous evening that would enable it to suspend sittings for six months, if necessary.<sup>31</sup>



**Disposable cups for water at the back of the Chamber**

With this news as the backdrop, the Assembly experienced another day in which proceedings were focused on the coronavirus. The Minister for Tourism advised that the '#DoItinWA' intrastate tourism marketing campaign, launched only the previous week, had now been suspended until a more 'appropriate' time.<sup>32</sup> The Speaker advised members that restrictions on bringing guests into Parliament included family members and that these restrictions were:

to reduce the risk of transmission of the virus, to protect staff, members and those who attend the Parliament. In doing so, we are protecting the health and safety of the broader community.<sup>33</sup>

Following a Question Time in which the majority of the questions related to the virus, the week's matter of public interest debate discussed the protection of key regional industries in Western Australia from the impact of COVID-19. This was soon followed by all of private

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<sup>30</sup> Prime Minister of Australia, 'Update on Coronavirus Measures', Media Statement, 18 March 2020  
<https://www.pm.gov.au/media/update-coronavirus-measures>

<sup>31</sup> Lydia Lynch, 'Queensland Parliament may not sit for six months', *Brisbane Times*, 18 March 2020  
<https://www.brisbanetimes.com.au/politics/queensland/queensland-parliament-may-not-sit-for-six-months-20200318-p54bjo.html>

<sup>32</sup> Hon Paul Papalia MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 18 March 2020, p. 1561.

<sup>33</sup> Hon Peter Watson MLA, Speaker's Statement, Legislative Assembly, *Parliamentary Debates* (Hansard), 18 March 2020, p. 1577.

members' business being allocated to debate on the motion, 'That this House calls on the McGowan Government to update the House on the health, economic and other impacts of COVID-19'.<sup>34</sup> Proceedings concluded with a Message from the Legislative Council advising that it had passed the *Supply Bill 2020*.

Western Australia recorded its first case of community transmission of COVID-19 on Thursday 19 March, as well as the biggest overnight increase in new cases, 17, taking the State total of cases to 52.<sup>35</sup> Thursday 19 March would be the last conventional sitting of the Assembly: the mood in the Chamber was subdued; members pulled down their sleeves to cover their bare hands as they slid open the Bar of the House. The one brief ministerial statement for the day, from the Minister for Corrective Services, advised the response of his Department to minimise the spread of coronavirus through the prison estate, including the setting up of a COVID-19 task force and updating of business continuity plans. Mid-morning, the Leader of the House moved a motion for a Temporary Order relating to COVID-19 ('COVID-19 Temporary Order'), notice for which had been given immediately prior to the close of proceedings the previous evening:

That if, following agreement with the party leaders or members deputed, the Premier or one member deputed advises the House that it is necessary to pass urgent legislation or undertake any other immediate business arising from or in connection to COVID-19, the following Temporary Order shall apply —

- (1) bills to be introduced without notice and to proceed without delay between the stages;
- (2) messages from the Legislative Council to be taken into consideration on the day on which they are received;
- (3) on any sitting day, and after first consulting with the party leaders or their representatives, the Speaker may dispense with —
  - (a) the requirement for giving notice for a motion;
  - (b) private members' business;
  - (c) matters of public interest;
  - (d) grievances; and
  - (e) members' statements;
- (4) after first consulting with the party leaders or their representatives, the Leader of the House or a member deputed may set time limits for debates on bills and motions;
- (5) Standing Orders are suspended accordingly to the extent necessary to effect these arrangements; and
- (6) this Temporary Order will expire when the Premier or a member deputed advises the House it is no longer required.<sup>36</sup>

The Leader of the House advised that the Temporary Order, which he hoped would not need to be invoked, had been framed after extensive consultation with the Opposition Liberal and National parties. (The discussions between the parties had commenced one week earlier, following preceding consultations with the Clerk who had provided procedural advice.) Indeed, negotiations among the parties had continued since notice of the motion had been

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<sup>34</sup> Mr Zak Kirkup MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 18 March 2020, p. 1596.

<sup>35</sup> Eliza Laschon, 'WA coronavirus community transmission begins as 17 new COVID-19 cases reported', *ABC News Online*, 19 March 2020 <https://www.abc.net.au/news/2020-03-19/coronavirus-community-transmission-wa-as-17-new-cases/12072092>

<sup>36</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 March 2020, p. 1699.

given in the Chamber the previous evening, and the Leader of the House had received leave to move the motion in amended form, to ‘finesse’ the preamble of the wording, from ‘following *consultation* with the party leaders or members deputed’ to ‘following *agreement* with the party leaders or members deputed’ [italics added].<sup>37</sup>

The Leader of the House explained the rationale of the Temporary Order:

Members will be aware that under the Standing Orders of this House and, indeed, underpinned by the Constitution of Western Australia, there are some important elements that we need to understand and consider. The first is the Standing Orders and the operation of the House. In order for this House to operate, it requires a minimum quorum of 20 members, plus the Speaker. Of course, if a suspension of Standing Orders is moved, it requires an absolute majority, which of course is 30 members. In the normal operations of the House, an intended suspension of Standing Orders can be dealt with in two ways. One is to give notice, and the other is to seek an absolute majority, which requires 30 members to be present. If 30 members are not present, there is not an absolute majority.

The purpose of this proposed Temporary Order is essentially to ensure that if this Chamber is required to meet to deal with any issues arising from or in connection with COVID-19, it will have the capacity to meet with a quorum of 20 members, plus the Speaker. That would mean that if, after agreement—as highlighted in the first item of the motion—that was deemed appropriate and important, the Chamber would be able to be constituted with 20 members, plus the Speaker or a deputed Speaker.<sup>38</sup>

Apart from ensuring that the Assembly could introduce and pass urgent COVID-19 related legislation with only a third of its membership, the Temporary Order also enabled the expeditious passage of any urgent COVID-19 legislation—with time limits on debate, if required—in a matter of hours, whereas normally, under Standing Order 168 (1), a bill cannot be dealt with until three calendar weeks after its introduction. Finally, the Temporary Order streamlined the normal business programme, stripping out private members’ business, matter of public interest debates, grievances and private members’ statements.

In speaking to the motion, the Premier said:

On the broader issue, my view is that Parliament needs to continue to sit. We need to sit. We need to lead. We need to set an example for our community. We cannot have everyone leave work in Western Australia. We cannot have government departments shut down. We cannot have essential services stop operating. We cannot have our schools and hospitals stop operating. We, as Parliament, need to lead and set an example for the community. We need to do it. We are elected representatives of the community. We need to keep our electorate offices open. We need to ensure that the Parliament continues to sit and provides that example to the community, because if we do not do it, how can we expect other people in the community to do it?<sup>39</sup>

The Temporary Order was passed unanimously. As expected, Question Time again focused heavily on COVID-19 matters and it was soon followed by a short suspension debate on a motion moved by Hon Terry Redman:

That, in the event that a scheduled sitting day of the House does not take place, the usual process for questions on notice that would have occurred on that day, still occurs.<sup>40</sup>

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<sup>37</sup> Ibid, p. 1702.

<sup>38</sup> Ibid, p. 1700.

<sup>39</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 March 2020, p. 1705.

<sup>40</sup> Hon Terry Redman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 March 2020, p. 1738.

Redman pointed out a potential gap in the COVID-19 Temporary Order:

when Parliament is not sitting, we do not have the opportunity to put questions on notice and therefore get responses from Government. However, with the support of this motion, in the event that the House does not sit for whatever reason—we certainly hope that does not happen, but in the event that it does—the questions on notice process will be available to the Opposition to ask questions and get factual answers to a range of issues across a range of portfolios. We think that is important given the circumstances Western Australia finds itself in. ... at this challenging time, it is important that we get factual information on government agencies. The Government's support for that is appreciated. I think it will help support the accountability of this place, which is something that we should all protect.<sup>41</sup>

Both the Liberal Party and the Government supported the motion, which was passed unanimously. The House then adjourned for a one-week recess, to news that the Parliament of Victoria had adjourned until 'a date to be confirmed'.<sup>42</sup>



**Doors to the Speaker's Corridor and the Division Lobby were propped open from March**

After the Assembly rose there was considerable speculation that the House might not be able to meet as scheduled on 31 March—or would only do so under the terms of the new Temporary Order. The pandemic situation globally was deteriorating dramatically with an

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<sup>41</sup> Ibid.

<sup>42</sup> Noel Trowell, 'MPs sent home: Victorian Parliament off until further notice', *The Age*, 19 March 2020 <https://www.theage.com.au/national/victoria/mps-sent-home-victorian-parliament-off-until-further-notice-20200319-p54buo.html>

exponential increase in cases. On 20 March, WHO estimated that there were over a quarter of a million confirmed cases worldwide.<sup>43</sup> On the same day, the National Cabinet met and announced even stricter restrictions in Australia, most notably that in non-essential indoor gatherings of 100 people and fewer, there could not be a density of more than one person per four square metres of floor space. The National Cabinet endorsed the Federal Government's closure of Australia's borders to all but returning Australian citizens and residents that would come into force at 9.00 pm AEST that night.<sup>44</sup> The Prime Minister also announced that the Federal Budget would be postponed from May to October and that the States would likewise be pushing out their Budget days.<sup>45</sup>

The National Cabinet met again two days later, on Sunday 22 March, and announced that from midday the following day, pubs, clubs, gyms, indoor sporting venues, cinemas, casinos and nightclubs could not open; restaurants and cafes would be restricted to take-away or delivery; and religious gatherings and services would not be able to take place in enclosed spaces.<sup>46</sup> The following day news came that the United Kingdom had gone into lockdown and that the Western Australian Government had announced the cancellation of most elective surgery in preparation for anticipated hospital demand. At the Federal level, the House of Representatives resolved to adjourn 'until a date and hour to be fixed by the Speaker' and the Senate resolved to suspend orders relating to the sitting schedule until 11 August with the President to fix the next sitting day at the request or agreement of the Government and the Opposition.<sup>47</sup>

Tuesday 24 March was another big news day: the Tokyo Olympics were cancelled and India went into national lockdown. Meanwhile, the Parliament of New South Wales announced that it would be adjourning until 15 September and the Northern Territory Legislative Assembly announced that it would be adjourning 'until a date and time to be fixed by the Speaker'.<sup>48</sup> Wednesday 25 March saw the Federal Government introduce a ban on Australian citizens and residents travelling overseas unless they had applied to the Australian Border Force and qualified for one of a handful of extremely strict exemptions.<sup>49</sup> The New Zealand Parliament advised that it would be adjourning until the end of April, and the following day, the Tasmanian Parliament announced its adjournment until late August.<sup>50</sup> On 27 March, both the British Health Secretary, Rt Hon Matt Hancock, and the British Prime Minister, Rt Hon Boris

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<sup>43</sup> World Health Organisation, 'Coronavirus disease 2019 (COVID-19) Situation Report – 61', 20 March 2020 [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200321-sitrep-61-covid-19.pdf?sfvrsn=ce5ca11c\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200321-sitrep-61-covid-19.pdf?sfvrsn=ce5ca11c_2)

<sup>44</sup> Prime Minister of Australia, 'Update on Coronavirus Measures', Media Statement, 20 March 2020 <https://www.pm.gov.au/media/update-coronavirus-measures-0>

<sup>45</sup> Ibid.

<sup>46</sup> Prime Minister of Australia, 'Update on Coronavirus Measures', Media Statement, 22 March 2020 <https://www.pm.gov.au/media/update-coronavirus-measures-220320>

<sup>47</sup> Parliament of Australia, 'COVID-19 and parliamentary sittings', 2 April 2020 [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2020/April/COVID-19\\_and\\_parliamentary\\_sittings](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/April/COVID-19_and_parliamentary_sittings)

<sup>48</sup> Ibid.

<sup>49</sup> Prime Minister of Australia, 'Update on Coronavirus Measures', Media Statement, 24 March 2020 <https://www.pm.gov.au/media/update-coronavirus-measures-24-March-2020>

<sup>50</sup> Parliament of Australia, 'COVID-19 and parliamentary sittings', 2 April 2020 [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2020/April/COVID-19\\_and\\_parliamentary\\_sittings](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/April/COVID-19_and_parliamentary_sittings)



Johnson, were diagnosed with COVID-19 and went into self-isolation. On 28 March (at 11.59 pm), the Australian Government introduced mandatory hotel quarantine for returning travellers and the National Cabinet agreed to limit indoor and outdoor gatherings to two persons only, and fixed a cap on attendees at funerals at 10 and at weddings at five.<sup>51</sup> On 30 March, Western Australia recorded 44 new COVID-19 cases—its peak during the pandemic—taking the total number of cases in the State to 355.

As parliaments seemingly everywhere announced they would be adjourning, the Legislative Assembly finalised procedures for its upcoming sitting. Extensive consultation and negotiation between the Speaker, the Leader of the House and the party leaders, assisted by procedural advice from the Clerk, led to a number of significant changes to procedures to allow the sittings to take place as safely as possible. In summary, the changes were as follows.

In alignment with the COVID-19 Temporary Order which would allow the Assembly to meet with as few as 20 members and the Speaker, and in compliance with the four-square-metres per person and the 1.5-metres between persons social distancing rules, a revised seating plan was developed which permitted a maximum of 22 members on the floor of the House, plus the Speaker. The revised seating plan designated 22 seats—which were flanked by seats that were to remain unoccupied—and these designated seats would be unallocated or 'hot' seats that could be used by whichever members were rostered into the Chamber for any particular proceeding. The Whips would be responsible for overseeing the roster, and all members present in the building would be responsible for entering the Chamber at some point under this roster and ensuring that they were marked off the Attendance Book. Agreement had been reached between party representatives that there would be bulk pairing of members, and that pairing would be organised not only to maintain relative party voting strengths, but would also prioritise the special claims of regional members who might experience difficulties travelling, those members representing vulnerable Aboriginal communities, and those members who personally could be vulnerable on health grounds. Also reflecting party composition, the 22-member cap on members on the floor of the Chamber would comprise 15 members of the Government, five from the Liberal Party and two from the National Party. Notwithstanding these arrangements, the Government advised that it would always have a minimum of 20 members plus the Speaker at Parliament House to guarantee a quorum could be constituted if required.

Given Assembly seating would be unallocated, it would be difficult for the audiovisual unit to identify which member had received the call and was speaking, which in turn would make it difficult to apply the correct caption for the livestream broadcast. Accordingly, it was decided that for debates and Question Time, all members would speak from one of two lecterns equipped with live mics positioned on each side of the Table of the House. Members, however, could speak from whichever seat they were occupying during consideration in detail, while the Minister would be seated, as usual, at the Table of the House. During consideration in detail, it was further agreed the number of advisers permitted to join the Minister would be

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<sup>51</sup> Hon Scott Morrison MP, 'Update on Coronavirus Measures', Media Statement, 27 March 2020 <https://www.pm.gov.au/media/update-coronavirus-measures-270320> and Hon Scott Morrison MP, 'Update on Coronavirus Measures', Media Statement, 29 March 2020 <https://www.pm.gov.au/media/national-cabinet-statement>

capped at two and that the Chair would not come down and sit between clerks, as was usual practice, but would remain in the Speaker's chair.

To make space on the Table of the House for members to speak, and to assist with social distancing, Hansard reporters would be relocated from the Table to a cordoned off area in the upstairs Press Gallery, where sound reinforcement would be provided to assist audibility. Given the press would be sharing the Press Gallery with Hansard, they were given permission to extend their presence into the Public Gallery so they could maintain 1.5 metres between each journalist.

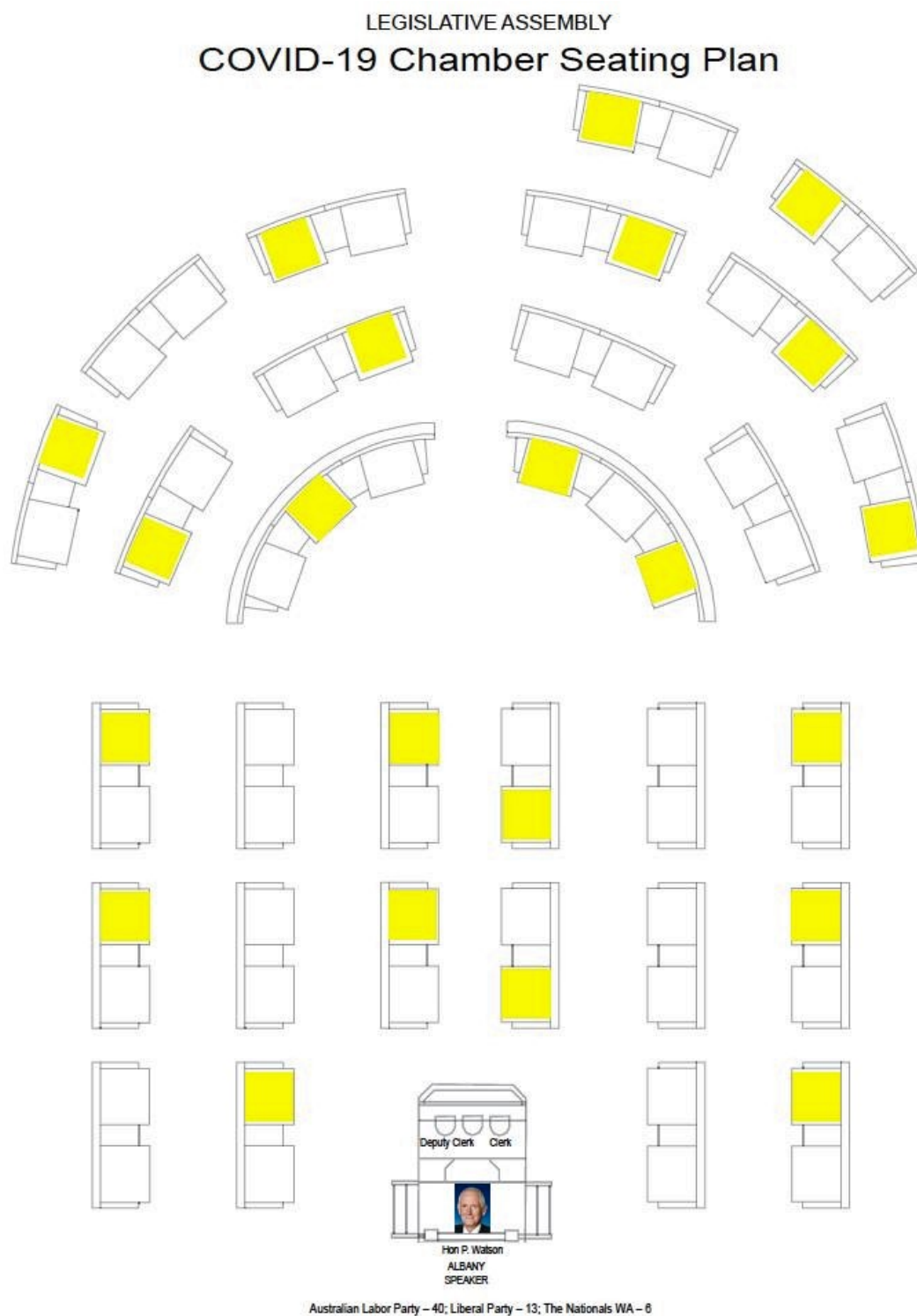
One of the most significant changes to procedures would be the abridgment of the daily programme. To reduce the time that members and staff would need to spend in the Chamber, agreement was struck amongst the parties to concentrate on essential COVID-19 legislation. Agreement was also reached to have a truncated Question Time, and for the Opposition not to call for divisions. The Opposition had already voluntarily abstained from quorum calls since 19 February.

To prepare for remote support of Chamber proceedings, the Clerk had requested all Assembly parliamentary officers to work from home for at least one day during the recess to trial remote access through their allocated VPN licence, and to install and become familiar with the videoconferencing platform Zoom. The Clerk also arranged for additional deep cleaning of the Assembly commencing from Monday 30 March. This service saw all touchable surfaces in the Chamber being cleaned with Virkon, a hospital-grade, multi-purpose disinfectant, every evening in preparation for the next day's sitting.



