WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 66

WEDNESDAY, 27 JUNE 2018

1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Statement by President — Non-Government Business — Scheduling

The President made the following Statement —

Last night, at the conclusion of Members' Statements, Hon Nick Goiran requested that I provide a ruling in response to the statement made by Hon Martin Aldridge. I have taken the opportunity to re-read Hon Martin Aldridge's statement, and I confirm that there is nothing contained in that statement that requires a ruling. If any clarification is required as to which Non-Government Business schedule currently applies, I refer Members to the front of their Standing Orders and the schedule titled "Non-Government Business: Allocated sessions for 2018". The words "Version 2" appear at the bottom of the page and the week of 21 June has the notation "Vacated for Estimates". This schedule was tabled by me and was adopted by the House on 9 May 2018. I wish, however, to make some observations on the statement of Hon Martin Aldridge. The Non-Government Business schedule is not capriciously drafted or amended. Over the life of a Parliament, enormous care is taken to ensure that there is a fair allocation of sessions. I will table a copy of a table summarising Non-Government Business session allocations and losses to parties since 2012.

Hon Martin Aldridge was correct in identifying that the main issue with allocating Non-Government Business is that there are currently more non-government Members than there are sitting weeks to accommodate them in a calendar year. There are 22 non-government members and ordinarily only 20 sitting weeks in a year. So, in any normal year, two Members, or up to two parties, will not be allocated a session that they would have been entitled to on a pro-rata basis if we had 22 sitting weeks.

Complicating matters is the timing of the annual budget estimates hearings. The announcement of the hearing dates, usually in April or May, may necessitate the amendment of the schedule if they are to occupy a sitting week, and the loss of one of the Non-Government Business sessions previously allocated. Since Standing Order 111 was introduced in 2012, there have been only two years in which the announcement of the estimates hearing dates did not result in the loss of a Non-Government Business session. The first was in 2012 when the estimates hearings were held in a non-sitting week, which was the usual practice pre-2013, and the second was last year when the schedule adopted at the start of the year incorporated the anticipated vacation of a sitting week for the estimates hearings based on advice provided by the Leader of the Government. Ultimately, however, the estimates committee chose an alternative date, so the schedule was still amended but with no loss of previously allocated sessions.

In recent years, due to the demands of business before the House, specific Non-Government Business sessions or entire sitting weeks have also been vacated. On a few occasions since 2012, additional days have been added to a sitting calendar, but none have so far included any additional Non-Government Business sessions.

Over the course of the thirty-ninth Parliament, when the opposition parties consisted of just three parties and 14 members, the ALP lost a total of four Non-Government Business sessions due to estimates hearings or variations to the order of business of the House. Over that same period, the Greens WA lost two sessions.

In a normal sitting year, the pro-rata allocation of Non-Government Business sessions between the current six opposition parties is: Liberals, 8.23; Nationals WA, 3.63; Greens WA, 3.63; Pauline Hanson's One Nation, 2.73; Liberal Democrats, 0.91; and the Shooters, Fishers and Farmers Party, 0.91. That is a total of 20.01.

Due to the election, 2017 was a shortened sitting year of 14 weeks. As a result, the Liberals received only six sessions; the Nationals, Greens and Pauline Hanson's One Nation, two sessions each; and the LDP and the SFFP, one session each.

In 2018, the first Non-Government Business schedule adopted by the House for 2018 allocated 21 sessions before the estimates hearing dates were advised. The Liberal Party, with the greatest number of allocated dates, being eight, was allocated one fewer session than its number of Members. When the estimates hearing dates were announced as a sitting week, the allocated sessions were reduced to 20 and a second session had to be taken from one of the opposition parties. The Nationals were selected to also lose a session as they had the next highest allocation, along with the Greens WA, of four sessions. As the Greens WA had lost two sessions in the thirty-ninth Parliament, the Nationals were considered the fairest choice for a reduction in sessions from four to three. I stress again that these decisions are well thought out and designed to achieve equity.