**The lecterns and open mics on the Table of the House**





**The revised socially distanced Legislative Assembly seating plan with  
'hot seats' highlighted in yellow**

## **Emergency Sitting Mode (aka Lockdown Sittings or ‘the panicky days’<sup>52</sup>)**

### **Tuesday 31 March to Monday 20 April**

The sitting which commenced on Tuesday 31 March was palpably different from normal sittings. The Bar of the House and all doors leading into the Chamber were open to enable entry without members and staff having to touch door handles and push door plates. At the main entrance to the Chamber and distributed throughout the Chamber were bottles of hospital grade hand sanitiser. Not only were there only 22 members on the floor of the House, sitting in the nominated spatially distanced seats, but the Public Gallery was empty following a decision issued on 23 March by the Presiding Officers to exclude the public from Parliament House until further notice. Even most of the press chose to report from their parliamentary rooms. Twenty-two members, having been paired, were marked absent in the Assembly Attendance Book.



**The Premier, Hon Mark McGowan, speaking from a lectern at the Table of the House**

Proceedings commenced with the Premier announcing that ‘following an agreement with the party leaders, the Temporary Order passed by this House on Thursday 19 March 2020 will apply. This is because it is necessary to pass urgent legislation or undertake any immediate business arising from or in connection to COVID-19’.<sup>53</sup> The Speaker then summarised the

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<sup>52</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 August 2020, p. 4620.

<sup>53</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 31 March 2020, p. 1817.

changes in place for members' information and requested them to clear their papers at the end of the day to assist the cleaners to thoroughly sanitise the Chamber.

Next were five brief ministerial statements all focused on the pandemic. The Premier advised that from 11.59 pm that night Western Australians would not be able to travel outside their regional boundary (with a few designated exemptions) and that in line with the National Cabinet decision, the State would be moving to Stage 3 restrictions which limited indoor and outdoor non-work gathering to two persons (again with a few designated exemptions) and that Western Australians should be staying at home unless working or studying (if these could not be done remotely), food shopping, exercising, seeking healthcare or providing care. The Premier also referenced an impending hard closure of the State's border to prevent importation of the virus. The Minister for Health updated the House on the Government's sourcing of medical equipment and reconfiguring of health services to increase hospital capacity; the Minister for Police summarised the police operational response including the staffing of border checkpoints; the Minister for Tourism provided information about the transformation of Rottnest Island into a quarantine facility for returning travellers; and the Minister for Transport provided advice about Government support to maintain reliable air transport to regional communities during the COVID-19 crisis.

The first of the truncated Question Times followed. The agreed format was two questions and two supplementary questions from the Liberal Party; one question and one supplementary question from the National Party; and two questions from the Labor Party. All questions related to the coronavirus. Following prior agreement between the parties, only the Ministers who were to be asked questions would be present in the Chamber. The mood was serious and respectful. Unlike the usual more theatrical Question Times, with the 'wall of noise', no member was called to order.



**Hand sanitiser on the Table of the House**

The remainder of the day was devoted to introducing and passing four urgent bills, which were dealt with pursuant to the COVID-19 Temporary Order. The bills included the *Emergency Management Amendment (COVID-19 Response) Bill 2020* which would empower officers under the Emergency Management Act to issue directions to impose social distancing requirements; the *Treasurer's Advance Authorisation Bill 2020* which would 'increase the Treasurer's advance limit for the current financial year to \$1.658 billion ... [to] provide the Government with immediate additional capacity to draw from the consolidated account to fund measures to support the COVID-19 response';<sup>54</sup> the *Criminal Code Amendment (COVID-19 Response) Bill 2020* which would introduce 'higher penalties for assaulting and threatening public officers and certain other officers delivering frontline services ... in circumstances of actual or threatened exposure to COVID-19';<sup>55</sup> and the *Transport (Road Passenger Services) Amendment (COVID-19 Response and Regional Assistance) Bill 2020* which would amend:

the *Transport (Road Passenger Services) Act 2018* to allow the use of a proportion of the funds that have been collected through the on-demand passenger transport levy to support the passenger transport industry during the COVID-19 crisis. Specifically, the amendment will permit use of a portion of the levy funds to provide a package of assistance to former regional taxi licence holders and provide targeted relief for the wider industry.<sup>56</sup>

On Wednesday 1 April 2020, the sitting commenced with the Speaker reminding members that in accordance with the Temporary Order there was agreement that private members' business would not take place that day. Following another truncated Question Time, most of the day was spent dealing with the *Guardianship and Administration Amendment (Medical Research) Bill 2020*, an urgent bill introduced pursuant to the Temporary Order. The Minister for Health advised that the bill would authorise enduring guardians, guardians and next of kin to provide consent on behalf of 'critically ill or otherwise incapacitated COVID-19 patients [to enable] access to the cutting-edge treatments that are on trial throughout the world'.<sup>57</sup>

Although there had been broad agreement not to call divisions on bills during the emergency sitting period, a division was called on a proposed amendment to one clause of this bill. This division caused some consternation because 26 members participated in it, with 23 of them congregating on one side of the Chamber. The Chair repeatedly enjoined the members to observe social distancing, and members conscientiously tried to keep apart from one another, but the division was still fairly concerning in a time of social distancing, and it demonstrated the need for a safer and more structured division process (more of this later). The division was lost, the bill was third read and the House rose after sitting for just over five hours. Twenty-three members were recorded as absent.

The final sitting day of the week, Thursday 2 April, commenced at noon, rather than the usual 9.00 am start time. Proceedings started with the Speaker advising that in accordance with the Temporary Order, grievances and private members' statements would be dispensed with. Following a brief ministerial statement by the Minister for Police, who updated the House regarding the new intrastate border restrictions, there was a truncated Question Time. The

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<sup>54</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 31 March 2020, p. 1835.

<sup>55</sup> Hon Michelle Roberts MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 31 March 2020, p. 1857.

<sup>56</sup> Hon Rita Saffioti MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 31 March 2020, p. 1866.

<sup>57</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 1 April 2020, p. 1975.



House then went into consideration in detail and accepted Legislative Council amendments to the *Emergency Management Amendment (COVID-19 Response) Bill 2020*.

The House next debated and passed, pursuant to the COVID-19 Temporary Order, a bill received from the Legislative Council: the *Family Violence Legislation Reform (COVID-19 Response) Bill 2020*. This bill would introduce measures to better protect victims of family and domestic violence during the current crisis by, *inter alia*, enabling restraining order applications to be lodged online, increasing penalties for breaching family violence restraining orders, and enabling a greater use of electronic monitoring of offenders.

After passing this bill, the Assembly suspended from 2.08 pm until 7.32 pm because it had been advised that the Legislative Council, currently dealing with the *Guardianship and Administration Amendment (Medical Research) Bill 2020*, would be passing it with some amendments, which would require action by the Assembly. Upon receiving the amendments from the Council, the Assembly resumed sitting, went into consideration in detail and accepted them.

In adjourning the Assembly—which was next scheduled to meet five weeks later on 12 May—the Leader of the House did not move the adjournment to this date, as was customary practice, but instead used an open-ended form of words: ‘That the House at its rising adjourn until a date and time to be fixed by the Speaker’.<sup>58</sup> The Leader of the House explained that, ‘I am unable to tell the Chamber when we will meet next, but it could be very soon’.<sup>59</sup> He thanked members for their participation in the ‘historic sitting of Parliament for the last week’,<sup>60</sup> as did the Speaker who said:

I have now been in this gig for over 19 years and I have never seen such cooperation between both sides of the Chamber, in the Lower and the Upper House. I would like to congratulate everyone ...<sup>61</sup>

Twenty-three members were recorded as absent. By the end of the day, news was posted by the Jersey States Assembly that they had that day held the first full virtual sitting of any Commonwealth legislature.<sup>62</sup>

As advised by the Leader of the House, the wording of the adjournment motion would enable the House to be recalled earlier than the date listed on the Assembly’s tabled sitting schedule. In the lead-up to the emergency sitting week of the Assembly, there had been considerable consultation regarding the capacity of the Assembly to adjourn and reconvene at short notice given the volatility of the pandemic environment. If such discretionary wording had not been used by the Leader of the House in the adjournment motion, however, an early recall could still have been arranged by means of Standing Order 25 which directs that: ‘When the Assembly is adjourned, the Speaker may, on request from the Leader of the Government and

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<sup>58</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 2 April 2020, p. 2090.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> Hon Peter Watson MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 2 April 2020, p. 2091.

<sup>62</sup> States of Jersey, States Assembly, ‘States Assembly Hold First Virtual Assembly’, 2 April 2020

<https://statesassembly.gov.je/news/pages/FirstVirtualStatesAssembly.aspx>

after consultation with the Leader of the Opposition vary the day and time at which the Assembly will next meet’.

All Assembly parliamentary officers relocated to working from home from Friday 3 April, and the Legislative Assembly Office was closed. The Clerk emailed Assembly members and provided the mobile phone numbers of the Assembly Table Officers if they wished to seek procedural or other advice or assistance. As a proof of concept, a number of Assembly staff had commenced remote working arrangement during the emergency sitting week and had demonstrated that it was possible to monitor Chamber proceedings and produce all Chamber documents—Notice Paper, Votes and Proceedings, the Questions Booklet—remotely, as well as to arrange for the remote receipt, processing and uploading of tabled papers and bills.

On Monday 5 April, Western Australia introduced its hard border, banning anyone from entering from the Eastern States unless they met strict exemption criteria, and requiring most who entered to complete a fortnight of self-isolation. The next day, Western Australian schools closed one week early for school holidays, and the media reported that a desperately ill Boris Johnson had been admitted to ICU and was being administered oxygen. On 8 April, the House of Representatives and the Senate were recalled for a day to pass emergency legislation, then both Houses adjourned with open-ended motions.

At the beginning of the week, there was formal notice that the Parliament of Western Australia would be adding sitting days into both Houses’ sitting schedules to deal with COVID-19 related legislation. At this point it is worth noting that the Parliament of Western Australia was the *only* Australian legislature which did not amend and reduce its sitting schedule in the initial phase of the coronavirus pandemic.<sup>63</sup> Some of these reductions were considerable. From the date of the announcement of the National Cabinet on 13 March to the end of May, the New South Wales Parliament sat for three days instead of its scheduled 12; the Victorian Parliament sat for four days instead of its scheduled seven; and the Northern Territory Parliament sat for two days instead of its scheduled six.<sup>64</sup>

The Assembly was recalled to meet on Wednesday 15 April—the same day on which the first person in Western Australia (and indeed, Australia) was jailed, under the *Emergency Management Act 2005*, for breaching hotel quarantine. At the commencement of proceedings, the Speaker advised members that as the COVID-19 Temporary Order was still in place, there was agreement that private members’ business would not take place. The Premier advised the House in a brief ministerial statement of the very low number of new coronavirus cases in Western Australia; his appointment of Public Sector Commissioner, Ms Sharyn O’Neill, to the position of State Recovery Controller for the pandemic; and his belief that notwithstanding the positive signs, ‘our borders will remain shut for a long period’.<sup>65</sup> That things were indeed starting to improve in the State is possibly corroborated by the fact that

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<sup>63</sup> Most parliaments aimed to schedule additional days later in the year to compensate for the excised days.

<sup>64</sup> ‘Background Briefing Paper: COVID-19 Parliamentary Committees of Inquiry — a National Comparison’, produced by the Office of Meg Webb MLC, May 2020 <https://www.cla.asn.au/News/wp-content/uploads/2020/06/Background-Briefing-Paper-Joint-Select-Committee-FINAL-Attach-01.pdf>

<sup>65</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 15 April 2020, p. 2094.

fewer members, only 16, were absent from the day's sitting and that over the week, four non-COVID bills would be introduced.



**A member exiting the Chamber through the propped doors**

Following a truncated Question Time, three urgent bills were introduced and passed pursuant to the COVID-19 Temporary Order: the *Lotteries Commission Amendment (COVID-19 Response) Bill 2020* which would 'support the delivery of the COVID-19 relief fund that was announced on 30 March 2020. ... [to] ensure that all discretionary profit from every jackpot, every draw and every ticket will be used to support those not-for-profit community organisations severely affected by the COVID-19 pandemic';<sup>66</sup> the *Local Government Amendment (COVID-19 Response) Bill 2020* which would amend the *Local Government Act 1995* 'to enable fit-for-purpose and agile responses by local governments during the COVID-19 pandemic';<sup>67</sup> and the *Pay-Roll Tax Relief (COVID-19 Response) Bill 2020* which would 'waive

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<sup>66</sup> Ibid, p. 2098.

<sup>67</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 15 April 2020, p. 2109.

payroll tax from 1 March to 30 June 2020 for small to medium-sized businesses with Australia-wide wages of less than \$7.5 million in 2019–20 and provide a payroll tax exemption for payments under the Australian Government’s JobKeeper scheme’.<sup>68</sup> Work completed, the House rose after its four-hour sitting.

On Thursday 16 April, the Assembly met at noon and the Speaker advised that in accordance with the Temporary Order there would not be grievances or private members’ statements. The Minister for Multicultural Interests in a brief ministerial statement condemned acts of racism and hatred stemming from the COVID-19 pandemic. Following a truncated Question Time, the House granted a leave of absence ‘on account of the current pandemic’ to the Member for Kimberley who, given she represented an electorate with a high Aboriginal population which was regarded as particularly vulnerable to the virus, and who had a long air flight from the region, had been paired and absent from the Chamber since 12 March.<sup>69</sup>

The House next went into consideration in detail and accepted amendments made by the Council to the *Lotteries Commission Amendment (COVID-19 Response) Bill 2020*, and then pursuant to the COVID-19 Temporary Order, introduced and passed two urgent bills: the *Residential Tenancies (COVID-19 Response) Bill 2020* which would ‘impose a short-term moratorium on evictions to be applied across residential tenancies impacted by severe rental distress due to COVID-19’,<sup>70</sup> and the complementary *Commercial Tenancies (COVID-19 Response) Bill 2020* which would introduce ‘a moratorium on evictions for small commercial tenancies’ and incorporate ‘a range of other measures to provide urgent relief for commercial tenants in response to the COVID-19 pandemic, including a mechanism for the introduction of a code of conduct for landlords and tenants.’<sup>71</sup> The Attorney General then introduced the *Commercial Tenancies (COVID-19 Response (Early Termination)) Bill 2020*:

The bill before the House includes a mechanism for small to medium commercial tenants who are suffering severe financial hardship and, despite all reasonable endeavours, have been unable to negotiate waivers or deferrals of rent, or other concessions from the landlord, and as a result are unable to perform their obligations under the lease. They will, by virtue of this bill and the COVID-19 pandemic, be able to terminate their lease. If a tenant terminates on this ground, the tenant will not be required to pay the usual compensation or damages to the landlord associated with the early termination of a lease, often referred to as “break lease costs”.<sup>72</sup>

In concluding his second reading speech the Attorney General advised:

Importantly, it is not the Government’s intention to proceed immediately to list the second reading debate of this bill and will only do so if there is evidence of widespread abuse by landlords of their obligation for good faith negotiations for rent relief for commercial tenants as provided for in the Commercial Tenancies (COVID-19 Response) Bill 2020. Should those

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<sup>68</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 15 April 2020, p. 2119.

<sup>69</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 16 April, p. 2225.  
Standing Order 34 reads: ‘No member will be absent for more than nine consecutive sitting days of any session without leave of absence from the Assembly. Any member who wilfully infringes this Standing Order will be guilty of contempt’.

<sup>70</sup> Hon John Quigley MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 16 April 2020, p. 2233.

<sup>71</sup> *Ibid*, p. 2273.

<sup>72</sup> *Ibid*, p. 2299.



circumstances arise, this bill will have laid on the table in this Chamber for the 21 days as required by Standing Orders and, if needed, will be enlivened immediately.<sup>73</sup>

As at the date of completing this report, the bill remains listed at the second reading stage on the Assembly Notice Paper.

The sitting concluded at 10.30 pm after a long day in which the only break was a 17-minute suspension in which members and staff sourced a quick dinner. In adjourning the House to Monday 20 April (the first sitting of the Assembly on a Monday since 1997<sup>74</sup>), the Leader of the House advised:

Obviously, the bills that have been passed by this Chamber today and this evening will now venture to the Upper House. It will debate those bills tomorrow under a timed agreement, which is up to 12 hours. I contemplated allowing the House to sit tomorrow evening but I thought that was not such a good idea. I could have also moved that we sit on Saturday morning, but that was not such a good idea either. Through agreement, we will sit at 12 noon on Monday, under the same arrangements, with a short Question Time followed by dealing with amendments that will need to be considered by this House immediately after.<sup>75</sup>

The motion passed unanimously. Nineteen members were marked as absent.



**Hansard reporting from the upstairs Press Gallery**

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<sup>73</sup> Ibid.

<sup>74</sup> Monday 19 May 1997 was a Joint Sitting of both Houses to fill a Senate vacancy. The previous Assembly-only sitting on a Monday was on 8 February 1982.

<sup>75</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 16 April 2020, p. 2299.

When the Assembly returned on Monday 20 April it was for a short session that lasted 1.40 hours. After the usual truncated Question Time, the Assembly debated and agreed to the Council's amendments to the *Residential Tenancies (COVID-19 Response) Bill 2020* and to the *Commercial Tenancies (COVID-19 Response) Bill 2020*. In adjourning the Assembly, 'until a date and time to be fixed by the Speaker', the Leader of the House advised that 'We have moved this motion because there may be a need for the House to meet before our proposed next sitting date of 12 May'.<sup>76</sup> Nineteen members were marked as absent. Just before the House rose, news reports announced that Western Australia had recorded its first day without a new case of the virus for five weeks.<sup>77</sup>

### Drawing Breath and Framing Further Safeguards

#### Tuesday 21 April to Monday 11 May

The coronavirus situation in Western Australia continued to improve with community transmission of the disease being eliminated from mid-April, and the Australia-wide release of the COVIDSafe app on Sunday 26 April being seen as an intervention that would further assist in managing the transmission of the virus. On 26 April, the Premier announced a 'cautious relaxation'<sup>78</sup> of some COVID-19 restrictions that would apply in Western Australia from the following day. Gatherings of up to 10 people would be allowed both indoors and outdoors, some non-contact recreational activities would be permitted, and home opens could resume with appropriate social distancing. Western Australians were still advised to stay at home where possible and they still needed to comply with the four-square-metre and 1.5-metre social distancing rules.<sup>79</sup> On Tuesday 28 April, the Government announced that more categories of surgery would be permitted and on Wednesday 29 April, Western Australian schools returned, as originally scheduled. The soft lockdown was essentially at an end.

Assembly staff continued to work from home during the recess and most officers participated in a webinar conducted by the Commonwealth Parliamentary Association to discuss best practice on the delivery of parliamentary democracy during a time of lockdown and social distancing. The Assembly clerks were also involved with party representatives in preparations for the return of the Assembly. Given the expectation that most members would be participating in the sitting, and that there would be a return to more of the pre-pandemic practices including the calling of divisions, one major issue was the development of a socially distanced division process considering the current procedure could potentially see up to 39 ALP members having to congregate on one side of the Chamber.

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<sup>76</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 20 April 2020, p. 2412.

<sup>77</sup> Eliza Laschon, 'No new coronavirus COVID-19 cases in WA for the first time in more than five weeks', *ABC News Online*, 20 April 2020 <https://www.abc.net.au/news/2020-04-20/wa-records-no-new-coronavirus-covid-19-cases/12165122>

<sup>78</sup> Hon Mark McGowan MLA quoted in Nicolas Perpitch, 'WA eases coronavirus restrictions to allow 10-person gatherings', *ABC News Online*, 26 April 2020 <https://www.abc.net.au/news/2020-04-26/wa-relaxes-stage-3-coronavirus-restrictions/12186258>

<sup>79</sup> Western Australian Government, Department of the Premier and Cabinet, 'COVID-19 coronavirus: WA roadmap' <https://www.wa.gov.au/organisation/departments-of-the-premier-and-cabinet/covid-19-coronavirus-wa-roadmap>

Since the onset of the pandemic, those parliamentary jurisdictions that did not have electronic voting systems had experimented with different methods of recording formal votes without members having to cross by each another and congregate on one side or other of the Chamber during divisions. At the beginning of the pandemic, the New Zealand Parliament lifted the cap on the number of its members who could vote by proxy through their Whips (essentially a party bloc vote), while the Australian House of Representatives experimented with the Chair framing motions inversely:

in other words, each question was put in such a form that Government members would be expected to vote 'Aye' and the Opposition members, 'No'. Therefore Members could continue to sit in their allocated seats for the division.<sup>80</sup>

Other methods introduced included stand/sit divisions where members would stand or sit in their places to indicate a positive or negative vote; stand/stand divisions, where members would alternately stand to signify their vote; or audible roll-calls of the votes of seated members, such as occurs in the United States Congress. But as all these methods required members to be in the Chamber simultaneously, while reducing movement in the Chamber, they did not comply with Western Australia's social distancing requirements. (The Victorian Legislative Assembly introduced stand/stand divisions in conjunction with voting groups, whereby no more than 24 members could enter the Chamber at one time to vote in a stand/stand division. After the four groups had voted, the Chair would announce the tallied result.<sup>81</sup>)

Following consultation between the Clerk and the party leaders, a procedure was devised for the Assembly, to be detailed below, which had parallels with the traditional House of Commons method in which members indicate their voting intention by passing through either the 'aye' or 'no' lobby, during which they have their name recorded by the clerks and are counted by the tellers.<sup>82</sup> It should be noted, however, that the House of Commons had to abandon members filing through its dedicated division lobbies adjacent to the Chamber because Public Health England declared the lobbies were unsafe because they had too many 'pinch points'.<sup>83</sup> Accordingly, the Commons members walk-through was routed through the Bar of the House with members declaring their vote at the dispatch boxes in what became known as the 'Mogg Conga'.<sup>84</sup> With 650 members in the House of Commons, and a two-metre social distancing requirement, Commons' votes took upwards of an hour to complete and were abandoned to be replaced by reversion to filing through the division lobbies where the use of electronic swipes at digital pass-readers, rather than using tellers and clerks to record the votes, eliminated pinch points.

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<sup>80</sup> Ms Claressa Surtees, Clerk of the House of Representatives, Letter to Mr Ross Vasta MP, Chair, Standing Committee on Procedure, 10 June 2020.

<sup>81</sup> Hon Jacinta Allan MP, Leader of the House, Legislative Assembly, Parliament of Victoria, *Parliamentary Debates* (Hansard), 13 October 2020, p. 2529.

<sup>82</sup> UK Parliament, 'Divisions' <https://www.parliament.uk/about/how/business/divisions/>

<sup>83</sup> Sir Lindsay Hoyle, letter to members of the House of Commons, 28 May 2020 <https://www.parliament.uk/business/news/2020/may/speaker-agrees-to-recall-of-parliament/>

<sup>84</sup> Mark D'Arcy, 'The "Mogg Conga"', *BBC News Online*, 2 June 2020 <https://www.bbc.com/news/uk-politics-52897865>

## Post Lockdown Sitings – Our New Normal

### Tuesday 12 May to Thursday 25 June

The Assembly returned on Tuesday 12 May and the Premier updated the House, through two brief ministerial statements, on the current and impending easing of COVID-19 restrictions in the State, and on the State Recovery Plan to return Western Australia to ‘a proper level of economic activity as it becomes safe to do so’.<sup>85</sup> The Minister for Health then provided an update on the State’s encouraging coronavirus case tally, but underlined that:

The message is: we need to learn to live with COVID. This is our new normal. How it affects us depends on how well people continue in their normal, everyday lives to socially distance, use good hygiene practices and self-isolate when they are unwell.<sup>86</sup>

The Minister for Aboriginal Affairs informed the House about the Complex Task Team ‘established to respond to the specific issues impacting remote Aboriginal communities during the COVID-19 pandemic’.<sup>87</sup>

Question Time came next and although it returned to the full quota of 17 questions, due to continuing social distancing requirements, there was still a cap of 22 members permitted to sit in the Chamber.

Following Question Time, the Leader of the House, pursuant to the COVID-19 Temporary Order, moved a motion to adopt a new Temporary Order regulating how divisions would take place (‘Division Temporary Order’):

That until the parties agree and advise the Speaker this method of voting is no longer required, the following Temporary Order in relation to divisions applies —

- (1) Standing Orders 137 to 141 read as follows —

#### **Calling a division**

- 137.** (1) A member may call for a division after the Speaker has announced an opinion on the voices as to whether the ‘Ayes’ or ‘Noes’ have it, but not after the Speaker confirms that opinion to the Assembly.
- (2) A member who calls for a division will vote with those who, in the opinion of the Speaker, were in the minority.
- (3) Where the Speaker forms the view that an absolute majority may be required, the Speaker will advise the House accordingly and require a division of the Assembly.

#### **Member may cancel call for division**

- 138.** If a member accidentally calls for a division, the call for a division may be cancelled if the member brings it to the attention of the Speaker prior to the completion of the ringing of the bells. The division will then be called off by the Speaker who will again announce an opinion on the voices.

#### **Procedure for division**

- 139.** When a division has been called for —
- (1) Strangers will withdraw from the Chamber.

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<sup>85</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, p. 2489.

<sup>86</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, p. 2490.

<sup>87</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, p. 2490.

- (2) The Speaker will state the question and direct members to exit the Chamber and re-enter through the door behind the Speaker's Chair.
- (3) The Speaker will direct the 'Ayes' to pass to the right of the Chair and be marked off as they pass by a Clerk at the Clerks' Table and the 'Noes' to pass to the left of the Chair and be marked off as they pass by a Clerk at the Clerks' Table.
- (4) The Speaker will appoint at least one Teller for each side.
- (5) The Speaker will order the division bells to be rung for two minutes.
- (6) After passing the Clerks' Table members will either resume their seat or leave the Chamber.
- (7) After the two minutes have expired, voting will continue until either the Tellers agree and advise the Speaker that all members present have voted or until a period of one minute has elapsed from the last member to record a vote.
- (8) After counting the votes the Tellers will sign their respective list, and the Speaker will declare the result of the division.

**Error in tally**

**140.** If there is confusion or error in the numbers reported, unless they can be corrected, the Speaker will conduct another division.

**Speaker's casting vote**

**141.** In the event of an equality of votes, the Speaker may give a casting vote.

- (2) Standing Orders are suspended accordingly to the extent necessary to effect these arrangements.<sup>88</sup>

In speaking to the motion, the Leader of the House described the new method of divisions as a 'brilliant plan' reached following agreement between the parties, which solved the issue of divisions normally requiring members to sit very close to one another, and that: 'It is important that this Parliament demonstrates to the wider community the importance of social distancing within this place.'<sup>89</sup> The Manager of Opposition Business, in supporting the motion on behalf of the Opposition, presciently commented:

My suspicion is that this will be around for some time as we now look to operate in the new 'normal'. If we have to have social distancing, that might be in place for the lifetime of this fortieth Parliament.<sup>90</sup>

The motion was adopted unanimously.

The House next introduced and passed an urgent bill pursuant to the COVID-19 Temporary Order: the *Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020*. By way of explanation, the Minister for Police said:

there have been reports of people claiming they have COVID-19 deliberately coughing and spitting on our police officers. ... The bill ... allow[s] for samples of blood, saliva, mucus, respiratory secretions or other material to be taken from a suspected transferor who has exposed a police officer or staff of the Western Australia Police Force to the risk of transmission of an infectious disease. This will allow for the most appropriate method of

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<sup>88</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, pp. 2502–2503.

<sup>89</sup> Ibid, p. 2503.

<sup>90</sup> Mr Zak Kirkup MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, p. 2504.

testing for an infectious disease and, most importantly, enable mandatory testing for COVID-19.<sup>91</sup>

Immediately following the third reading of this bill, there followed a suspension debate on the subject of State Government financial relief to regional areas impacted by the intrastate regional border restrictions. At the conclusion of the debate, the House tried out the new division procedure with 54 socially distanced members filing through the Chamber. Only three members were absent from the Chamber during the day—the attendance numbers were almost back to a full House.



**Members' socially distanced queuing before entering the Chamber to vote**

Wednesday 13 May saw close to a normal sitting programme in the Assembly. Although three brief ministerial statements referenced the pandemic: the Minister for Emergency Services updated the House on recent amendments to the Emergency Management Act to strengthen the State's response to the pandemic; the Minister for Veteran's Issues acknowledged the 'at

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<sup>91</sup> Hon Michelle Roberts MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 May 2020, pp. 2504 and 2505.



home' driveway celebrations of ANZAC Day; and the Minister for Community Services paid tribute to early childhood educators for looking after children, particularly those of essential workers, during the pandemic; another three brief ministerial statements addressed important non-COVID topics. Following the granting of leave of absence to the Member for Pilbara who had been paired and absent since 31 March due to his remote electorate and more vulnerable Aboriginal community, the House dealt with two non-COVID bills and a motion, which was defeated, seeking the referral of a matter to the Procedure and Privileges Committee. The afternoon saw the return of private members' business which discussed a motion moved by the Leader of the Opposition: 'That this House calls on the McGowan government to provide greater support to small businesses, regional communities and struggling households to weather the COVID-19 crisis'.<sup>92</sup>

Thursday 14 May saw three COVID-19 related brief ministerial statements. The Treasurer announced that due to the impact of the pandemic, the State Budget would be delayed until 8 October and he further outlined the Government's economic recovery strategy; the Minister for Small Business informed the House about the work being undertaken by the Small Business Corporation to support the State's small business operators; and the Minister for Community Services acknowledged the work of family and domestic violence specialist services during the pandemic. This day saw the reinstatement of grievances and private members' statements and a number of these raised issues relating to the pandemic. When adjourning the House, the Leader of House advised that notwithstanding the postponement of the Budget, the three days of sittings on 26, 27 and 28 May which had been scheduled for Budget Estimates, would be retained as an ordinary sitting week.



**Members filing through the Chamber during a walk-through division**

<sup>92</sup> Hon Liza Harvey MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 13 May 2020, p. 2638.

Phase 2 of the WA Roadmap came into force on Monday 18 May. While Western Australians were still enjoined to practise good hygiene and comply with the 1.5 and four-square-metre rules, they were now allowed to gather in groups of up to 20; restaurants, bars, cafes and other venues could open with a 20-patron limit; most regional travel restrictions were lifted; and Western Australians were encouraged to return to work unless unwell or vulnerable.<sup>93</sup> By this stage all Assembly House staff were working in the building on sitting days. To ensure that the four-square-metre rule could be complied with, three officers were relocated from the Legislative Assembly Office to the adjoining Legislative Assembly Meeting Room on 15 May.



**Socially distanced work stations in the Legislative Assembly Meeting Room**

The lifting of restrictions did not result in any changes to practices in the Chamber when the Assembly resumed sittings the following day, Tuesday 19 May. The Minister for Health advised the House that the Government ‘continue to be confident that there is no community transmission in Western Australia’<sup>94</sup> but encouraged the public to get their vaccination for the flu season, and the Minister for Police updated the House on the easing of intrastate travel restrictions and thanked the police and partner agencies for their control of border checkpoints. The afternoon saw the first matter of public interest debate since March, on the topic of job targets and economic recovery plans to respond to the pandemic. In the afternoon, the Treasurer moved that the *Procurement Bill 2020*, which had been introduced in the House on 13 May, be declared urgent. The bill passed through all stages and was forwarded to the Council. Prior to the House rising, the Leader of the House presented a late

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<sup>93</sup> Western Australian Government, Department of the Premier and Cabinet, ‘COVID-19 coronavirus: WA roadmap’ <https://www.wa.gov.au/organisation/departments-of-the-premier-and-cabinet/covid-19-coronavirus-wa-roadmap>

<sup>94</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 May 2020, p. 2816.



notice of motion that so much of the Standing Orders be suspended as was necessary to enable the *Planning and Development Amendment Bill 2020* to be introduced without notice and to proceed without delay between the stages.

Wednesday 20 May commenced with two COVID-19 related brief ministerial statements: the Minister for Health updating the House on Government initiatives to protect the mental health and wellbeing of Western Australians throughout the pandemic and the Minister for Corrective Services on the Department of Justice's COVID-19 task force which had overseen the pandemic emergency management plans in the prison estate. As foreshadowed by his late notice of motion, the Leader of the House moved a suspension of Standing Orders with respect to the *Planning and Development Amendment Bill 2020*. The Government was taking this route to expedite the bill, because although it was COVID-19 related, the Opposition was not prepared to agree to it being introduced and progressed under the *aegis* of the COVID-19 Temporary Order given the late notice they had received of the legislation.

Following strong opposition by the Liberal and National parties to this bill being rapidly progressed, given they had only received the bill and a briefing the previous evening, the Leader of the House agreed to delay the bill's progress to enable the Opposition to consult, and present their second reading speeches the following week. The day concluded with private members' business considering a motion on the need for 'support for Western Australian small businesses and industries suffering because they are unable to access relief and recovery measures'.<sup>95</sup>

Thursday 21 May, commenced with two COVID-19 related brief ministerial statements: the Minister for Corrective Services provided information on the 'Helping Hands' project in which prisoners were making goods or providing services to help vulnerable Western Australians negatively impacted by the pandemic, and the Minister for Housing on the work undertaken by the Department of Communities to assist people in, and returning to, remote Aboriginal communities to prevent the spread of the virus. With the exception of two grievances and two private members' statements relating to the pandemic, and some questions during Question Time, the day's programme concentrated on non-COVID matters.

The sitting week of Tuesday 26 May to Thursday 28 May was essentially an extra sitting week, considering it had originally been scheduled for Budget Estimates. COVID-19 matters featured heavily. On Tuesday 26 May, the Minister for Health gave an update on the COVID-19 situation in Western Australia, outlining that there were 12 active cases of the virus in the State—including six cases reported overnight from crew from the livestock carrier *Al Kuwait* which was docked in Fremantle Harbour, but that there were no COVID-19 patients in any of the State's hospitals. The State's tally of cases was 570.<sup>96</sup> Fifteen of the 17 questions during Question Time related to COVID-19, and the Liberal and National Party members gave their contributions to the second reading debate on the *Planning and Development Amendment Bill 2020*.

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<sup>95</sup> Mr Vince Catania MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 20 May 2020, p. 2970.

<sup>96</sup> Hon Roger Cook MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 26 May 2020, p. 3123.

On Wednesday 27 May, through brief ministerial statements, the Premier provided information about the Government's appointment of a State Recovery Advisory Group to assist in Western Australia's recovery plan and the Minister for Sport and Recreation advised the House of VenuesWest's initiatives to assist the Government with its COVID-19 response. Wednesday afternoon saw a matter of public interest debate on the motion moved by the Leader of the National Party:

That this House calls on the Premier to explain how the *Al Kuwait* was allowed to berth at Fremantle port despite the State Government having knowledge crew members were ill and outline what steps will be taken to ensure an incident like this does not threaten trade and the health of Western Australians again.<sup>97</sup>

Soon after, private members' business was spent debating a motion moved by the Leader of the Opposition: 'That this House condemns the McGowan Labor Government for its handling of the lifting of COVID-19 restrictions and causing unnecessary economic harm, small business closures and job losses'.<sup>98</sup>

At 8.00 pm the House entered into consideration in detail on the *Planning and Development Amendment Bill 2020* and the bill was third read at 2.15 am.

On Thursday 28 May, the Treasurer provided an economic and fiscal update referencing the devastating effect of the pandemic, and two private members' statements also referred to the pandemic. For the remainder of the day, the House dealt with non-COVID legislation. At its rising, the House was adjourned until 16 June—a two-week recess.



**The socially distanced Legislative Assembly during the COVID-19 pandemic**

<sup>97</sup> Hon Mia Davies MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 27 May 2020, p. 3219.

<sup>98</sup> Hon Liza Harvey MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 27 May 2020, p. 3229.

The day after the House rose, the Premier announced that due to the State's success in limiting the spread of COVID-19, Phase 3 of the State's Road Map would come into force on 6 June. The main changes were replacing the four-square-metre rule with a two-square-metre rule for indoor and outdoor venues; lifting the cap on indoor and outdoor gatherings to 100 people per single undivided space, with a 300-person cap on whole venues; travel being permitted throughout Western Australia with the exception of certain remote Aboriginal communities; the opening up of a range of businesses and venues; and permission to engage in full contact sport and training.<sup>99</sup> Given the easing of restrictions and the Premier's encouragement for workers to return to on-site work unless they were unwell or a vulnerable employee, the Clerk advised Assembly staff to return to work full-time in the building.

The Assembly's return for a final two-week sitting block in the lead-up to the winter recess—Tuesday 16 June to Thursday 25 June—saw minimal change to the Chamber's COVID-19 special arrangements. The current floor plan, speaking, voting and door arrangements continued, and the public still did not have access to the building. Given the halving of the four-square-metre rule, however, a few more members observed Question Time on the floor of the House or, socially distanced, from the back of the Chamber and the Speaker's Gallery. The COVID-19 Temporary Order remained in force. The fortnight of sittings was predominantly geared to passing non-COVID legislation, but proceedings still referenced the pandemic.

On Tuesday 16 June, the Minister for Health in a brief ministerial statement provided an update to the House on the status of COVID-19 in Western Australia: no new cases had been reported overnight; the State's two active cases were not being treated in hospital; and the State's total tally stood at 602 cases. The Minister for Corrective Services advised the resumption of services and operations within the prison estate. For the first time since the onset of the pandemic, the majority of the questions asked in Question Time were not pandemic-related. On Wednesday 17 June, the Minister for Health, in a brief ministerial statement, referred to a further Government funding package to help support people access mental health, alcohol and other drug services during the pandemic, and the matter of public interest debate discussed the Government's support for small businesses during the pandemic. Thursday 18 June commenced with a brief ministerial statement by the Minister for Health providing information on quarantine arrangements in the State to contain the spread of the virus. With the exception of one grievance and one private members' statement regarding the pandemic, and a short suspension debate on difficulties experienced by small businesses in the face of COVID-19, the Assembly primarily dealt with the tabling of committee reports and legislation.

The final sitting week of the Autumn sittings involved a full schedule and late sittings to expedite the passage of legislation before the winter recess. Tuesday 23 June saw one COVID-19 related brief ministerial statement: the Minister for Women's Interests informed the House of a women's state recovery stakeholder engagement round table that she had recently hosted given the disproportionately negative effects of the virus on women. During Question

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<sup>99</sup> Government of Western Australia, 'Phase 3 of COVID-19 roadmap to commence from Saturday, June 6', Media Statement, 29 May 2020  
<https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/05/Phase-3-of-COVID-19-roadmap-to-commence-from-Saturday-June-6.aspx>

Time the Premier provided more information about Phase 4 of WA's Road Map which would come into force on Saturday 26 June. With this phase, caps on gatherings would be removed and only be limited by the two-square-metre rule, and large stadiums and arenas could have up to 50% capacity. The Premier alluded to Phase 5 easing of restrictions which had been tentatively scheduled for 18 July, but cautioned that the final Phase 6 of easing restrictions and removal of the hard border might have to be put on hold due to the significant community transmission of the virus in Victoria over the past week. Following Question Time, the House dealt with three non-COVID bills, and third read two of them.

On Wednesday 24 June, the Minister for Corrective Services advised Phase 4 easing of restrictions would see the resumption of social visits in Western Australian prisons. The Minister for Industrial Relations introduced the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020* that would:

provide for a number of important and urgent reforms to the workers' compensation system.  
... to make sure that healthcare workers have timely access to workers' compensation entitlements if they contract COVID-19.<sup>100</sup>

Although COVID-19 related, this bill was not introduced under the *aegis* of the COVID-19 Temporary Order, but the Minister encouraged its speedy passage. With respect to another COVID-related bill that had not been introduced under the COVID-19 Temporary Order—the *Planning and Development Amendment Bill 2020*—the Leader of the House moved a suspension of Standing Orders so that this and any other amended bills received from the Council during the week could be dealt with immediately. The motion was passed and the Assembly promptly went into consideration in detail, and accepted the amendments to, the *Planning and Development Amendment Bill 2020*. The day concluded with private members' business debating a motion moved by the Leader of the National Party:

That this House notes the increase in homelessness and vulnerable members of the community seeking assistance in regional Western Australia and calls on the McGowan Government to deliver an immediate funding increase to provide the community services sector with the capacity to respond appropriately to the additional pressures of COVID-19.<sup>101</sup>

The final sitting day of the autumn sitting, Thursday 25 June, went until 12.38 am. Apart from two COVID-related private members' statements and some questions in Question Time, the day was devoted to passing non-COVID legislation with the House suspending from 9.32 pm to 12.27 am as it waited to receive a final bill with amendments from the Council.