Looking ahead to the final two sitting years of the fortieth Parliament, in the interests of a fair allocation and also assuming a 20-week sitting year in which there will be two fewer Non-Government Business sessions than opposition Members, it is likely that in 2019 it will be proposed that the Greens WA and Pauline Hanson's One Nation will each lose a session and that in 2020, the Liberals and the Nationals will again lose a session each. The LDP and the SFFP, with only a single allocated session each year, should not be required to give up their sessions.

This will be the starting point on which the draft Non-Government Business schedules will be based for the remainder of the fortieth Parliament. Ultimately, however, the final schedules to be adopted by the House will be the subject of the deliberations of the opposition parties behind the Chair over each summer recess after I have distributed the proposed Non-Government Business for each coming year. I table the table for Members to review.

The President tabled the Non-Government Business Allocations from 2012 to 2018. (Tabled Paper 1499).

3. Petition

Hon Robin Chapple presented a petition from 81 petitioners requesting the Legislative Council to oppose the plans, as reported in recent media, for the continued industrialisation of the Burrup Peninsula and Dampier Archipelago (Murujuga). (Tabled Paper 1500).

4. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Management of Crown Land Site Contamination (Report No. 13) (June 2018)...... 1492

Reports —
Corruption and Crime Commission — Report into inadequate use of force reporting at Eastern Goldfields Regional Prison on 27 March 2017 and Bunbury Regional Prison on 14 November 2016 (June 2018)
Corruption and Crime Commission — Report into inadequate use of force reporting at Eastern Goldfields Regional Prison in May 2017 (June 2018)
Corruption and Crime Commission — Report into inadequate use of force reporting at Hakea Prison on 21 March 2016 (June 2018)
Minister for Environment
Reports —
Department of Treasury — Review of the Financial Management Act (2006) (December 2017)
Government of Western Australia — Quarterly Financial Results Report (2017–18) (March 2018)
Parliamentary Secretary to the Minister for Health on behalf of the Minister for Regional Development
Notices —
Financial Management Act 2006 (section 82) — Notice from the Minister for Tourism regarding Legislative Assembly Question on Notice No. 3048 asked by Mr Peter Katsambanis (Minister for Tourism)
5. Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018
Hon Alison Xamon: To move on the next day of sitting —
That a Bill for "An Act to amend the Equal Opportunity Act 1984 (WA)." be introduced and

6. Personal Explanation

read a first time.

Hon Jim Chown, by leave, made a personal explanation in relation to question without notice 329.

7. Independent Rural Fire Service

Motion No. 1 having been called, debate resumed on the motion of Hon Rick Mazza as follows — That this House supports:

- (a) the creation of an independent Rural Fire Service (RFS) consistent with the recommendations of the Euan Fergusson Report;
- (b) the new RFS be funded by a proportion of the Emergency Services Levy (ESL);
- (c) the ESL be treated the same as other sources of State revenue and collected by the Department of Finance;
- (d) the Department of Finance to then remit funding to the DFES and the RFS as per operational and budgetary requirements; and
- (e) that the House directs the Public Administration Committee to inquire into the implementation of an independent Rural Fire Service and report to the Legislative Council within 12 months of the referral.

Hon Colin de Grussa moved, without notice —

That clauses (c) and (d) be deleted.

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Motion — put.

The Council divided.

Ayes (15)

Hon Jacqui Boydell
Hon Robin Scott
Hon Peter Collier
Hon Colin de Grussa
Hon Charles Smith
Hon Donna Faragher
Hon Aaron Stonehouse
Hon Nick Goiran
Hon Colin Holt
Hon Rick Mazza
Hon Ken Baston (Teller)
Hon Michael Mischin

Noes (16)

Hon Martin Aldridge Hon Alannah MacTiernan Hon Robin Chapple Hon Kyle McGinn Hon Tim Clifford Hon Martin Pritchard Hon Alanna Clohesy Hon Samantha Rowe Hon Stephen Dawson Hon Dr Sally Talbot Hon Sue Ellery Hon Darren West Hon Diane Evers Hon Alison Xamon Hon Laurie Graham Hon Pierre Yang (Teller)

Motion thus negatived.

8. Order of Business

Ordered — That Bills for Introduction be taken forthwith. (Leader of the House).