The Leader of the House adjourned the Assembly until 11 August 2020 and thanked members and staff for their support and work in 'a remarkable six months in the history of Parliament'.<sup>102</sup> The Manager of Opposition Business also thanked members and staff and observed: 'The autumn session has been a most remarkable time and one that I hope we will not see again'.<sup>103</sup>

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<sup>100</sup> Hon Bill Johnston MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 24 June 2020, p. 4198.

<sup>101</sup> Hon Mia Davies MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 25 June 2020, p. 4231.

<sup>102</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 25 June 2020, p. 4486.

<sup>103</sup> Mr Zak Kirkup MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 25 June 2020, p.4486.





**Parliamentary officer applying hand sanitiser prior to the commencement of a sitting**

## **Winter Recess – Phase 4 Commences**

### **Friday 26 June to Monday 10 August**

Phase 4 of the Road Map commenced the day after the Assembly rose, but the hoped for Phase 5 and Phase 6 stages were not introduced over the winter recess as originally expected, because the daily transmission rate of COVID-19 soared in Victoria, undergoing its second lockdown, to well above 700 cases a day towards the end of July and beginning of August, with a commensurate spike in mortality rates.<sup>104</sup> In response to the surging numbers, the Western Australian Government introduced mandatory hotel quarantine from 17 July for those who had come from, or travelled through, Victoria before entering Western Australia. But to put this setback in context, in the same week Hong Kong closed its schools amid a third wave of coronavirus; Israel introduced a new round of restrictions as the country saw coronavirus infections more than double in a fortnight to 1,500 new cases a day; India surpassed one million confirmed cases of coronavirus and 25,000 deaths; and President Donald Trump wore a face mask in public for the first time.

Meanwhile over the winter recess, notwithstanding this was a time when people were more likely to contract flu, Western Australia was recording negligible new daily cases of COVID-19—and these were linked to returning travellers or health professionals. The last case of community transmission of the disease had been on 11 April, and the last COVID-19 death

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<sup>104</sup> Lauren Pilat, 'Arrivals from Victoria will have to fork out for their own quarantine in WA: Health Minister', *WAtoday*, 17 July 2020 <https://www.watoday.com.au/national/western-australia/victorian-arrivals-to-wa-will-have-to-fork-out-for-their-own-quarantine-health-minister-20200717-p55d5e.html>

recorded in the State had been on 3 May. Given this positive result, the Government had been defending its hard border policy against a constitutional challenge, under section 92 of the Australian Constitution, initiated by miner and businessman, Mr Clive Palmer, and which the High Court had remitted to the Federal Court to establish facts during hearings in late July.

## Spring Session — Steady State Mode

### Tuesday 11 August — Wednesday 7 October

The Assembly resumed sittings after the winter recess on Tuesday 11 August, with a full complement of members. On this Day WHO recorded that worldwide coronavirus cases had now reached nearly 20 million, with more than 700,000 deaths.<sup>105</sup> New daily reported cases in Victoria were still in the high hundreds, although starting to trend down under the stringent second lockdown with its curfew and mandated mask wearing. Given Phase 4 was still in place in Western Australia, the special COVID-19 arrangements were still in place in the Chamber. One small change was that the Chamber would revert to its pre-pandemic standard daily cleaning for the spring session. Within the building, school group tours had also recommenced on non-sitting days, although with stringent size caps and social distancing guidelines, and there had been a lifting on access to the building for electorate and ministerial staff and guests of members and parliamentary staff. Members of the public, however, were still not permitted to attend the Public Gallery.

Once proceedings commenced on 11 August, they soon turned to the pandemic, with the Attorney General in a brief ministerial statement thanking the legal team, led by the Western Australian Solicitor General, which had defended Mr Palmer's Federal Court challenge to Western Australia's border. Following Question Time, which included many pandemic-related questions, the House resumed second reading speeches on the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020*. At 4.55 pm the Leader of the House adjourned debate on this bill and moved without notice:

That so much of Standing Orders be suspended as is necessary to enable an urgent bill that is very much in the State's interest to be introduced into the Parliament without notice, first read, and for the Attorney General to make his second reading speech.<sup>106</sup>

In speaking to the motion, the Leader of the House advised:

This bill is essential to answer a claim against Western Australia and prevent potentially dire financial consequences for the State. The Government has drafted the bill in answer to damages that have been claimed against it that are nearly equivalent to the State's total annual budget or, put another way, if the claim were shared equally amongst all Western Australians, it would cost every Western Australian more than \$12 000. This claim is sought while the State is in a state of emergency dealing with a global pandemic and at a time when the people of Western Australia are most in need of public money. The damages claimed arise because of the decisions made by the former Government. Although the McGowan Government is not critical of these decisions, it has inherited the consequences of them.

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<sup>105</sup> World Health Organisation, 'Coronavirus disease 2019 (COVID-19) Situation Report — 204', 11 August 2020 [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200811-covid-19-sitrep-204.pdf?sfvrsn=1f4383dd\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200811-covid-19-sitrep-204.pdf?sfvrsn=1f4383dd_2)

<sup>106</sup> Hon David Templeman MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 August 2020, p. 4594.

Having done so, the McGowan Government, through the State Solicitor's Office, is vigorously defending the claim but the risk of the State not succeeding is too great to ignore.

I seek members' indulgence as I share with them a minimal amount of information in advance of the introduction of a bill. However, I assure members that the Government will not seek to debate the bill tonight; rather, the Attorney General will provide briefings and we will seek to debate the bill on the next sitting day.<sup>107</sup>

The motion passed with the requisite absolute majority and at 5.00 pm the Attorney General introduced and moved the first and second reading of the *Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Bill 2020*, advising that the purpose of the bill was:

to deal with damages claims arising or potentially arising from proposals that were submitted by Mr Clive Palmer, Mineralogy Pty Ltd and International Minerals Pty Ltd pursuant to the terms of the *Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Act 2002*.<sup>108</sup>

...

In summary, therefore, the claims that are being made against the State for breaches of the state agreement by the then Minister amount to nearly \$A30 billion, an amount that does not include any amount for the second damages claim. To put that in context, the total net debt of the State of Western Australia is in the order of \$A35 billion to \$A40 billion, and the budget of the State of Western Australia is approximately \$A30 billion. To put it another way, if the cost of Mr Palmer's claim were shared equally amongst all Western Australians, it would cost every man, woman, child and baby in Western Australia more than \$12 000; that is, each of the 2.5 million people living in Western Australia would pay Mr Palmer more than \$12 000. Mr Palmer wants Western Australia to pay him \$30 billion at a time when the State is in a state of emergency dealing with a global pandemic—a pandemic that Mr Palmer has stated is a 'media beat-up'—and at a time when the people of Western Australia are most in need of our public money.<sup>109</sup>

After that dramatic intervention, the Assembly resumed debating and third read the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020*. The Minister for Health then introduced the *Public Health Amendment (COVID-19 Response) Bill 2020* pursuant to the COVID-19 Temporary Order. The bill would enable mandatory fees to be imposed on persons arriving in Western Australia who were required to quarantine at a hotel, and to cover costs associated with decontamination of premises. The bill also included essential ancillary amendments to the *Public Health Act 2016* to ensure that quarantine under the Act could continue to be managed in a congruous manner without compromising the safety and security of the Western Australian community.

The bill was debated and third read, whereupon the Minister for Planning introduced another urgent bill under the COVID-19 Temporary Order: the *COVID-19 Response and Economic Recovery Omnibus Bill 2020*. The Minister explained that the bill had been drafted to:

ameliorate problems and impediments arising from the emergency response to the COVID-19 pandemic, facilitate aspects of the State's economic recovery, make related amendments to certain acts and validate actions taken before, during or after the declaration of the state of emergency.<sup>110</sup>

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<sup>107</sup> Ibid.

<sup>108</sup> Hon John Quigley MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 August 2020, p. 4595.

<sup>109</sup> Ibid, p. 4597.

<sup>110</sup> Hon Rita Saffioti MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 August 2020, p. 4634.

Debate ensued, but was called to a close by the Leader of the House who moved a late notice of motion to suspend Standing Orders to allow the Attorney General's Mineralogy Bill to proceed through all stages without delay between the stages on the following day. The Leader of the House also varied the adjournment motion to 1.00 pm the following day, at the request of the Liberal Party, to enable them to meet as a party room to consider the Mineralogy Bill before the sitting commenced.

The following day, the Mineralogy Bill was the dominant item of business and given the Government's desire to pass it expeditiously and to increase the time available to consider it, the Opposition offered in 'good faith' two of its three hours of private members' business to the Government.<sup>111</sup> Following a suspension of Standing Orders to effect this, Standing Orders were suspended again to allow the bill to proceed through all stages without delay. Debate on the bill ran for most of the day, although interrupted in the afternoon for the one hour of private members' business which discussed a motion to request the Government to establish a public and independent expert review into the State's pandemic response including hotel quarantining; exemption arrangements; security protocols; and contact tracing, with a particular focus on aged care facilities, remote communities and hospitals. Debate then resumed on the Mineralogy Bill which, late in the evening, was third read and forwarded to the Council. In adjourning, the Leader of the House thanked the Opposition for surrendering two hours of private members' business and in a complementary spirit of good will, and because the Government had other legislation it needed fast-tracked, advised that the Government would forfeit two of its grievances the following morning.

On Thursday 13 August, the Assembly dealt with tabled committee reports, considered and accepted Council amendments to the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020*, debated and passed the *Electoral Amendment Bill 2020*, debated a matter of public interest on worker shortages in regional Western Australia in the wake of the pandemic, and resumed debate on and passed the *COVID-19 Response and Economic Recovery Omnibus Bill 2020*. After receiving a Council message that the Mineralogy Bill had been passed without amendment just after 10.30 pm, the House adjourned. The following day, the Government introduced stricter COVID-19 testing for interstate truck drivers.<sup>112</sup>

The sittings of the House from Tuesday 18 August to Thursday 20 September still saw pandemic-related proceedings, although there was more of a return to a normal non-COVID business programme—and a return to normal working hours. Tuesday 18 August commenced with the Premier delivering a brief ministerial statement in which he outlined that due to the health risk presented by the coronavirus situation on the east coast, the Government would be further deferring the commencement of Phase 5 until a tentative date of 24 October. This would see the cancellation of the Royal Agricultural Show. The afternoon saw a matter of public interest debate on the Government's international and interstate entry exemptions and test and tracking regime. Wednesday 19 August featured a brief ministerial statement by the

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<sup>111</sup> Mr Zak Kirkup MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 12 August 2020, p. 4779.

<sup>112</sup> Government of Western Australia, 'Freight and logistics drivers frequently asked questions', 14 August 2020 <https://www.wa.gov.au/government/publications/freight-and-logistics-drivers-frequently-asked-questions?fbclid=IwAR2tp9wLHcb-pLsn7GbVqBLRDV4SCuNNJM6HIjrszepqVBejZnCr2z62MgE>



Minister for Local Government advising that the Government had released the results of an online COVID-19 survey—the MARKYT Community Resilience Scorecard—which mapped community wellbeing and resilience levels across Western Australia. That afternoon the House considered and accepted the Council's amendments to the *Public Health Amendment (COVID-19 Response) Bill 2020* and the day concluded with private members' business debating a motion for the Government to provide a COVID-19 assistance grant to COVID-19 affected small businesses. Thursday 20 August saw one coronavirus-related brief ministerial statement, by the Minister for Emergency Services, which acknowledged the role played by the Department of Fire and Emergency Services' Urban Search and Rescue Task Force as part of the COVID-19 response; by contrast, there were five non-COVID related brief ministerial statements. There was one COVID-19 related grievance. Given the Parliament had permitted limited access to the building by the public since the beginning of August, the Assembly hosted a 100th birthday tribute to former Assembly member Hon Bill Grayden AM, with speeches and a presentation to Mr Grayden on the floor of the Chamber. The House at the conclusion of proceedings adjourned for a two-week recess.

The resumption of sittings on Tuesday 8 September to 10 September saw a further reduction in COVID-19 related proceedings. On Tuesday 8 September, the pandemic was referenced during Question Time and also during a suspension debate on a non-COVID matter; on Wednesday 9 September, as well as COVID-19 references during Question Time, the Assembly considered and accepted Council amendments to the *COVID-19 Response and Economic Recovery Omnibus Bill 2020* and debated the G2G approval process in private members' business. On Thursday 10 September, COVID-19 proceedings included a brief ministerial statement by the Attorney General on the Government's decision to extend the emergency periods under the *Residential Tenancies (COVID-19 Response) Act 2020* and the *Commercial Tenancies (COVID-19 Response) Act 2020*, some questions during Question Time, and references during a suspension debate on the use of offshore online travel agents as part of the Government's 'Perth Staycation' campaign. Signalling that life was beginning to return to some degree of normality, proceedings in the Assembly were temporarily disrupted by an emergency fire drill and evacuation at Parliament House.

The next sitting week, Tuesday 15 September to Thursday 17 September, likewise saw only a modest amount of COVID-19 related proceedings. Tuesday 15 September featured the only COVID-19 related brief ministerial statements for the entire sitting week: the Premier advised the House that the Government had granted a temporary extension to the *Lotteries Commission Amendment (COVID-19 Response) Act 2020*, which would enable Lotterywest to continue providing grants to support those negatively affected by the pandemic; the Treasurer provided an update on the Government's COVID-19 economic recovery package; and the Minister for Housing advised that the moratorium on public housing tenant evictions would be extended to March 2021. On Tuesday 15 September, in addition to some pandemic-related questions during Question Time, the House discussed mental health issues in the face of the coronavirus crisis during a matter of public interest debate. Over the following two sitting days, with the exception of questions during Question Time, the only pandemic-related proceedings were a suspension debate on Wednesday 16 September, which resulted in the following resolution being passed and forwarded to the Prime Minister, Scott Morrison:

That this House notes that the Commonwealth Government under the Constitution has responsibility for foreign affairs, quarantine and immigration, and calls on the Commonwealth Government to establish additional quarantine facilities and cooperate with the states and territories to ensure the nation has an orderly, safe and well-resourced system of quarantine for citizens returning to Australia.<sup>113</sup>

—and the dedication of private members’ business to a consideration of the difficulties facing regional Western Australia in accessing workers and volunteers during the pandemic and the consequential need for Government recovery support. Wednesday 16 September also saw the first distinguished guest—Ms Virma Symons, the Consul General of the Republic of the Philippines—to be seated in the Speaker’s Gallery and acknowledged by the Speaker since the day the pandemic was declared.

In the sitting week Tuesday 22 September to Thursday 24 September, although each Question Time featured COVID-19 related questions, other proceedings were largely non-COVID related. On Tuesday 22 September there was a single brief ministerial statement by the Minister for Health, advising Government initiatives to strengthen preparedness to deal with COVID-19 outbreaks in residential aged-care facilities. The next day saw a matter of public interest debate on the subject of police numbers in the context of the pandemic response and, during private members’ business, a discussion of the difficulties facing Western Australians unable to return to the State during the pandemic. The final sitting day, Thursday 24 September saw two COVID-19 related brief ministerial statements: the Minister for Health advised that the first programme to be funded under the Government’s Future Health Research and Innovation fund would call for projects with a COVID-19 focus; and the Minister for Citizenship and Multicultural Interests on Government initiatives to provide COVID-19 related information to members of culturally and linguistically diverse community groups. The House also made condolence speeches for former Speaker Hon Jim Clarko AM who had passed away on 7 April, but whose tribute from the Chamber had to be delayed due to the priority of COVID-19 legislation and restrictions on family members entering the Speaker’s Gallery.<sup>114</sup>

The House then rose for a two-week recess in which a major item of news was the diagnosis of President Trump and many senior members of his staff with COVID-19.

### **Budget Block of sittings**

#### **Thursday 8 October to Thursday 22 October**

On Thursday 8 October, the Assembly met for a truncated sitting to enable the handing down of the State Budget—postponed from its originally scheduled date of 14 May. This sitting was an additional one inserted into the original 2020 sitting schedule. The House met at 1.00 pm and, as is customary on Budget day, there was an abridged Question Time. Only five questions, and three supplementaries were asked, but as with most Question Times, a number of the questions and responses referenced the pandemic in some way. Following Question Time, the House suspended from 1.35 pm to 2.00 pm, after which the Treasurer introduced and moved

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<sup>113</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 16 September 2020, p. 6004.

<sup>114</sup> For the same reason, condolence motions would also be postponed to later in 2020 for three other former Legislative Assembly members: Mr Kevin Leahy, Hon James Brown and Ms Andrea Mitchell.

the second reading of the *Appropriation (Recurrent 2020-21) Bill 2020* and the *Appropriation (Capital 2020-21) Bill 2020*. In his Budget speech the Treasurer stated:

Like all Budgets around Australia, the focus of the 2020–21 Budget is on the response to the COVID-19 pandemic. It is a crisis like no other that we have experienced in our lifetimes.

It has had a disastrous impact, not only on public health—with millions of cases worldwide and over a million people losing their lives—but also terrible economic consequences. Entire economies have been forced to shut down to stem the spread of the virus and millions of people have lost their jobs.

Responding to the COVID-19 pandemic has been the toughest challenge we have faced.<sup>115</sup>

The Treasurer provided an update on the state of the Western Australian economy prior and subsequent to the advent of the pandemic, and outlined that 'Central to the 2020–21 Budget is the WA Recovery Plan, the McGowan Government's comprehensive response to the pandemic'.<sup>116</sup> Notwithstanding the 'unprecedented economic shock'<sup>117</sup> delivered at the outset of the pandemic, the Treasurer informed the House that:

despite the contraction in the June quarter, our economy is bouncing back solidly. Business and consumer confidence in Western Australia have rebounded to pre-COVID levels. Since restrictions have been eased, over 70% of jobs lost and almost 90% of the reduction in aggregate hours worked have been restored. Leading indicators of employment such as job advertisements and payroll data suggest continued improvement. Recent retail trade data has shown the fastest rate of growth in annual terms in seven years. But we have more work to do to return every Western Australian who wants a job back into a job.<sup>118</sup>

The House rose at 2.34 pm, having sat for 69 minutes, and was adjourned to the following week which would be focused on second reading speeches on the Budget bills.

Tuesday 13 October was, as expected, tightly focused on the State Budget with the commencement of the second reading speeches, including the reply speech by the Shadow Treasurer. Neither brief ministerial statements nor any questions asked during Question Time directly referred to the pandemic, although there were references to COVID-19 during answers and during discussion on the Budget bills. Wednesday 14 October saw two COVID-19 related brief ministerial statements: the Minister for Corrective Services advised the House about the production of reusable face masks in the prison estate and the Minister for Tourism updated the House on the tourism voucher programme, 'A Million Reasons to Wander Out Yonder'. Thursday 15 October saw one COVID-19 related brief ministerial statement from the Minister for Tourism who informed the House about the outcome of tourism business survival grants administered under the Government's tourism recovery programme, and there was a suspension debate on the topic of the Western Australian Chief Medical Officer's advice regarding the retention of the State's hard border. In addition, two COVID-19 related bills were introduced. The *Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020* which would provide construction workers with earlier access to pro-rata long service leave entitlements for a temporary period during the recovery phase of the pandemic, and also enable construction workers to accrue long service leave

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<sup>115</sup> Hon Ben Wyatt MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 8 October 2020, p. 6559.

<sup>116</sup> *Ibid.*, p. 6560.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

entitlements during a period of being stood down, was introduced and its second reading was moved. Then the *Pay-roll Tax Relief (COVID-19 Response) Amendment Bill 2020* which sought to extend the sunset clause of the *Pay-roll Tax Relief (COVID-19 Response) Act 2020* by twelve months, was introduced by the Treasurer under the COVID-19 Temporary Order and passed through all stages. The day concluded with both Budget bills being second read and referred to Estimates Committees A and B.