9. Fair Trading Amendment Bill 2018

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations, pursuant to notice, moved —

That a Bill for "An Act to amend the Fair Trading Act 2010." be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations moved, That the Bill be read a second time.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1501).

Debate stands adjourned.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations moved, without notice —

That, pursuant to Standing Order 128, the *Fair Trading Amendment Bill 2018* be discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration and report in accordance with that Committee's terms of reference not later than 45 days after the referral.

Question — put and passed.

Debate stands adjourned and Bill discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review.

10. Order of Business

Ordered — That Orders of the Day Nos 1, Shire of Northam Cemeteries Amendment Local Law 2017 — Disallowance, 2, Shire of Toodyay Health Local Law 2017 — Disallowance, 3, Police (Fees and Charges) Regulations 2018 — Disallowance, 4, Environmental Protection Amendment Regulations 2018 — Disallowance, 5, Shire of Murray Health Local Law 2018 — Disallowance, 6, Shire of Woodanilling Animals, Environment and Nuisance Amendment Local Law 2018 — Disallowance, 7, Rights in Water and Irrigation Amendment Regulations 2018 — Disallowance, 8, Town of Claremont Waste Local Law 2017 — Disallowance, and 9, Shire of York Cat Local Law 2017 — Disallowance, be taken after Order of the Day No. 24, Terrorism (Extraordinary Powers) Amendment Bill 2018. (Leader of the House).

11. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2018–2019

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Finance representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper 1340A-D (2018–2019 Budget Statements), laid upon the Table of the House on 10 May 2018.

Debate resumed.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Energy, by leave, incorporated into *Hansard* information in relation to the number of residential clients that have been sold solar panels by Synergy for each month from January 2017 to May 2018, in response to a question without notice asked by Hon Peter Collier.

The Minister for Agriculture and Food tabled a list of invitees to a meeting to be chaired by the Department of Primary Industries and Regional Development, in response to a question without notice asked by Hon Colin de Grussa. (Tabled Paper 1502).

The Minister for Environment representing the Minister for Road Safety tabled ministerial correspondence in relation to funding for the South West Emergency Helicopter Service, in response to a question without notice asked by Hon Martin Aldridge. (Tabled Paper 1503).

The Minister for Education and Training, by leave, incorporated into *Hansard* information in relation to total number of students who attended the Pemberton Camp School from 2013 to 2018 to date, in response to a question without notice asked by Hon Diane Evers.

Point of Order

Hon Nick Goiran raised the following Point of Order —

I have a point of order with regard to an answer that was provided during question time. To facilitate this point of order being delivered in a concise fashion, I propose to provide you, Madam President, with a copy of the question and answer that was provided. You will see that the document that I have just had delivered to you is a copy of the question and answer that I asked the Leader of the House. At part (5) of the question I asked, "Will the Minister table that analysis?" Madam President, you will see that the answer provided by the Leader of the House is: "Yes, if requested."

I know that there is no rule in the Standing Orders about repetitious questions. There is a rule about repetition in debate but there is nothing about repetitious questions. Can I suggest that it is incomparable with the standards of the House for the Leader of the House to respond in such a fashion that can only lead to me asking every day between now and the end of the fortieth Parliament whether the Minister will table the document. To respond by saying, "Yes, if requested", is farcical in the highest regard. The question I asked was: will the Minister table that analysis? The answer was, "Yes, if requested." How else could I request it other than by asking the minister to table that analysis? Madam President, I know that there is no specific Standing Order to deal with this, but you are responsible for the order of the House. Can I

suggest to you, with the greatest of respect, that what has happened here in question time is unhelpful to the ongoing practice of this House, and I seek your ruling on it.

President's Ruling

The President ruled as follows —

Member, thank you very much for raising that matter. I am going to have a look at that and I will come back to you at a later stage with a response.

The Minister for Environment representing the Minister for Transport tabled the advertising policy for the Department of Transport, in response to question on notice No. 1181 asked by Hon Martin Aldridge. (Tabled Paper 1504).

The Minister for Environment representing the Minister for Transport tabled documents in relation to total boarding numbers for each public transport type in 2015–2016 and 2016–2017, in response to question on notice No. 1187 asked by Hon Martin Aldridge. (Tabled Paper 1505).