On Monday 19 October the Premier announced that, following health advice, the Government would be further delaying the commencement of Phase 5 lifting of restrictions for at least two months. One slight modification, however, was that low risk seated and ticketed venues could now operate at 60% capacity as long as they still complied with the two-square-metre rule.<sup>119</sup>

The block of days set aside for Estimates hearings, Tuesday 20 October to Thursday 22 October, had originally been scheduled as sitting days. Given additional days had been inserted into the 2020 sitting calendar to deal with COVID-19 legislation and the Budget, a decision was made by the Government to re-allocate these days to Estimates. As the Legislative Council was sitting this week, however, the Assembly was unable—as was customary practice—to hold the Estimates hearings concurrently in both Chambers.



**Socially distanced set-up in Committee Room 2 for Estimates hearings**

The alternative venue decided upon for Committee B was Committee Room 2 at the Legislative Assembly Committee Office which was set up to enable social distancing of committee members, advisers and support staff. The main changes were that Ministers could only be flanked by three advisers, with the remainder of advisers being seated at the back of the Committee Room. If any of these advisers were called on by the Minister, they were

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<sup>119</sup> Angie Raphael, 'WA announces changes to its coronavirus restrictions, delays phase 5', news.com.au, 19 October 2020 <https://www.news.com.au/national/western-australia/wa-announces-changes-to-its-coronavirus-restrictions-delays-phase-five/news-story/5ba4e3a334de89992c5b46db4630b0d8>

required to introduce themselves and speak from a lectern near the Minister. Given Hansard was covering the Council sittings, as well as both Estimates Committees, some additional external reporting and broadcasting support was employed. Over the three days of hearings, 45 supplementary requests for information were made of Ministers—with a number of the enquiries referencing the impact of COVID-19 on the Budget.

## **A Tale of Two Hemispheres**

### **Friday 23 October to Monday 2 November**

In the one-week recess following Estimates, Western Australia continued its unbroken run of months without any community transmission of the virus. Given this, the Speaker contacted Western Australia's Chief Health Officer, Dr Andrew Robertson, on 26 October for advice regarding the maximum number of persons that could safely be accommodated in the Legislative Assembly on sitting days. Dr Robertson responded on 28 October that:

Given no community spread in Western Australia and the improving situation in other jurisdictions, I would recommend that the Legislative Assembly could return to the normal operations it had in place prior to 31 March 2020 for member seating and staff operations. I also recommend that the hygiene measures outlined in the Legislative Assembly Chamber COVID-19 pandemic measures document you provided should continue.<sup>120</sup>

Following consultation with the party leaders, the Speaker advised Assembly members on Friday 30 October that normal pre-COVID-19 seating and speaking arrangements would be in place when sittings next resumed, although, due to its popularity, divisions would continue to be conducted in accordance with the Divisions Temporary Order. The Speaker further advised that it was not his intention to reopen the Public Gallery at this stage.

On the same day, following the latest public health advice from the Chief Health Officer, Premier McGowan announced imminent changes to the State's hard border arrangements. From 14 November Western Australia would transition from a hard border to a 'controlled interstate border regime' under which interstate travellers from 'very low risk' States and Territories, i.e. with no community transmission in the past 28 days, would not be required to self-quarantine, although they would need to complete a G2G pass declaration and would also be subject to health screening and temperature testing upon arrival at Perth Airport or at border checkpoints.<sup>121</sup> Interstate travellers from jurisdictions with a 'low risk' assessment, i.e. with less than five community cases per day on a 14-day rolling average, would be required to comply with the above conditions and also self-quarantine at suitable approved premises for a fortnight and take a mandatory COVID-19 test at day 11.<sup>122</sup> No other changes were announced regarding the two-square-metre rule.

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<sup>120</sup> Dr Andrew Robertson, Chief Health Officer, Letter to Hon Peter Watson MLA, Speaker of the Legislative Assembly, dated 28 October 2020.

<sup>121</sup> Government of Western Australia, 'Health-based cautious transition to WA's controlled interstate border', Media Statement, 30 October 2020  
<https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/10/Health-based-cautious-transition-to-WAs-controlled-interstate-border.aspx>

<sup>122</sup> Ibid.

Although this news regarding the relaxation of interstate travel arrangements was positive for Australia and Western Australia, the COVID-19 situation in the rest of the world, particularly in the northern hemisphere as it approached winter, was manifestly dire and deteriorating. The Republic of Ireland had introduced a second lockdown on 21 October; Spain had commenced a nationwide curfew on 25 October; Germany had announced a partial lockdown or 'lockdown light' set to commence on 2 November;<sup>123</sup> France announced that its second national lockdown would commence on 30 October; and, while not facing a national lockdown, the United States on 30 October became the first country in the world to record more than 100,000 new cases of COVID-19 in a single day.<sup>124</sup> On Sunday 1 November, as Australia recorded its first day with zero cases of community transmission for nearly five months,<sup>125</sup> Prime Minister Boris Johnson announced that England, recording well over 20,000 new cases a day and having surpassed the one million case mark, would also be entering a second lockdown within days.

As of 1 November, WHO advised that almost 46 million cases of COVID-19 and 1.2 million deaths had been reported globally.<sup>126</sup>

### Full House

#### Tuesday 3 November onwards

On Tuesday 3 November the Assembly resumed sittings with the Speaker commencing proceedings by announcing 'Welcome back! The full group is here today.'<sup>127</sup> As outlined above, all members were now to sit in the Chamber in their allocated seats and they would be speaking from their seats as well, as was customary practice. Given this, Hansard reporters returned to the floor of the House. Consideration in detail also returned to previous practice with Ministers able to have up to three advisers assist them at the Table of the House, and with the Chair sitting again at the clerks' table. Taking into consideration the continuing need for members and parliamentary officers to be vigilant about hygiene, every entrance to the Chamber had been equipped with a hand-sanitiser station, doors leading into the Chamber continued to be propped open, and the socially distanced walk-through division process remained in place. The Speaker's Gallery remained open for advisers and members' guests, with social distancing to still be observed and, although the Public Gallery would remain closed

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<sup>123</sup> Alistair Walsh and Elliot Douglas, 'Coronavirus: Germany to impose one-month partial lockdown', *Deutsche Welle*, 28 October 2020 <https://www.dw.com/en/coronavirus-germany-to-impose-one-month-partial-lockdown/a-55421241>

<sup>124</sup> Anurag Maan, 'U.S. Reports Record-Breaking 100,000 COVID-19 Cases In Single Day', *HUFFPOST*, 31 October 2020 [https://www.huffpost.com/entry/coronavirus-record-100000-cases-united-states\\_n\\_5f9df29bc5b658b27c3b0f56](https://www.huffpost.com/entry/coronavirus-record-100000-cases-united-states_n_5f9df29bc5b658b27c3b0f56)

<sup>125</sup> Naaman Zhou, "'Donut day': Australia records first day of zero cases of community Covid transmission since 9 June", *The Guardian*, 1 November 2020 <https://www.msn.com/en-au/news/australia/donut-day-australia-records-first-day-of-zero-cases-of-community-covid-transmission-since-9-june/ar-BB1azXIP?pfr=1>

<sup>126</sup> World Health Organisation, 'Weekly epidemiological update — 3 November 2020' <https://www.who.int/publications/m/item/weekly-epidemiological-update---3-november-2020>

<sup>127</sup> Hon Peter Watson MLA, Speaker's Statement, Legislative Assembly, *Parliamentary Debates* (Hansard), 3 November 2020, p. 7236.



to the public, it would henceforth be open for guests attending Assembly condolence motions or valedictory speeches.

Proceedings on Tuesday 3 November also reflected the return to normality. Although the pandemic was alluded to in two brief ministerial statements, and was the focus of three Government questions during Question Time, proceedings were largely focused on non-COVID-19 matters: the reports of Estimates Committees A and B were adopted by the House and both the Appropriation Bills were third read.

Given the time constraints for publishing and binding, the PPC decided to finalise this report on the Assembly's pandemic response on this day, although aware the some further COVID-19 legislation is likely to be introduced and passed before the Assembly rises on its last scheduled sitting day for the 40th Parliament on Thursday 19 November.



**The Speaker, Hon Peter Watson, using the hand-sanitiser station at the entrance to the Legislative Assembly Chamber**

### **Assessment of the Assembly's COVID-19 Response in the Chamber**

At the date of finalising this report, the 2020 sitting year is almost completed and the 40th Parliament will soon conclude in the lead-up to the 2021 State General Election. The entire sitting year has been conducted in the context of the COVID-19 pandemic, and while there have been some negative impacts on sittings and committee operations, as this report has documented, the Legislative Assembly has largely functioned productively across its operations.

This has principally been due to Western Australia, thus far, being one of the places in the world least negatively affected by the pandemic. Western Australia has, at the date of the tabling of this report, been without community transmission of the coronavirus since 11 April—a period of more than seven months. While every death is a cause of sadness, Western Australia has recorded only nine due to the pandemic. As a result of the early containment of the virus in Western Australia, the Legislative Assembly has managed to adhere to its original 2020 sitting schedule and sit for an additional four days to accommodate COVID-19 legislation. In addition to passing 17 bills introduced under the COVID-19 Temporary Order (listed at Appendix 3) as at 3 November, the Assembly also passed more than 30 bills that were not related to COVID-19 by this date.

Members were surveyed in June regarding their assessment of the Assembly's response measures to the pandemic in the Chamber and 90% of members indicated they thought the response was 'very good' or 'good'.<sup>128</sup> The Speaker, as Chair of the PPC, also invited members to provide feedback via written submissions to the PPC regarding the Legislative Assembly's special COVID-19 arrangements and whether any should be retained in a non-pandemic environment. (See Appendix 5 for the list of submitters.)



**Tellers finalising the results of a division, without members needing to remain in the Chamber**

In both the survey and the written submissions, a number of members indicated a strong preference for the retention of the new socially-distanced walk-through division arrangements in which members are able to leave the Chamber directly after voting, rather

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<sup>128</sup> 49 Members returned the survey.



than, as previously, being compelled to remain in the Chamber until the division results are declared by the Chair. One member described the new method as:

far more efficient and professional. The old method where members stack in on one another and fire abuse across the Chamber detracts from the image of the Chamber. It makes us look like a rabble ...<sup>129</sup>

Another member supported retaining the new division process because the 'divisions can be run far more effectively and in a much quicker fashion',<sup>130</sup> while another member pointed out that the new method was 'less time consuming', and prevented 'opponents checking out your paperwork'.<sup>131</sup> The clerks have also found the new method to be more streamlined and easier to record than the previous headcount of members crowded together.

Given the strong support for the new division process from members and the clerks, the PPC recommends that the walk-through division process be adopted on a permanent basis and that the Standing Orders be amended accordingly.

#### **Recommendation 1**

That the walk-through division arrangement adopted under the Division Temporary Order be retained on a permanent basis and the Standing Orders be amended accordingly.

The PPC also considered the retention of speaking from the Table of the House, noting that a small number of members had expressed a preference for this practice to continue on the grounds that it added gravitas to proceedings. A greater number of members, however, had expressed a desire to return to speaking from their seat. Some members sitting near to the lecterns said they felt increased exposure to members who might be coughing. Members sitting directly behind the lecterns said that they were always staring at the back of those who were speaking and that they were always in the camera frame during the livestreaming of proceedings. One member said that the lecterns were too small.

At present, the issue seems to have resolved itself. The Speaker, when he announced seating arrangements in the Chamber would return to normal in the sitting week commencing 3 November 2020, said that members would no longer be speaking from the Table. As speaking arrangements have returned to normal, the principal rationale for speaking from the Table (to assist the broadcasting team) has disappeared and the PPC sees no need to make a recommendation on the matter.

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<sup>129</sup> Mr Mark Folkard MLA, submission, 25 June 2020.

<sup>130</sup> Ms Cassie Rowe MLA, submission, 25 June 2020.

<sup>131</sup> Mr Shane Love MLA, submission, 20 July 2020.



## Chapter 3

# The Legislative Assembly's COVID-19 Response with Respect to Committees

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There is ... no reason for parliamentary committees to stop performing their important scrutiny functions while Parliament is not sitting. Indeed, there are strong reasons why they should. In addition, the absence of parliamentary sittings will free up more time for such activity.<sup>132</sup>

Professor Anne Twomey

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### Introduction

In March 2020, when parliaments worldwide began cancelling, postponing or severely reducing parliamentary sittings due to the coronavirus pandemic, their committees, mostly operating in virtual mode, were able to continue performing their constitutional role of overseeing and scrutinising the Executive—in particular, the Executive's response to the pandemic.<sup>133</sup> Such oversight was seen as critical to review the massive volume of COVID-19 related laws and regulations that had been enacted—many involving an unparalleled abridgement of civil liberties—and to audit the vast sums involved in the various fiscal response and welfare relief packages. (It has been reported that by 28 May 2020, the Australian state parliaments had passed 547 new COVID-related response measures.<sup>134</sup>) In those jurisdictions where committees were required to establish a *physical* presence in a single location to take evidence and deliberate, a number of Houses hastily amended legislation or Standing Orders, or passed resolutions, to authorise remote meetings and evidence-taking through electronic means.<sup>135</sup> Unsurprisingly, some of these oversight

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<sup>132</sup> Professor Anne Twomey, 'A virtual Australian parliament is possible – and may be needed – during the coronavirus pandemic', *The Conversation*, 25 March 2020 <https://theconversation.com/a-virtual-australian-parliament-is-possible-and-may-be-needed-during-the-coronavirus-pandemic-134540>

<sup>133</sup> See 'Background Briefing Paper: COVID-19 Parliamentary Committees of Inquiry — a National Comparison', produced by the Office of Meg Webb MLC, May 2020, which compares the reduction in sitting days of the Australian legislatures in the period from March to May 2020 and lists the COVID-19 response committees established in this period <https://www.cla.asn.au/News/wp-content/uploads/2020/06/Background-Briefing-Paper-Joint-Select-Committee-FINAL-Attach-01.pdf>

<sup>134</sup> Christopher Knaus, 'State parliaments passed 547 new Covid-related measures with less than usual oversight', *The Guardian*, 28 May 2020 <https://www.theguardian.com/australia-news/2020/may/28/state-parliaments-passed-547-new-covid-related-measures-with-less-than-usual-oversight>

<sup>135</sup> In the UK, the House of Commons voted on 24 March 2020—the day after the UK went into lockdown—to adopt a Temporary Standing Order to permit committees to meet and take oral evidence remotely—specifically through videoconferencing, email and phone calls. On the same day in Australia, the NSW Legislative Council adopted a sessional order allowing its committees to conduct all aspect of committee proceedings electronically. The Victorian Parliament amended its *Parliamentary Committees Act 2003* on 23 April 2020 to enable its committees to operate by electronic means. On 11 April 2020, the Canadian Parliament made provision for committees to meet and take evidence by means of videoconference or teleconference. On 25 March the Bundestag allowed remote committee proceedings.

committees, with their public hearings being livestreamed at a time when their parliaments had 'packed up shop and suspended', <sup>136</sup> have been described as 'effectively sitting in place of the whole legislature' <sup>137</sup> and as constituting a 'Parliament in miniature'. <sup>138</sup>

As noted in the previous chapter, in the initial phase of the pandemic, the Australian national and subnational parliaments, with the exception of the Parliament of Western Australia, amended and reduced their sitting schedules. To ensure that parliamentary oversight could continue in the face of reductions or uncertainty regarding sittings, by the end of May, all the Australian parliaments, with the exception of Tasmania's, had initiated inquiries or hearings into their Government's COVID-19 response, either through existing committees or the establishment of bespoke COVID-19 response select committees.

The situation was substantially different in Western Australia. The Legislative Assembly maintained its original 2020 sitting schedule, added three sitting days in April and also sat on the three days in May that had originally been scheduled for Estimates. This provided opportunities for the Premier and Ministers to inform the House of the Government's COVID-19 measures and for members to question the policies underpinning, and the administration of, these measures. Notwithstanding these opportunities to hold the Government to account, four Legislative Assembly committees initiated COVID-19 related hearings or inquiries to enable more targeted scrutiny.

The Public Accounts Committee advised the House on 19 May 2020 that it had resolved to conduct:

exploratory high-level hearings in response to the Western Australian Government to the COVID-19 pandemic. Through these hearings, the Committee will seek to understand the current arrangement to provide oversight and accountability in relation to the Government's response ... <sup>139</sup>

Transcripts of these hearings, which were conducted in June, are available on the Committee's webpage.

On 17 June 2020, the Economics and Industry Standing Committee commenced hearings into the economic impact of COVID-19 in Western Australia and conducted further hearings in August. Transcripts of the hearings and copies of relevant correspondence are available on the Committee's webpage.

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<sup>136</sup> Dr Sarah Moulds, 'Keeping watch on COVID-19 laws: are parliamentary committees up to the job?', *AUSPUBLAW*, Australian Public Law blog post, 1 May 2020  
<https://auspublaw.org/2020/05/keeping-watch-on-covid-19-laws-are-parliamentary-committees-up-to-the-job/>

<sup>137</sup> Dr Alice Lilly and Dr Hannah White, 'Parliament's role in the coronavirus crisis: holding the government to account', *IfG INSIGHT*, Institute for Government, May 2020  
<https://www.instituteforgovernment.org.uk/publications/parliament-coronavirus-government-scrutiny>

<sup>138</sup> Richard Kelly et al, 'Coronavirus: changes to practice and procedure in the UK and other parliaments', House of Commons Briefing Paper, No. 8874, 19 May 2020, p. 24  
<https://commonslibrary.parliament.uk/research-briefings/cbp-8874/>

<sup>139</sup> Hon Peter Watson MLA, Speaker's Statement, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 May 2020, p. 2832.

On 25 June 2020, the Education and Health Standing Committee advised the House that given Western Australian schools had switched to remote learning in the face of the pandemic, it had resolved to follow up on its recent inquiry into digital innovation and secondary education and would specifically consider:

- (1) What has been learnt in WA and other jurisdictions in regard to delivering education during the COVID-19 pandemic; and
- (2) How these experiences may inform future approaches.<sup>140</sup>

The Committee's report was tabled in the Assembly on 24 September 2020.

On 10 September 2020, the Community Development and Justice Standing Committee advised the House that it had resolved:

to conduct a series of hearings into the response of the Western Australian Government to the COVID-19 pandemic. The Committee will canvass a range of topics during the hearings, including, but not limited to, how the various emergency management agencies relate to each other, how knowledge gained from management of the pandemic is being deposited, and learnings for the future. Through these hearings the Committee will seek to understand the current arrangements, oversight and accountability in relation to the Government's response ...<sup>141</sup>

Transcripts of these hearings, which were held in September and November, are available on the Committee's webpage.

Since the commencement of the pandemic, the Assembly committees continued, as best they could, with their existing program of work and, in some cases, self-referred new inquiries. In addition, the Joint Standing Committee on the Corruption and Crime Commission, in fulfillment of its statutory obligations, convened early in the pandemic to conduct interviews and consider the appointment of the Corruption and Crime Commissioner, and the Public Accounts Committee hosted its annual—albeit socially distanced—Budget Briefing by senior Treasury Officials for members on 13 October and maintained its ongoing follow-up of agency responses to the Auditor General's performance audit reports.

The remainder of this chapter will discuss the procedures which enabled the Legislative Assembly committee system to continue to operate with a relatively high level of productivity and effectiveness during such a challenging time; will note where committee activity was negatively affected; and will recommend some changes to IT support and current committee practice to strengthen committee operations—particularly if there were to be a second wave of the current pandemic or another future pandemic.

## **Pandemic Planning and Implementation**

In early March 2020, as the spread and seriousness of the pandemic became more apparent, the Legislative Assembly Risk Management Committee, in consultation with Legislative Assembly Committee Office (LACO) staff, completed a review of the LACO Business Continuity

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<sup>140</sup> Hon Peter Watson MLA, Speaker's Statement, Legislative Assembly, *Parliamentary Debates* (Hansard), 25 June 2020, p. 4426.

<sup>141</sup> Hon Peter Watson MLA, Speaker's Statement, Legislative Assembly, *Parliamentary Debates* (Hansard), 10 September 2020, p. 5698.

Unit Plan and developed a specific Pandemic Business Continuity Unit Plan. This Plan had a dual focus: to identify and provide the base level of staff and resources required to support committees to continue with their work in a pandemic environment, while ensuring at all times the health and safety of committee members and LACO staff. Recognising that responsive and reliable staff communication would be critical, a Whatsapp LACO group was formed on 13 March, and LACO staff were included in the Legislative Assembly Emergency Whatsapp group created on 24 March.

Following consultation with the Clerk, on Tuesday 17 March 2020 the Speaker agreed that the following issues should be raised by Principal Research Officers with the committees and joint committees administered by the Legislative Assembly:

- public hearings and briefings already scheduled for this week should continue with a precautionary approach and social distancing observed;
- committees should examine their projected work plans over the next two months and defer or postpone all non-essential work;
- if a meeting or hearing is considered essential, each committee should explore the use of videoconferencing or Skyping, and it is strongly recommended that for the foreseeable future, committees should not hold public meetings; and
- staff would be allowed to work from home where this is practicable.<sup>142</sup>

In line with this guidance, all but two committees agreed to suspend in-person meetings until further notice. The committees which continued with already scheduled in-person hearings and meetings, did so with appropriate social distancing measures in place in the committee meeting rooms.

Most LACO staff commenced working off-site from Monday 23 March 2020. Whilst establishing remote access for 17 staff was challenging, initial teething issues and less than optimal workarounds were soon resolved. By the end of March, all staff had adequate office equipment (desktops/laptops/web cameras); and following the purchase of bulk VPN licences by the Parliamentary Services Department, all committee staff could log into the Parliament network and access the intranet, Docs Online, Lotus Notes, Objective, document templates and NVIVO (data analysis software). Principal Research Officers also assisted and offered guidance, where required, to their committee members in setting up remote access for meetings and hearings.

Given the Speaker's advice for the committees to work remotely where possible, it is worth nothing that since 2003, Legislative Assembly committees have been authorised to use videoconferencing to take evidence and to hold deliberative and adoption meetings.<sup>143</sup> Standing Order 267 and the *Speaker's Procedural Rules*, which govern the taking of committee evidence, provide that videoconferencing may be used to examine a witness—although videoconferencing may not be used to take *in camera* (i.e. highly confidential) evidence. The *Speaker's Procedural Rules* further direct that audio only platforms cannot be used for

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<sup>142</sup> This advice was very similar to that issued by the Presiding Officers of the Federal Parliament in a Joint Statement issued 16 March 2020.

<sup>143</sup> The Legislative Assembly trialled the use of videoconferencing by committees from 2003–2004 and amended the Standing Orders to permit videoconferencing by committees in 2006.



deliberative committee meetings or hearings, and that committees must satisfy themselves regarding security when videoconferencing closed (i.e. sensitive) evidence. Standing Order 259(2) provides that 'Committee members using a video-conferencing facility will be counted as present for the purpose of a quorum'. It should be noted that whether conducted in person or virtually, committee proceedings remain parliamentary proceedings and are protected by parliamentary privilege.

After trialling Skype for Business with less than satisfactory results, including persistent audio problems, the Legislative Assembly purchased licences of the pro version of Zoom towards the end of March. All Principal Research Officers were supplied with a licence which enabled them to host Zoom committee meetings with the full suite of online collaboration tools, including document sharing in real-time which is well suited for adoption meetings. Since the roll out of the licences, all committees have used Zoom in some way, whether to conduct meetings or take evidence.

While videoconferencing enabled committees to continue working, proceedings were not without problems. Ms Jessica Shaw, the Chair of the Economics and Industry Standing Committee, has observed:

The pandemic provided Parliament with the opportunity to test its ability to conduct electronic meetings and hearings. In March, June and August 2020, the Committee conducted hearings via video link in relation to the India inquiry and the economic impact of COVID-19 in Western Australia. Unfortunately, Parliament's infrastructure often struggled to meet the Committee's needs, with connection difficulties, delays, and issues with the quality of transmissions. This affected the quality of Committee evidence and truncated many meetings and hearings. In order to undertake its role, Parliament's IT capacity should be fit for purpose, effective and reliable.<sup>144</sup>

On 16 September 2020, the Public Accounts Committee conducted a meeting in LACO Committee Room 2, where two witnesses in Queensland participated via two separate Zoom feeds. The proceedings, including the Zoom feeds, were broadcast in real-time to the Internet. The broadcast was a success, with a smooth streaming experience for all end users, save for people using certain late model iPhones.

Currently, the Chamber and the committees rely on internal hardware to stream to the Internet. Compatibility issues across different browsers and platforms make this a time-consuming task to maintain. This is being reviewed by IT, with the possibility of outsourcing Parliament's streaming requirements to external providers, with committees being trialled first. Hopefully, this will alleviate the streaming issues being experienced currently.

It should also be noted that in March 2020, and up until the end of October 2020, Zoom did not have end-to-end encryption, even for its pro version.<sup>145</sup> Thus, Zoom was, for this period, unsuitable for the taking of highly sensitive and *in camera* evidence, or conducting highly sensitive deliberations. These limitations were observed by committees. By contrast,

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<sup>144</sup> Ms Jessica Shaw MLA, Economics and Industry Standing Committee, Report 9, *Annual Report 2019–20*, September 2020, pp. 2–3.

<sup>145</sup> On 31 October 2020 Zoom announced that end-to-end encryption was now available in 'technical preview' (i.e. beta) which requires meeting participants to join from the Zoom Desktop Client, mobile app, or Zoom Rooms.

committees of the UK House of Commons used Zoom for public hearings, but swapped to Microsoft Teams for confidential deliberations. The Parliament of Western Australia's existing IT infrastructure does not support Microsoft Teams. The PPC urges the Parliament to identify and implement as a matter of priority a videoconferencing platform which is suitable for conducting confidential and highly sensitive meetings and hearings.



**Economics and Industry Standing Committee socially distanced hearing into the economic impact of COVID-19 with a witness appearing by Zoom**

Following a period in which most staff worked remotely, all LACO staff returned to office-based work by Monday 15 June 2020, given the easing of restrictions under Phase 3 of the Government's WA Roadmap. In-person committee meetings resumed as the norm, with physical distancing measures in place, although some members and witnesses continued to participate electronically. Meeting rooms sizes were assessed and the two-square-metre rule enforced and, in addition to general cleaning services, and the provision of hand sanitiser, meeting room surfaces continued to be disinfected by LACO administrative staff prior to meetings. Some public hearings were broadcast, and media were allowed to attend, but at the time of finalising this report, public access to LACO had not resumed.

### **Impact of the Pandemic on Committee Operations**

Although all committees remained in operation from the onset of the pandemic—with most maintaining 'a heavy workload'<sup>146</sup> despite the constraints—the pandemic has, necessarily,

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<sup>146</sup> Ms Jessica Shaw MLA, Economics and Industry Standing Committee, Report 9, *Annual Report 2019–20*, September 2020, p. ii.

had a significant impact on committee activity and productivity, as committee Chairs have indicated in their 2019–2020 annual reports.

There was a pause in most committee activity at the commencement of the pandemic when members had to focus on an upswing in their constituency responsibilities due to pandemic-related matters, and when committees were required to transfer to remote modes of working, including postponing or re-scheduling in-person hearings and meetings. As a consequence, five of the inquiries in progress at the beginning of 2020 needed to push out their tabling dates. Extending these tabling dates then impacted these committees' capacity to initiate new inquiries, given the impending dissolution of the 40th Parliament would require any new inquiry reports to be tabled by 19 November 2020—the final scheduled sitting day of the Legislative Assembly. This timeline was further compressed if committees intended to direct a Minister 'to report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the committee'<sup>147</sup>—which is usually the case—because reports containing such a direction would need to be tabled by 19 August 2020, to comply with the three-month response period prescribed in Standing Order 277(1).

With the inquiries on foot at the beginning of the year taking longer to complete under pandemic conditions, and the uncertainty during the lockdown period as to whether conditions could materially worsen, a number of committees decided against initiating new inquiries in 2020. As the Chair of the Education and Health Standing Committee, Ms Janine Freeman, outlined in her Committee's annual report:

With the State in lockdown due to the coronavirus at the end of March, the Committee decided against conducting another inquiry and resolved to produce an issues paper informed by several briefings conducted earlier in March.<sup>148</sup>

The Chair of the Community Development and Justice Standing Committee, Mr Peter Katsambanis, advised a further reason for not initiating a new inquiry in his Committee's annual report:

The Committee had begun considering potential new inquiries, with a scoping hearing scheduled for May 2020. This hearing was cancelled due to movement and gathering restrictions, and also in recognition of the need for Government agencies to focus on service provision and their response to the rapidly evolving COVID-19 pandemic, whilst ensuring the health and safety of staff and the public. The Committee was thus unable to commence another inquiry during the 2019–20 period as we had intended.<sup>149</sup>

While the Public Accounts Committee did launch a new inquiry on 24 June 2020, the Committee Chair, Dr Tony Buti, has advised that the Committee had deferred its follow-up of public sector agency responses to recommendations made in the Auditor General's

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<sup>147</sup> Standing Order 277(1).

<sup>148</sup> Ms Janine Freeman MLA, Education and Health Standing Committee, Report 10, *Annual Report 2019–2020*, September 2020, p. 5.

<sup>149</sup> Mr Peter Katsambanis MLA, Community Development and Justice Standing Committee, Report 9, *Annual Report 2019–20*, September 2020, p. iii.

performance audit reports during the March to May period to ‘lessen the load on agencies during the height of the onset of the COVID-19 pandemic’.<sup>150</sup>

A further impact of the pandemic was that committees were unable to undertake investigate travel. A Community Development and Justice Standing Committee trip to the Barndimalgu Aboriginal Family Violence Court in Geraldton, scheduled for April, was cancelled, and the Economics and Industry Standing Committee was unable to travel to the Republic of India to conduct hearings relating to its inquiry into Western Australia’s economic relationship with India. The Chair of the Economics and Industry Standing Committee, Ms Jessica Shaw, commented on the lost opportunity to travel and ‘gather what often proves to be the most valuable form of evidence’:

Investigative travel provides members with the ability to gain a deep understanding of issues, observe the policy approaches of other governments, access a broader range of experts, meet key inquiry stakeholders, and develop valuable relationships—it substantially improves the quality of public policy analysis and the outputs of committee processes.<sup>151</sup>

### **Assessment of the Legislative Assembly’s COVID-19 Response in the Committees**

Notwithstanding the various constraints involved in working in a pandemic environment, all inquiries on the Legislative Assembly Notice Paper at the beginning of 2020 will have concluded by the end of the 40th Parliament; additional committee reports and issues papers have been tabled in the House; and most committees have managed to initiate new inquiries or follow-up inquiries and/or schedules of hearings relating to the impact of the pandemic. Further, on 20 May 2020 a motion was passed in the Legislative Assembly to establish a Joint Select Committee on Palliative Care. Following agreement from the Legislative Council, this committee was established and has been administered by the Council, with three Assembly members forming part of its membership, including the Chair. This committee is scheduled to table its report before the 40th Parliament concludes.

The fact that prior to the pandemic a number of LACO secretariat staff worked from home on occasion, and some committees distributed meeting papers electronically, made the transition to remote working much smoother—as did staff’s long-standing familiarity with videoconferencing. Feedback from committee members, who were surveyed in June 2020, indicated that 89% thought the Legislative Assembly’s response measures with respect to the committees were ‘good’ or ‘very good’.<sup>152</sup> In particular, a number of committee Chairs and members have spoken positively of the capacity to conduct committee proceedings remotely via videoconferencing rather than having to do so in person. Mr Peter Katsambanis, Chair of the Community Development and Justice Standing Committee, observed:

Movement and gathering restrictions, coupled with health and safety concerns, required the Committee to change the way it operated so it could continue its work. The Committee held a number of meetings via Zoom, including over the winter parliamentary recess, to adopt our

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<sup>150</sup> Dr Tony Buti MLA, Public Accounts Committee, Report 15, *Annual Report 2019–2020*, September 2020, p. 6.

<sup>151</sup> Ms Jessica Shaw MLA, Economics and Industry Standing Committee, Report 9, *Annual Report 2019–20*, September 2020, p. 3.

<sup>152</sup> The survey was completed by 32 Legislative Assembly committee members.

inquiry report. Utilising remote conferencing technology provided flexibility for the whole Committee by allowing us to meet more regularly. It was particularly beneficial for our regional members who are not regularly in Perth during the recess and would otherwise have been required to travel for hours to attend meetings or miss the opportunity to take part in deliberations. Those members would have had to make that choice. ... I think an important thing to learn during this period is that we do not have to insist on members always attending physically. It is not just regional members, I have to say. ... Avoiding having to travel makes attending a committee meeting easier, because we are not pulled from pillar to post. We learnt that we could do that. ... In the future, all committees should consider whether all members need to travel and gather at Parliament rather than stay where they are and do their committee work, and avoid any unnecessary travel.<sup>153</sup>

Given the successful use of videoconferencing, the PPC is of the view that the stipulation in Rule 2 in Part 2 of the *Speaker's Procedural Rules* that videoconferencing of witnesses can only take place in 'exceptional circumstances' is too restrictive. It should be remembered that this Rule was first drafted when videoconferencing involved specialist equipment and personnel to operate it, and was prohibitively expensive to use.<sup>154</sup> While it is clearly preferable for committee evidence sessions and committee deliberative meetings to take place in person, they should, nonetheless, be able to occur via videoconferencing when committees consider it would be of benefit to do so. Furthermore, for witnesses who are vulnerable, elderly, disabled, a carer, or geographically isolated, videoconferencing from home may be the most convenient and least intimidating way for them to appear.

The PPC is also of the view that Rule 3 in Part 2 of the *Speaker's Procedural Rules*, which directs that 'Audio only conference links will not be used for committee deliberative meetings or hearings', is too strict. While videoconferencing is preferable, teleconferencing (even if just a phone on speaker mode) should not be ruled out if videoconferencing is not available, or appropriate, to question a witness. Similarly, audio only should not be proscribed for committee deliberative meetings if it is the only way for a meeting to be quorate and, therefore, proceed or for a member to participate. These are all matters that can properly be left to a committee's discretion and determination.

Clearly all of these observations apply even more compellingly in the context of the current, or any future pandemic, when committee members, secretariats and witnesses may be shielding, self-isolating or quarantining.

Accordingly, the PPC recommends that Standing Order 259 be amended to allow members to participate in a committee meeting via any electronic means of communication approved by the Speaker; that Standing Order 267 be amended to allow witnesses to be examined by any electronic means of communication approved by the Speaker; and that Rules 1 to 5 in Part 2 of the *Speaker's Procedural Rules* be deleted and replaced with the updated Rules that appear below.

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<sup>153</sup> Mr Peter Katsambanis MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 17 September 2020, pp. 6132–6133.

<sup>154</sup> See the comments of Hon Rob Johnson MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 26 June 2003, p. 9401.

### **Recommendation 2**

That suborder 2 in Standing Order 259 be deleted and the following new suborder be substituted:

- (2) Committee members participating in committee proceedings through any electronic means of communication approved by the Speaker will be counted as present for the purpose of a quorum.

The amended Standing Order will then read:

#### **Quorum**

- 259.** (1) A quorum for committees is two to take evidence and three to deliberate and pass resolutions.
- (2) Committee members participating in committee proceedings through any electronic means of communication approved by the Speaker will be counted as present for the purpose of a quorum.
- (3) If a quorum is not present within 15 minutes of the time set for a meeting, the members present may retire and the Clerk will enter their names in the minutes.
- (4) If during a committee meeting attention is drawn to the absence of a quorum, the Chairman may suspend the committee until a quorum is present or adjourn the committee to some future time.

### **Recommendation 3**

That suborders 3 and 4 in Standing Order 267 be deleted and the following new suborders be inserted:

- (3) Any electronic means of communication approved by the Speaker may be used by a committee to examine a witness.
- (4) Any secure electronic means of communication approved by the Speaker may be used by a committee to take *in camera* evidence.

The amended Standing Order will then read:

#### **Examination of witnesses**

- 267.** (1) The examination of witnesses by a committee will follow the procedural rules determined by the Speaker from time to time.
- (2) Under exceptional circumstances a procedural rule may be varied with the prior approval of the Speaker.
- (3) Any electronic means of communication approved by the Speaker may be used by a committee to examine a witness.
- (4) Any secure electronic means of communication approved by the Speaker may be used by a committee to take *in camera* evidence.
- (5) If a portfolio-related committee, or the Public Accounts Committee in relation to portfolio-related matters allocated to it, is examining a witness, any member of the Assembly, not being a Minister, may attend and at the discretion of the Chairman, ask questions of the witness. That member is not a member of the committee and may not vote, move any motion, be counted for the purpose of a quorum, or be involved in any deliberative part of the committee meeting.



#### **Recommendation 4**

That Rules 1 to 5 in Part 2 of the Speaker's Procedural Rules be deleted and the following new Rules 1 to 4 be substituted:

1. While it is preferable for committee hearings to take place in person, they may at the discretion of the committee take place through any electronic means of communication approved by the Speaker.
2. Electronic means of communication to take closed evidence from witnesses should only proceed once the committee is satisfied the transmission is secure and the closed evidence will not be overheard or recorded by an unauthorised person.
3. Audio-only technology should be used for examination of a witness only when videoconferencing is not available or appropriate.
4. The use of electronic means of communication to take evidence from a witness outside of Western Australia will proceed only after appropriate warnings regarding parliamentary privilege and defamation have been provided in writing to the witness and the Chair is satisfied the witness has received the written warning and understood its implication for evidence about to be given.

The amended *Speaker's Procedural Rules* will then read:

#### **Part 2. Procedures for formal examination of witnesses when using videoconferencing**

Unless a variation is approved by the Speaker, all committees will observe the following procedures when using video-conferencing to examine witnesses —

1. While it is preferable for committee hearings to take place in person, they may at the discretion of the committee take place through any electronic means of communication approved by the Speaker.
2. Electronic means of communication to take closed evidence from witnesses should only proceed once the committee is satisfied the transmission is secure and the closed evidence will not be overheard or recorded by an unauthorised person.
3. Audio-only technology should be used for examination of a witness only when videoconferencing is not available or appropriate.
4. The use of electronic means of communication to take evidence from a witness outside of Western Australia will proceed only after appropriate warnings regarding parliamentary privilege and defamation have been provided in writing to the witness and the Chair is satisfied the witness has received the written warning and understood its implication for evidence about to be given.



## Chapter 4

### How to Better Respond to a Future Pandemic: Ensuring the Capacity of the Legislative Assembly to Function

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If anything kills over 10 million people in the next few decades, it's most likely to be a highly infectious virus rather than a war. Not missiles, but microbes.<sup>155</sup>

Bill Gates, 2015

In an emergency, maintaining public confidence in government is essential. One way of supporting this is to ensure Parliament can operate, to scrutinise government action and represent the wishes of the people. If the physical presence of MPs is not possible due to a pandemic, there is good reason to ensure such scrutiny and representation can occur by electronic means.<sup>156</sup>

Professor Anne Twomey

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#### Introduction

Notwithstanding the overuse of the word 'unprecedented' since the advent of the coronavirus pandemic this year, severe and highly contagious airborne viruses are not unprecedented. Just over a century ago, the Spanish Flu pandemic killed more people than any disease in recorded history (estimates vary upwards to 50 million fatalities),<sup>157</sup> and since the commencement of the 21st century, the world has experienced a number of major outbreaks of airborne viral diseases, including Severe Acute Respiratory Syndrome (SARS) in 2003, the H1N1 influenza pandemic in 2009, and Middle East Respiratory Syndrome (MERS) in 2012. The risk of such highly transmissible diseases becoming an epidemic or a pandemic is exacerbated in an age of mass and rapid global transportation—where an asymptomatic or a pre-symptomatic carrier can traverse the world in under a day.