The Minister for Environment tabled documents in relation to existing recovery plans listed by plant species, animal species and ecological communities, in response to question on notice No. 1220 asked by Hon Robin Chapple. (Tabled Paper 1506).

The Minister for Environment tabled documents in relation to properties where the Department of Biodiversity, Conservation and Attractions did not receive support to purchase land to add to the conservation estate, in response to question on notice No. 1221 asked by Hon Robin Chapple. (Tabled Paper 1507).

The Minister for Disability Services tabled the *NDIS: Western Australia Disability Services Sector Development Plan*, in response to question on notice No. 1299 asked by Hon Robin Scott. (Tabled Paper 1508).

The Minister for Environment representing the Minister for Police, in accordance with Standing Order No. 108(2), advised that an answer to questions on notice Nos 1191, 1197 and 1200 asked by Hon Martin Aldridge will be provided on 14 August 2018.

The Minister for Environment representing the Minister for Road Safety, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 1194 asked by Hon Martin Aldridge will be provided on 14 August 2018.

The Minister for Environment representing the Minister for Transport, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 1217 asked by Hon Tim Clifford will be provided on 28 June 2018.

The Minister for Regional Development tabled documents in relation to funding provided to each Community Resource Centre in Western Australia, in response to question on notice No. 1226 asked by Hon Tjorn Sibma. (Tabled Paper 1509).

The Minister for Regional Development tabled documents in relation to the environmental costs for the Ord River Irrigation Expansion Project, in response to question on notice No. 1199 asked by Hon Robin Chapple. (Tabled Paper 1510).

The Minister for Regional Development; Agriculture and Food; Minister Assisting the Minister for State Development, Jobs and Trade, in accordance with Standing Order No. 108(2), advised that an answer to questions on notice Nos 1268, 1271, 1278 and 1295 asked by Hon Tjorn Sibma will be provided on 28 June 2018.

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to the increasing rate of tooth decay in children and the need for many children in regional Western Australia to travel to Perth for treatment, in response to a question without notice asked by Hon Jim Chown.

13. Statement by President — Members' Survey

The President made the following Statement —

On Tuesday, 12 June 2018 copies of the annual performance survey for the Department of the Legislative Council and the Parliamentary Services Department were circulated to all Members. This survey is critical in assisting the department to provide better services to you and the results will be incorporated into the department's 2017–2018 Annual Report.

If you have not had a chance to complete the survey, it would be appreciated if you would take a few minutes to complete the survey and return it to one of the Legislative Council officers in the Chamber before the end of tomorrow's sitting.

For your convenience, a link to the online version of the survey was also sent to each of your emails last night.

14. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2018–2019

Debate resumed on the motion of the Minister for Environment representing the Treasurer (see item 11 above).

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

15. Liquor Control Amendment Bill 2018

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Acting President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 18.

Debate resumed.

Clause agreed to.

Clause 19.

Debate ensued.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 12, after line 26 — To insert:

- (d) the status of the licence that applies to the premises (for example, whether the licence is conditionally granted or suspended);
- (e) the name of the licensee of the premises.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 20.

Debate ensued.

Hon Alison Xamon moved —

Page 13, lines 2 to 4 — To delete the words.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clauses 21 and 22 agreed to.

Clause 23.

Debate ensued.

Clause agreed to.

Clauses 24 to 27 agreed to.

Clause 28.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 21, after line 14 — To insert:

(4) In section 55(3) delete "corporate which produces wine or spirits, wine or spirits" and insert:

corporate, liquor

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 29 to 31 agreed to.

Clause 32.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 23, after line 25 — To insert:

(ba) in paragraph (e) delete "a Sunday,";

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 33 to 35 agreed to.

Clause 36.

Debate ensued.

Clause agreed to.

Clauses 37 to 40 agreed to.

Clause 41.

Debate ensued.

Clause agreed to.

Clause 42 agreed to.

Clause 43.

Debate ensued.

Clause agreed to.

New Clause 43A.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 30, after line 22 — To insert:

43A. Section 75 amended

Delete section 75(2)(b) and insert:

(b) if not required to be advertised is not subject to objection, but may be made the subject of a submission or an intervention under section 69; and

Debate ensued.