As has been amply proven by the current pandemic, parliamentary sittings become more rather than less critical because the urgent emergency legislation required to deal with the pandemic can *only* come into force after the requisite bills have been introduced into and passed by the Parliament. A number of the parliaments which announced lengthy suspensions of their sittings in March and April this year, were recalled within weeks to pass urgent COVID-19 related legislation. Accordingly, it is sensible to plan for the contingency of another rapid-onset pandemic, and it is also sensible to plan for the contingency of a more virulent

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<sup>155</sup> Bill Gates, 'The next outbreak? We're not ready', TED2015

[https://www.ted.com/talks/bill\\_gates\\_the\\_next\\_outbreak\\_we\\_re\\_not\\_ready/transcript](https://www.ted.com/talks/bill_gates_the_next_outbreak_we_re_not_ready/transcript)

<sup>156</sup> Professor Anne Twomey, 'A virtual Australian parliament is possible – and may be needed – during the coronavirus pandemic', *The Conversation*, 25 March 2020 <https://theconversation.com/a-virtual-australian-parliament-is-possible-and-may-be-needed-during-the-coronavirus-pandemic-134540>

<sup>157</sup> CDC, Centers for Disease Control and Prevention, '1918 Pandemic Influenza Historic Timeline' <https://www.cdc.gov/flu/pandemic-resources/1918-commemoration/pandemic-timeline-1918.htm> and United States, The National Archives and Records Administration, 'The Deadly Virus: The Influenza Epidemic of 1918' <https://www.archives.gov/exhibits/influenza-epidemic/>

pandemic: one in which some, or possibly all, members and House staff are physically incapable of attending sittings of the Assembly, whether through illness or caring for someone who is ill; through forced quarantine, self-isolation, lockdowns or border restrictions; or through the inability to travel from a remote electorate.

## Complications to Organising Sittings of the Legislative Assembly

Organising sittings of the Parliament of Western Australia in an extreme pandemic scenario would be considerably more difficult than would be the case for many other parliaments in the Westminster tradition. First, both the Assembly and the Council have a high quorum requirement, i.e. the number of members who must be present to conduct business. The *Constitution Acts Amendment Act 1899* (CAAA) stipulates as follows:

### 24. Quorum — division, casting vote

The presence of at least one-third of the members of the Legislative Assembly, exclusive of the Speaker, shall be necessary to constitute a quorum for the despatch of business; and all questions which shall arise in the Legislative Assembly shall be decided by a majority of votes of the members present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting vote: Provided always, that if the whole number of members constituting the Legislative Assembly shall not be exactly divisible by 3, the quorum of the Legislative Assembly shall consist of such whole number as is next greater than one-third of the members of the Legislative Assembly.

There is a parallel provision for the Legislative Council at section 14 in the same Act.

For the Assembly, one third of its 59 members is 20 members, excluding the Speaker. By contrast, the Canadian House of Commons, with 338 members, also has a quorum of 20 members—which *includes* the Speaker;<sup>158</sup> the United Kingdom House of Commons with 650 members has a quorum of 40 Members, which likewise includes the Speaker;<sup>159</sup> and the Australian House of Representatives with 151 members, has a quorum of 31 members, which includes the Chair.<sup>160</sup> (It is interesting to note that section 39 of the Australian Constitution stipulates, ‘the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers’.<sup>161</sup> However, the same section provides for the House to amend this ratio, which the House did in section 3 of the *House of Representatives (Quorum) Act 1989*, reducing it to the ‘presence of at least one-fifth of the whole number of the members’.<sup>162</sup> The

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<sup>158</sup> Section 48 of the Canadian *Constitution Act 1867* provides: ‘The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers, and for that Purpose the Speaker shall be reckoned as a Member’

<https://laws-lois.justice.gc.ca/eng/Const/page-2.html#docCont>

<sup>159</sup> Sir Malcolm Jack, ed, *Erskine May’s Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 24th edn, LexisNexis, London, 2011, p. 319.

<sup>160</sup> Parliament of Australia, ‘Infosheet 24 – Glossary of procedural terms’

[https://www.aph.gov.au/About\\_Parliament/House\\_of\\_Representatives/Powers\\_practice\\_and\\_procedure/00\\_-\\_Infosheets/Infosheet\\_24\\_-\\_Glossary\\_of\\_procedural\\_terms](https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/00_-_Infosheets/Infosheet_24_-_Glossary_of_procedural_terms)

<sup>161</sup> Section 39, *Commonwealth of Australia Constitution Act*

[https://www.aph.gov.au/about\\_parliament/senate/powers\\_practice\\_n\\_procedures/constitution](https://www.aph.gov.au/about_parliament/senate/powers_practice_n_procedures/constitution)

<sup>162</sup> Section 3, *House of Representatives (Quorum) Act 1989*

<https://www.legislation.gov.au/Details/C2004A03790>

Australian Senate similarly reduced its one-third ratio quorum under section 22 of the Australian Constitution to one-quarter in section 3 of the *Senate (Quorum) Act 1991*.<sup>163</sup>

A second impediment is the size of Western Australia and, as a corollary, the remoteness of some electorates from Parliament House. If a future pandemic were to ground air travel, it would take the Member for Kimberley approximately 23 hours of straight driving to reach Perth from Broome, it would take the Member for Pilbara approximately 17 hours from Karratha, and the Member for North West Central approximately nine hours from Carnarvon.<sup>164</sup> By contrast, all members of the Legislative Assembly of the Australian Capital Territory could drive in from their electorates to attend sittings in less than 30 minutes, while members of the Parliament of Tasmania, none of whom fly to Parliament House in Hobart, could all complete the drive in under five hours.

The final impediment to organising meetings of the Assembly is the concept of 'presence' and 'members present' in section 24 of the CAAA. Section 24 provides:

The presence of at least one-third of the members of the Legislative Assembly, exclusive of the Speaker, shall be necessary to constitute a quorum for the despatch of business; and all questions which shall arise in the Legislative Assembly shall be decided by a majority of votes of the members present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting vote ...

The constitutional issue which arises from section 24 is whether members must be *physically* present in the Chamber to comply with the requirement of 'presence' and 'members present', or whether a member, participating virtually, can be counted towards a quorum and vote.

The CAAA was framed in the latter years of the nineteenth century and, as Professor Anne Twomey has observed, nineteenth-century constitutional framers 'did not envisage Parliament sitting with members dispersed and communicating by way of technology'.<sup>165</sup> As the Clerk of the House of Representatives in the Federal Parliament recently confirmed with respect to similar wording regarding 'presence' for quorums and voting in the Australian Constitution: 'This requirement has always been interpreted as meaning that "the presence" means physical presence'.<sup>166</sup>

One school of thought is that it is up to Parliament, and not a court, to decide this issue. Proponents point to the 'exclusive cognisance' aspect of parliamentary privilege, and in particular the right of a House of Parliament to judge the lawfulness of its own proceedings. As described in the 1999 report of the influential UK Joint Committee on Parliamentary Privilege:

Both Houses have long claimed, and succeeded in maintaining, the right to be the sole judges of the lawfulness of their own proceedings and to determine, or depart from, their own codes

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<sup>163</sup> Section 3, *Senate (Quorum) Act 1991* <https://www.legislation.gov.au/Details/C2004A04213>

<sup>164</sup> Driving times have been calculated from Google maps.

<sup>165</sup> Professor Anne Twomey, 'A virtual Australian parliament is possible – and may be needed – during the coronavirus pandemic', *The Conversation*, 25 March 2020 <https://theconversation.com/a-virtual-australian-parliament-is-possible-and-may-be-needed-during-the-coronavirus-pandemic-134540>

<sup>166</sup> Ms Claressa Surtees quoted in Anna Henderson, 'Why are politicians returning to Canberra amid a coronavirus crackdown?', *ABC News Online*, 23 March 2020 <https://www.abc.net.au/news/2020-03-23/social-distancing-parliament-returns-coronavirus-stimulus/12079024>

of procedure. Courts of law accept Parliament's claim that they have no right to inquire into the propriety of orders or resolutions of either House relating to their internal procedure or management.<sup>167</sup>

The other, and conflicting, school of thought is that the correct interpretation of section 24 of the CAAA is within the jurisdiction of the court. That if the Assembly ever recorded in its Votes and Proceedings that a quorum included a member participating virtually, or a vote of a member participating virtually, a court could adjudicate whether the Assembly was conducting its proceedings in accordance with, or in breach of, section 24 of the CAAA and, in so doing, determine whether section 24 of the CAAA permits virtual quorums and virtual votes.

Which school of thought is correct has not been the subject of a court determination. And therein lies the problem: if the Assembly were to pass a resolution to sanction virtual quorums and votes, and virtual quorums and votes followed, then such parliamentary proceedings could become the subject of court action should it be alleged that the Assembly had not complied with section 24 of the CAAA.

It may be that the Assembly would prevail in such litigation, either by persuading the court that the matter was not justiciable, or, if it was justiciable, to persuade the court that 'presence' and 'members present' in section 24 of the CAAA extends to members participating virtually. What is certain, is that a legal challenge to virtual presence and voting would be extremely time-consuming and expensive—and its capacity to cast doubt over legislation could be highly problematic for the Assembly.

The Parliament of Western Australia is not an orphan in finding itself in this uncertain situation regarding 'presence'. Other legislatures which have regarded themselves as being bound to establish a 'physical' presence for transacting business and voting, have experienced significant difficulties in setting up safe and socially distanced sittings during the pandemic.

The Irish National Parliament, for example, has proceeded on the basis that virtual participation and voting is unconstitutional. Article 15(3) of its Constitution prescribes that: 'The Houses of the Oireachtas shall sit in or near the City of Dublin or in such other place as they may from time to time determine' and Article 15(11) stipulates, 'All questions in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present and voting other than the Chairman or presiding member'.<sup>168</sup> Legal advice provided to the Clerk of the Dáil Éireann (Lower House) was that:

these constitutional provisions disallowed virtual meetings of the Oireachtas, because the online format would not meet the constitutional definition of a parliamentary sitting as set out in Article 15. This relates specifically to the fact that for a virtual meeting Members do not sit publicly in the same place, and they are not within the precincts of either House, a provision which allows Members to benefit from parliamentary privileges and immunities ...<sup>169</sup>

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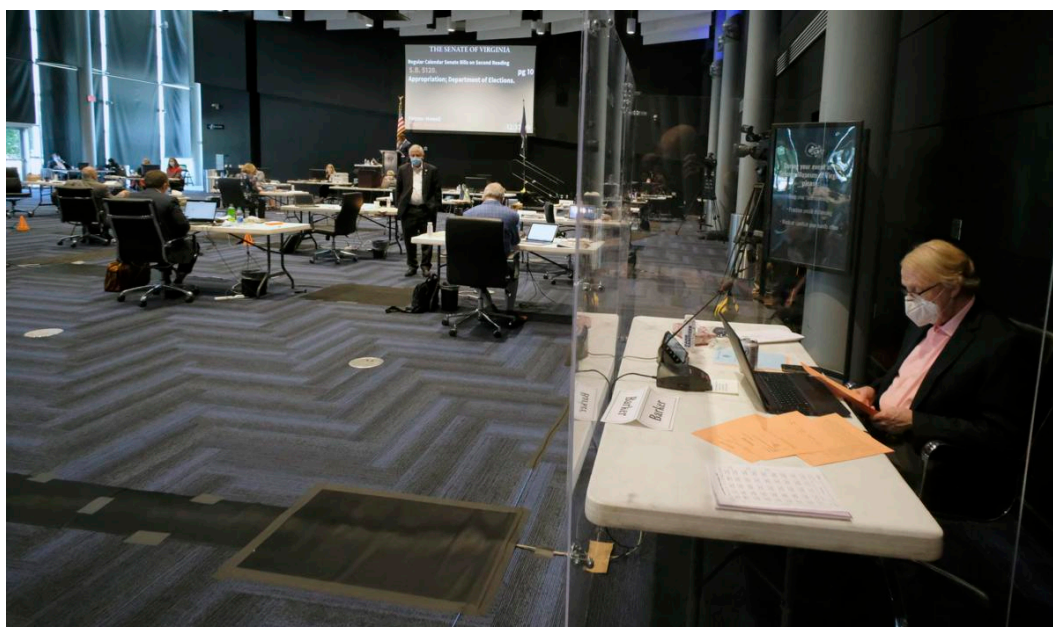
<sup>167</sup> House of Lords and House of Commons, Joint Committee on Parliamentary Privilege, Report: *Volume 1—Report and Proceedings of the Committee*, London: The Stationery Office, 1999, p. 62.

<sup>168</sup> *Constitution of Ireland* <http://www.irishstatutebook.ie/eli/cons/en/html#part4>

<sup>169</sup> Dr Mary Murphy, 'Ireland's new Parliament: Political and physical change coincide amid Covid-19 crisis', Hansard Society blog post, 9 July 2020 <https://www.hansardsociety.org.uk/blog/irelands-new-parliament-political-and-physical-change-coincide-amid-covid-19>

As a consequence, the Oireachtas opted for a 'split-site solution'.<sup>170</sup> It hired, at a cost of €25,000 per day, the 2,000-seat Dublin Convention Centre which allowed all 160 members of the Dáil Éireann—distanced two-metres apart over three tiers of the auditorium—to participate in debates and votes.<sup>171</sup> When proceedings did not require the taking of votes, a smaller subset of members—capped at 50—would meet in the actual Dáil Chamber.

In the United States, legislatures which similarly relocated to safely accommodate in-person sittings included the New Hampshire House of Representatives which convened on a drained Olympic-sized ice hockey rink;<sup>172</sup> the Arkansas House of Representatives which met in a basketball arena;<sup>173</sup> the Virginia House of Delegates which met under a marquee on the grounds of the Capitol;<sup>174</sup> and the Virginia Senate which met at a Science Museum, where one Senator, who had recently recovered from heart surgery and pneumonia, participated in proceedings from inside a custom-made perspex box.<sup>175</sup>



**Senator George Barker in a perspex box at the socially distanced sitting of the Virginia Senate**

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> Holly Ramer, 'Getting Out of the House: Masked Legislators meet in Arena', *USNews Online*, 11 June 2020 <https://www.usnews.com/news/best-states/new-hampshire/articles/2020-06-11/getting-out-of-the-house-masked-legislators-meet-in-arena>

<sup>173</sup> Andrew DeMillo, 'Arkansas lawmakers meet at arena over coronavirus concerns', *AP NEWS*, 27 March 2020 <https://apnews.com/article/a8f4d3abe4f9769eca1f7c578da80b45>

<sup>174</sup> Marie Albiges, 'Holding a General Assembly session during the coronavirus pandemic cost \$66,000', *The Virginia Pilot*, 6 May 2020 <https://www.pilotonline.com/government/virginia/vp-nw-coronavirus-costs-reconvene-session-general-assembly-20200506-daohyvfsjjap7ofmaybfkxi5ii-story.html>

<sup>175</sup> Laura Vozzella, 'Virginia state senator tests positive for coronavirus a week after meeting in special session', *The Washington Post*, 26 August 2020 [https://www.washingtonpost.com/local/virginia-politics/senator-bryce-reeves-positive-coronavirus/2020/08/25/76d74ac4-e701-11ea-97e0-94d2e46e759b\\_story.html](https://www.washingtonpost.com/local/virginia-politics/senator-bryce-reeves-positive-coronavirus/2020/08/25/76d74ac4-e701-11ea-97e0-94d2e46e759b_story.html)





**The Virginia House of Delegates meeting under a marquee on the grounds of the Capitol**

To comply with social-distancing requirements while holding their in-person sittings, a number of Australian legislatures have expanded the usable floor space of their Chambers by officially incorporating their Presiding Officers' galleries (as did the Western Australian Legislative Council and the South Australian House of Assembly) or by allowing members to sit in and participate in proceedings from their upstairs Public and Press Galleries (as did the Legislative Council of New South Wales).

The Australian Federal Parliament instituted 'hybrid' sittings when it returned from the winter recess on Monday 24 August 2020, at a time when Victoria was experiencing a severe second wave of coronavirus transmission which meant its Federal parliamentarians were unlikely to be able to attend sittings in Canberra. A physical quorum was present in the House of Representatives and the Senate, as required constitutionally, but a number of members who were able to establish that it was 'essentially impossible, unreasonably impracticable, or would give rise to an unreasonable risk for the member to physically attend Parliament'<sup>176</sup> (House of Representatives members) or that they were 'prevented from physically attending ... because of travel restrictions, quarantine requirements or personal health advice'<sup>177</sup> (Senate members) were able to participate in debate and Question Time via video link. Although the image of the member participating remotely appeared on large screens in the Chamber while they spoke, and their contributions were recorded in *Hansard*, these members were not counted as part of either House's quorum, nor could they vote.

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<sup>176</sup> House of Representatives, 'Agreement for Members to Contribute Remotely to Parliamentary Proceedings', 20 August 2020  
<https://www.attorneygeneral.gov.au/media/media-releases/remote-contributions-approved-next-parliamentary-fortnight>

<sup>177</sup> The Senate, Procedure Committee, *First Report of 2020*, August 2020, Parliament House, Canberra, p. 5  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Procedure/2020/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Procedure/2020/Report)

Another Australian legislature which took the hybrid route was the Legislative Assembly of Victoria. Section 40 of the Victorian *Constitution Act 1975* provides:

**40 Quorum of Assembly**

- (1) The Assembly shall not proceed to the dispatch of business unless there be present exclusive of the Speaker at least twenty of the members.
- (2) Subject to section 18 all questions arising in the Assembly shall be decided by a majority of members present other than the Speaker and when the votes are equal the Speaker shall have a casting vote.<sup>178</sup>

During the height of the second wave of the pandemic, the Victorian Legislative Assembly conducted socially distanced proceedings in the Chamber with a bare quorum of masked members who spoke from behind banks of perspex screens. Given the severity and duration of the crisis in the State, from 3 September, some members were also permitted to participate in debate in the Chamber via audio link or video link, although, as with the Federal Parliament, they were not counted as present for the purposes of a quorum, nor could they vote in divisions. Members participating remotely could, however, 'register their opinion on the question'—either 'yes' or 'no'—by notifying the Clerk in writing, and this opinion would be published in *Hansard* and the Votes and Proceedings.<sup>179</sup>



**Perspex screens, masks, minimum quorum and social distancing in the  
Legislative Assembly of Victoria**

<sup>178</sup> Section 40, *Constitution Act 1975* <https://content.legislation.vic.gov.au/sites/default/files/2020-04/75-8750aa222%20authorised.pdf>

<sup>179</sup> Hon Jacinta Allan MP, Leader of the House, Legislative Assembly, Parliament of Victoria, *Parliamentary Debates* (Hansard), 13 October 2020, p. 2530.

The unicameral Parliament of Queensland has not yet held a hybrid sitting. On 22 April 2020, however, it enacted the *COVID-19 Emergency Response Act 2020* which amended the *Parliament of Queensland Act 2001* to enable meetings of the Legislative Assembly to take place, by whole or in part, via technology such as teleconferencing or videoconferencing during the current COVID-19 emergency, and to clarify that members of Parliament may participate in parliamentary committee meetings via technological means.

The amending legislation introduced definitions of ‘present’ and ‘voting’ as follows:

**present**, in relation to a member at a meeting of the Assembly or a Committee of the Whole House, includes, when the Assembly or the Committee is meeting in exceptional circumstances, the member being present at the meeting—

- (a) by telephone or video or other electronic means; or
- (b) by proxy.

**voting**, in relation to a member at a meeting of the Assembly or a Committee of the Whole House, includes the member voting at the meeting—

- (a) when the Assembly or the Committee is meeting in exceptional circumstances—by telephone or video or other electronic means; or
- (b) by proxy.<sup>180</sup>

The quorum for the House of Commons at Westminster is 40 members, which can include the Speaker. This quorum is not stipulated by a written constitution and, except for divisions, this quorum is not enforced.<sup>181</sup> Indeed, Standing Order 41(2) provides that the House shall not be counted at any time.<sup>182</sup> Accordingly, in proceedings where a vote is not required or anticipated, the House of Commons can proceed with a Minister, a member and a Chair. Given this extraordinarily low quorum and voting requirement, the House of Commons was not under pressure to entirely abandon sittings within its historic Chamber during the pandemic. Nonetheless, in April 2020 the House of Commons established hybrid proceedings. Up to 50 members, complying strictly with two-metre social distancing requirements, met in person in the Chamber at Westminster, while the remainder of the 650 members, including Ministers, rotated—up to 120 members at a time—through remote participation via Zoom. From 12 May for a period of five weeks, the virtual participants were also permitted to vote remotely in divisions by means of a secure digital voting system. Once the Government indicated that it expected MPs to return to Westminster to participate in person, remote voting was discontinued, but proxy voting—essentially, another form of remote voting—was permitted for members who belonged to ‘clinically vulnerable’ or ‘clinically extremely vulnerable’<sup>183</sup> groups, and approximately 150 members of the Commons have opted to vote this way. Following a member breaching COVID-19 testing guidelines by giving a speech in the

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<sup>180</sup> Section 9A, *Parliament of Queensland Act 2001*

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-081>

<sup>181</sup> Standing Order 41(1) reads: ‘If it should appear that fewer than forty Members (including the occupant of the chair and the tellers) have taken part in a division, the business under consideration shall stand over until the next sitting of the House and the next business shall be taken’.

<sup>182</sup> Standing Order 41(2) reads: ‘The House shall not be counted at any time’.

<sup>183</sup> Dr Ruth Fox and Dr Brigid Fowler, ‘Procedure under Coronavirus restrictions: written evidence to the House of Commons Procedure Committee’, Hansard Society, 5 June 2020  
<https://www.hansardsociety.org.uk/publications/submissions/procedure-under-coronavirus-restrictions-written-evidence-to-the-house-of-commons-procedure-committee>



Commons on 28 September while awaiting coronavirus test results (which turned out to be positive), the Commons has announced that while it will continue with in-person sittings, it will be installing perspex screens in the Chamber.<sup>184</sup> Following the lead of the Commons, the House of Lords similarly moved towards hybrid proceedings, and introduced remote voting on 15 June 2020.<sup>185</sup>



**A member of the House of Commons participating in proceedings via Zoom**

One of the most impressive instances of virtual attendance and voting comes from the Brazilian Chamber of Deputies, which is not a legislature within the Westminster tradition.<sup>186</sup> On 17 March the Chamber passed a resolution which permitted virtual sittings and voting. The Chamber conducted its first virtual plenary session on 25 March, and more than 500 of the Chamber's 513 MPs participated. The Chamber has regularly sat in virtual mode since that time.

In reviewing the efforts of other parliaments to include as many members as possible in proceedings to preserve their right 'to have their voices heard',<sup>187</sup> the PPC also paid attention to remote voting because the Committee is of the view that it is not enough that a member can contribute to debate remotely—particularly, if the duration of a pandemic were to be protracted. The PPC considers that every member is entitled to vote on every question before

<sup>184</sup> 'Coronavirus: Parliament brings in new measures to tackle Covid', *BBC NEWS Online*, 6 October 2020 <https://www.bbc.com/news/uk-politics-54442764>

<sup>185</sup> UK Parliament, 'Online voting introduced in House of Lords', June 2020 <https://www.parliament.uk/business/news/2020/june/lords-online-voting/>

<sup>186</sup> Inter-Parliamentary Union, 'Preserving parliament's functionality during the COVID-19 pandemic: Brazil's experience', 20 July 2020 <https://www.ipu.org/innovation-tracker/story/preserving-parliaments-functionality-during-covid-19-pandemic-brazils-experience>

<sup>187</sup> The Senate, Procedure Committee, *First Report of 2020*, August 2020, Parliament House, Canberra, p. 2 [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Procedure/2020/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Procedure/2020/Report)

the House. To hold otherwise is to undermine the principle that every constituency should have an equal say, through their elected member, in determining laws and framing resolutions.

The PPC notes that under pandemic arrangements in the Assembly this year, a significant number of members did not have an opportunity, for a number of sittings, to participate in debate on bills and motions; to present petitions, grievances or private members' statements on behalf of their constituents; or to exercise a personal vote. While the PPC acknowledges that pairing of Assembly members who were themselves vulnerable or who represented vulnerable communities was the appropriate protective course to take in an uncertain and evolving crisis, the Committee is still concerned that members should not be disadvantaged or disenfranchised from carrying out their parliamentary roles because they represent a remote or vulnerable community or, because of their age, elevated health risk, or caring responsibilities. As Dr Stephen Mills has commented, in the context of the pandemic:

The beauty of parliament's electorate-based design is that members ... can bring to ... attention, however fleetingly and imperfectly, their local issues and insights and judgment.

Not all parts of Australia will experience this crisis in the same way. So local stories are not dispensable but vital: both the success stories and the stories of hardship, the local heroes and the silent Australians who are suffering from joblessness, isolation and trauma as well as the virus.<sup>188</sup>

Of particular concern, electorates with a higher proportion of Aboriginal citizens—Kimberley and Pilbara and to a lesser extent North West Central—posted among the lengthiest absences of members and, hence, these communities were voiceless in the Chamber.

With respect to remote voting, the PPC was encouraged to find that a number of parliaments had, at very short notice, introduced a diverse range of simple, secure and user-friendly methods to enable remote voting. Members of the European Parliament, for example, were emailed a ballot paper which they had to complete with either 'yes' or 'no' and sign, and which they then scanned or photographed and emailed back from their official European Parliament email address to a secure online European Parliament mailbox.<sup>189</sup> The members of the Tynwald on the Isle of Man entered 'yes' or 'no' in a chat facility embedded in the videoconferencing platform, Microsoft Teams;<sup>190</sup> while members of the Jersey States Assembly, also using Microsoft Teams, opted to use the survey instrument Microsoft Forms.<sup>191</sup> In the Legislative Assembly of Manitoba, members participating remotely via Zoom were

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<sup>188</sup> Dr Stephen Mills, "'Where no counsel is, the people fall': why parliaments should keep functioning during the coronavirus crisis", *The Conversation*, 27 March 2020 <https://theconversation.com/where-no-counsel-is-the-people-fall-why-parliaments-should-keep-functioning-during-the-coronavirus-crisis-134772>

<sup>189</sup> European Parliament, European Parliamentary Research Service, 'Remote voting in the European Parliament and national parliaments', 25 March 2020 [https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/649348/EPRS\\_ATAG\(2020\)649348\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/649348/EPRS_ATAG(2020)649348_EN.pdf)

<sup>190</sup> Electoral Reform Society, 'Isle of Man: World's oldest parliament goes online': Interview with Hon Juan Watterson, Speaker of the House of Keys, 6 April 2020 <https://www.electoral-reform.org.uk/isle-of-man-worlds-oldest-parliament-goes-online/>

<sup>191</sup> Dr Mark Egan, 'How Jersey's legislature has risen to the Covid-19 challenge', Hansard Society blog post, 10 June 2020 <https://www.hansardsociety.org.uk/blog/how-jerseys-legislature-has-risen-to-the-covid-19-challenge>

required to be in front of their computer and visible through their webcam when division bells concluded, following which there was an alphabetical rollcall during which they would unmute themselves when their name was called and announce 'I vote aye' or 'I vote nay'.<sup>192</sup>

The House of Commons introduced a remote electronic voting system, which built on an in-house platform used by members to table questions and motions. The system featured members being advised in advance of an impending division by email and text messages, before they were emailed a voting link in which data was encrypted and sent over a secure link and accessed after multi-factor identification by the member on any of their parliamentary devices.<sup>193</sup> Members then had 15 minutes to vote and would receive an email confirming the receipt of their vote. Once results were aggregated, they were subject to a 'sense check' by Commons clerks before being announced by the Speaker.<sup>194</sup> Apart from a few initial glitches, the system worked extremely well, with the Leader of the House, Rt Hon Jacob Rees-Mogg commenting that it enabled remotely participating members to vote while 'enjoying a sunny walk'.<sup>195</sup> Indeed, according to former House of Commons Clerk Sir David Natzler, the system 'was a victim of its own success. Members liked it only too much and it worked too well'.<sup>196</sup> After five remote divisions, the Government reverted to in-person divisions.

The PPC has been advised that work has been undertaken by Parliament's Audio Visual and IT teams on developing a limited 'hybrid' solution for the Assembly (should the need arise). This project envisages two monitors to be swapped in and out, with relative ease, on either side of the Chamber, with the necessary hardware and software installed to permit a member, or members, to participate virtually in the Chamber from a remote location. The aim is for a member, using a laptop equipped with a microphone, webcam and decent Internet connection, to deliver his or her speech and appear on the monitors in the Chamber, and for such feed to form part of the proceedings broadcast on the Parliament's website. The project is in its developmental stage and it may be that Parliament will need to approach the Government for additional resources and expertise to ensure the project's success.

## A Suggested Way Forward

The PPC concurs wholeheartedly with Premier McGowan's sentiments that, if at all possible, the: 'Parliament must continue to sit. We need to keep doing our jobs and set that example for the rest of the community. ... Let us make sure that we provide assurance to the people of our State'.<sup>197</sup> If, however, a time were to come when extreme circumstances rendered it

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<sup>192</sup> Legislative Assembly of Manitoba, Votes and Proceedings, 7 October 2020, pp. 12–19, and Legislative Assembly of Manitoba, *Virtual Sitting Members' Guide*, October 2020, p. 13.

<sup>193</sup> House of Commons, Procedure Committee, Second Report of Session 2019–21, 'Procedure under coronavirus restrictions: remote voting in divisions', 8 May 2020  
<https://committees.parliament.uk/publications/1020/documents/8131/default/>

<sup>194</sup> *Ibid.*, p. 13.

<sup>195</sup> Sir David Natzler, 'Coronavirus and the hybrid parliament: how the government moved the Commons backwards on remote participation', UCL, The Constitution Unit, University College London, 23 June 2020 <https://constitution-unit.com/2020/06/23/coronavirus-and-the-hybrid-parliament-how-the-government-moved-the-commons-backwards-on-remote-participation/>

<sup>196</sup> *Ibid.*

<sup>197</sup> Hon Mark McGowan MLA, Legislative Assembly, *Parliamentary Debates* (Hansard), 19 March 2020, p. 1705.

impractical or impossible for a quorum of members to meet physically, then the PPC is of the view that the Assembly should have the authority to conduct its proceedings virtually, and to vote virtually.

While an argument could be made that the Assembly (and the Council) could, *in extremis*, define ‘present’ as meaning ‘virtually present’ under the *aegis* of exclusive cognisance, i.e. parliaments’ jurisdiction to control their internal affairs, proceedings and procedures without interference from the courts, there is no guarantee that a court would agree that exclusive cognisance is a complete bar to judicial scrutiny. Accordingly, it seems prudent to remove all scope for doubt by amending the CAAA.

#### **Recommendation 5**

That the *Constitution Acts Amendment Act 1899* be amended to enable remote participation and remote voting.

Suggested wording to change the *Constitution Acts Amendment Act 1899* could include something along the following lines:

#### **Section 24(a)**

Presence for the purposes of this section shall be determined by the Standing Orders of the Legislative Assembly and can include provision for presence and voting by electronic means.

The reference to Standing Orders in the suggested amendment underscores that ultimately it is for the House, and the House alone, to determine when, how, and in what circumstances virtual participation, virtual quorums and virtual voting may occur.

As a follow-on to Recommendation 5, the PPC would also recommend:

#### **Recommendation 6**

That the Government of Western Australia prioritise funding to develop the technological capacity to enable members to participate and vote remotely.

Another matter which the PPC considered, and invited feedback from members, is whether it should recommend protocols with respect to members or staff who present in the Chamber with flu-like symptoms, or who refuse to wear a mask if a direction has been given to occupants of the building to do so. Such a case has been reported from the Illinois House of Representatives where the members voted, on a bipartisan basis, to remove a member who refused to wear a mask after the House had adopted a mask-wearing rule.<sup>198</sup>

A number of members submitted responses to the PPC along the lines of ‘of course’ the Speaker should be able to exclude a member who was potentially contagious and a health risk to other members and staff, with one member pointing out that if a member can be excluded

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<sup>198</sup> Natalie Andes and Caroline Kelly, ‘Illinois House votes to remove representative who refused to wear a mask in session, *CNN Online*, 21 May 2020 <https://www.msn.com/en-us/news/politics/illinois-house-votes-to-remove-representative-who-refused-to-wear-a-mask-in-session/ar-BB14odHg>



from entering the Chamber for simply wearing inappropriate attire, then 'such powers [of exclusion] are not really that exceptional'.<sup>199</sup>

The PPC is of the view that the Speaker has the authority to insist that a member not enter, or remove themselves from, the Chamber, if they are exhibiting flu-like symptoms or refusing to wear a face mask in the middle of a pandemic. Furthermore, the PPC believes that the Speaker would, and should, enjoy the support of the House if suspension was necessary to enforce this common sense approach.



**A sitting of the Bulgarian National Assembly in March 2020**

At an operational level, it would be a sensible precaution for the Legislative Assembly to maintain adequate stocks of quality face masks, disposable gloves, hand sanitiser and antibacterial wipes. Again, at an operational level, during any period of community transmission, consideration should be given to adopting the example of the Parliament of New South Wales which tests everyone who enters the building on sittings days with a non-contact thermometer and sends them home if they record two temperatures above 37.5 degrees.<sup>200</sup> Another possible risk-mitigation measure, in the face of a virulent pandemic, could be the installation of thermal imaging at the entrances to the building, something which a number of European parliaments have instituted. Given these are operational matters, the PPC does not consider it necessary to make any formal recommendations.

**Hon Peter Watson MLA  
CHAIR**

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<sup>199</sup> Mr Zak Kirkup MLA, submission, 8 August 2020.

<sup>200</sup> Given this temperature testing regime, the NSW Legislative Assembly introduced the following Sessional Order: '249B. The Speaker may direct a Member to leave the Chamber in circumstances where the Member concerned cannot demonstrate that they have cleared temperature and symptom screening that day or where the Member exhibits symptoms of Covid-19. This Sessional Order operates until 31 December 2020 or an earlier date to be advised by the Speaker, in consideration of public health advice on the Covid-19 pandemic'.



# Appendix One

## Committee's Functions and Powers

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Legislative Assembly Standing Order 284 provides the following functions, powers and terms of reference to the Procedure and Privileges Committee –

### **Procedure and Privileges Committee**

- 284.** (1) A Procedure and Privileges Committee will be appointed at the beginning of each Parliament to –
- (a) examine and report on the procedures of the Assembly; and
  - (b) examine and report on issues of privilege; and
  - (c) wherever necessary, confer with a similar committee of the Council.
- (2) Membership of the committee will consist of the Speaker and four other members as the Assembly appoints.
- (3) Standing Order 278 will apply except that where possible any report of the committee will be presented by the Deputy Speaker.
- (4) When consideration of a report from the committee is set down as an order of the day it will be considered using the consideration in detail procedure.



## Appendix Two

### COVID-19 Statement by the Presiding Officers

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#### PARLIAMENT OF WESTERN AUSTRALIA

PARLIAMENT HOUSE, PERTH, WESTERN AUSTRALIA, 6000

TELEPHONE: (+61 8) 9222 7222

Monday 16 March 2020

#### COVID-19- Statement by the Presiding Officers of the Parliament of Western Australia

Following the declaration of a state of emergency in Western Australia in response to COVID -19 we are resolved that our Parliament, insofar as possible, should continue to fulfil its important constitutional duties of passing legislation, holding Government to account and, crucially, representing the views of the people of Western Australia.

In order to preserve the operation of Parliament, we have taken temporary, proportionate and reasonable measures to reduce the risk of transmission of the virus to protect staff, members and those that attend the Parliament. In doing so we are protecting the health and safety of the broader community. From Tuesday, 17 March 2020 cancellation of the following services will be implemented:

- school and public tours
- all functions and events hosted at Parliament House
- Dining Room Bookings with guests

Additionally, applications to hold a rally at Parliament House will not be approved.

Whilst the Public Galleries of both Houses will remain open the number of people permitted entry will be limited to a maximum of 10 at any one time. West Australian's are encouraged to watch live proceedings via broadcast and read transcripts of what was said in Parliament on our website ([www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)).

Members of Parliament and essential staff will continue to access Parliament House to facilitate Parliamentary sittings. In the interests of openness and transparency, accredited journalists will continue to have access to the Parliament and report on proceedings.

We wish to reassure Western Australians that we are monitoring this situation closely. Our response will continue to be informed by the expert advice we are receiving from health authorities.

We will keep the community informed of any developments as this situation continues to evolve. These temporary measures will be kept under review and the Heads of the Parliamentary departments' are briefing us on a daily basis.

Hon Kate Doust MLC  
President of the Legislative Council

Hon Peter Watson MLA  
Speaker of the Legislative Assembly



## Appendix Three

### Bills Dealt with Under the COVID-19 Temporary Order

	Bill Title	Assembly First Reading	Assembly Third Reading	Council First Reading	Council Third Reading	Council Amendments Agreed to by Assembly
1	Emergency Management Amendment (COVID-19 Response) Bill 2020	31/03/2020	31/03/2020	31/03/2020	1/04/2020	2/04/2020
2	Treasurer's Advance Authorisation Bill 2020	31/03/2020	31/03/2020	31/03/2020	1/04/2020	N/A
3	Criminal Code Amendment (COVID-19 Response) Bill 2020	31/03/2020	31/03/2020	31/03/2020	1/04/2020	N/A
4	Transport (Road Passenger Services) Amendment (COVID-19 Response and Regional Assistance) Bill 2020	31/03/2020	31/03/2020	1/04/2020	2/04/2020	N/A
5	Guardianship and Administration Amendment (Medical Research) Bill 2020	1/04/2020	1/04/2020	1/04/2020	2/04/2020	2/04/2020
6	Family Violence Legislation Reform (COVID-19 Response) Bill 2020	2/04/2020	2/04/2020	31/03/2020	1/04/2020	N/A
7	Lotteries Commission Amendment (COVID-19 Response) Bill 2020	15/04/2020	15/04/2020	16/04/2020	16/04/2020	16/04/2020
8	Local Government Amendment (COVID-19 Response) Bill 2020	15/04/2020	15/04/2020	16/04/2020	16/04/2020	N/A
9	Pay-roll Tax Relief (COVID-19 Response) Bill 2020	15/04/2020	15/04/2020	16/04/2020	16/04/2020	N/A
10	Residential Tenancies (COVID-19 Response) Bill 2020	16/04/2020	16/04/2020	17/04/2020	17/04/2020	20/04/2020
11	Commercial Tenancies (COVID-19 Response) Bill 2020	16/04/2020	16/04/2020	17/04/2020	17/04/2020	20/04/2020
12	Commercial Tenancies (COVID-19 Response (Early Termination)) Bill 2020	16/04/2020	N/A	N/A	N/A	N/A
13	Mandatory Testing (Infectious Diseases) Amendment (COVID-19 Response) Bill 2020	12/05/2020	12/05/2020	12/05/2020	14/05/2020	N/A
14	Workers' Compensation and Injury Management Amendment (COVID-19 Response) Bill 2020	24/06/2020	11/08/2020	11/08/2020	12/08/2020	13/08/2020
15	Public Health Amendment (COVID-19 Response) Bill 2020	11/08/2020	11/08/2020	12/08/2020	18/08/2020	19/08/2020
16	COVID-19 Response and Economic Recovery Omnibus Bill 2020	11/08/2020	13/08/2020	18/08/2020	8/09/2020	9/09/2020
17	Pay-roll Tax Relief (COVID-19 Response) Amendment Bill 2020	15/10/2020	15/10/2020	15/10/2020	22/10/2020	22/10/2020





## Appendix Four

### Submissions Received

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No.	Name	Position	Organisation
1.	Ms Cassie Rowe MLA	Member for Belmont	Legislative Assembly
2.	Mr Mark Folkard MLA	Member for Burns Beach	Legislative Assembly
3.	Hon Michelle Roberts MLA	Member for Midland	Legislative Assembly
4.	Mr Shane Love MLA	Member for Moore	Legislative Assembly
5.	Mr Kyran O'Donnell MLA	Member for Kalgoorlie	Legislative Assembly
6.	Mr Zak Kirkup MLA	Member for Dawesville	Legislative Assembly



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