The Minister for Regional Development representing the Minister for Racing and Gaming tabled a draft policy regarding temporary bars by the Department of Local Government, Sport and Cultural Industries. (Tabled Paper 1511).

Debate resumed.

Amendment — put and passed.

Clauses 44 to 51 agreed to.

Clause 52.

Debate ensued.

Hon Alison Xamon moved —

Page 35, lines 25 to 26 — To delete "a fine of \$10 000, but the minimum penalty is a fine of \$1 000." and substitute:

a fine of \$10 000.

Debate ensued.

Amendment — put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clauses 53 to 60 agreed to.

Clause 61.

Debate ensued.

Clause agreed to.

Clauses 62 to 64 agreed to.

New Clause 64A.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 42, after line 17 — To insert:

64A. Section 174B inserted

After section 174A insert:

174B. Liquor accords: authorisation for purposes of *Competition and Consumer Act 2010* and Competition Code

(1) In this section —

liquor accord has the meaning given in section 64(1b).

- (2) For the purposes of the *Competition and Consumer Act 2010* (Commonwealth) and the Competition Code, the following conduct is authorised by this Act, to the extent that it would otherwise contravene that Act or that Code
 - (a) the entry by any person into a liquor accord;
 - (b) conduct engaged in by any person for the purpose of promoting or giving effect to the terms of a liquor accord.

Debate ensued.

Amendment — put and passed.

Clause 65.

Hon Tjorn Sibma moved —

Page 42, line 27 to page 43, line 13 — To delete the lines.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 66 agreed to.

New Clause 67.

The Minister for Regional Development representing the Minister for Racing and Gaming moved — Page 43, lines 24 and 25 — To delete the lines and insert:

67. Section 178 amended

In section 178(1) delete "section 95 of the *Liquor Licensing Amendment Act 1998*," and insert:

the Liquor Control Amendment Act 2018 section 67,

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 68 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendment.

The Minister for Regional Development representing the Minister for Racing and Gaming, by leave, moved, That the report be adopted.

Report adopted.

The Minister for Regional Development representing the Minister for Racing and Gaming moved, without notice —

That so much of Standing Orders be suspended so as to enable the Liquor Control Amendment Bill 2018 to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Acting President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Minister for Regional Development representing the Minister for Racing and Gaming, by leave, moved, That the Bill be read a third time.

The Acting President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Debate ensued.

Question — put and passed.

Bill read a third time and passed.

16. Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Acting President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 1.

Debate resumed.

Interruption pursuant to order.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

17. Members' Statements

Statements were taken.

18. Natural Gas (Canning Basin Joint Venture) Agreement (Termination) Bill 2017

The President reported the receipt of Message No. 63 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Regional Development representing the Minister for State Development, Jobs and Trade moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Regional Development representing the Minister for State Development, Jobs and Trade moved, That the Bill be read a second time.

The Minister for Regional Development representing the Minister for State Development, Jobs and Trade tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1491).

Debate stands adjourned.

19. Local Government Amendment (Suspension and Dismissal) Bill 2018

The President reported the receipt of Message No. 64 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Local Government moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Local Government tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1512).

Debate stands adjourned.

20. Railway (METRONET) Bill 2018

The President reported the receipt of Message No. 65 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Environment representing the Minister for Transport moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Environment representing the Minister for Transport moved, That the Bill be read a second time.

The Minister for Environment representing the Minister for Transport tabled a report on the planned construction of the Yanchep Rail Extension and Thornlie-Cockburn Link. (Tabled Paper 1513).

The Minister for Environment representing the Minister for Transport tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1514).

Debate stands adjourned.

21. Heritage Bill 2017

The President reported the receipt of Message No. 66 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Heritage moved, That the Bill be read a first time. Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Heritage moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Heritage tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1515).

Debate stands adjourned.

22. Adjournment

The Council adjourned at 10.53pm until Thursday, 28 June 2018 at 9.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Simon O'Brien and Hon Matthew Swinbourn.

NIGEL PRATT

HON KATE DOUST MLC

Clerk of the Legislative Council

President of the Legislative Council