

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 231

FIRST SESSION OF THE FORTIETH PARLIAMENT

THURSDAY, 12 NOVEMBER 2020

1. Meeting of Assembly

The Assembly met at 9.00 am pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

2. Death of Hon James McMillan Brown – a former Member of the Legislative Assembly

The Premier, without notice, moved,

That the House records its sincere regret at the death of Hon James McMillan Brown and tenders its deep sympathy to his family.

The motion was supported by Mrs L.M. Harvey, Ms M.J. Davies, Mr J.E. McGrath, Mr M.P. Murray and the Speaker.

Question put and passed unanimously with members and officers of the Assembly standing in their places as a mark of respect.

3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Clerk –

Administrator National Health Funding Pool – Annual Report 2019–2020 (3973).

National Health Funding Body – Annual Report 2019–2020 (3974).

Professional Standards Council of Western Australia – Financial Statements for the Year Ended 30 June 2020 (3975).

Professional Standards Councils – Annual Report 2019–2020 (3976).

Public Sector Commission – State of the WA Government Sector Workforce 2019–2020 (3977).

4. Environmental Protection Amendment Bill (No. 2) 2020

Message No. 147 dated 11 November 2020 from the Legislative Council was reported agreeing to the bill without amendment.

5. Brief Ministerial Statement

A Brief Ministerial Statement was made by the Minister for Child Protection on the Government Response to the Joint Standing Committee on the Commissioner for Children and Young People Report No. 5, From Words to Action: Fulfilling the obligation to be child safe.

Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Minister for Child Protection –

Child Protection, Minister for – Government Response to Recommendations of Report No. 5 of the Joint Standing Committee on the Commissioner for Children and Young People (3978).

Child Protection, Minister for – Parliamentary Commissioner Amendment (Reportable Conduct) Draft Bill 2020 (3979).

6. Grievances

The Speaker called for grievances which were then made.

7. Public Accounts Committee

Dr A.D. Buti, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – More Than Just A Game: The use of State funds by the WA Football Commission, Report No. 17 (3980).

Public Accounts Committee – More Than Just A Game: The use of State funds by the WA Football Commission, Report No. 17, Submissions (3981).

Mr D.C. Nalder, Mr S.A. Millman, Mrs L.M. O'Malley, and the following by leave, Mr P.J. Rundle, Mr D.R. Michael, Mr J.E. McGrath, Mr M.P. Murray, Mr W.R. Marmion, Mr P.A. Katsambanis, Ms R. Saffioti and Mr R.S. Love, spoke on the report.

8. Public Accounts Committee

Mr D.C. Nalder, as Deputy Chair, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – Budget Briefing 2020–2021, Report No. 18 (3982).

9. Joint Standing Committee on the Corruption and Crime Commission

Ms M.M. Quirk, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Corruption and Crime Commission, Joint Standing Committee on the – Annual Report 2019–2020, Report No. 16 (3983).

10. COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020

Message No. 146 dated 11 November 2020 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020

No. 1

Clause 4, page 3, line 7 — To delete “18” and insert:

15

No. 2

Clause 5, page 3, line 12 — To delete “18” and insert:

15

No. 3

Clause 7, page 4, line 10 — To delete “October” and insert:

July

No. 4

Clause 9, page 5, line 10 — To delete “October” and insert:

July

CONSIDERATION IN DETAIL

The Minister for Emergency Services moved, That amendment No. 1 be agreed to.

Amendment agreed to.

The Minister for Emergency Services moved, That amendment Nos 2 to 4 be agreed to.

Amendments agreed to.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

11. Environmental Protection Amendment Bill 2020

The Order of the Day for the consideration in detail of Legislative Council Message No. 145 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Environmental Protection Amendment Bill 2020* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Environmental Protection Amendment Bill 2020

No. 1

Clause 2, page 2, lines 4 to 11 — To delete the clause.

No. 2

Clause 2, page 2, after line 11 — To insert:

2. Commencement

- (1) This Act comes into operation as follows —
 - (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
 - (b) section 4(3A) — on the later of the following —
 - (i) the day on which the *Planning and Development Amendment Act 2020* section 64 comes into operation;
 - (ii) immediately after section 4(2) comes into operation;
 - (c) section 59 — on the day on which section 83 comes into operation;
 - (d) section 116A — on the day after assent day;
 - (e) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.
- (2) However —
 - (a) if no day is fixed under subsection (1)(e) before the end of the period of 10 years beginning on assent day, this Act is repealed on the day after that period ends; or
 - (b) if paragraph (a) does not apply, and a provision of this Act does not come into operation before the end of the period of 10 years beginning on assent day, that provision is repealed on the day after that period ends.
- (3) Despite subsection (1), if section 112 has not come into operation before the day on which the *Planning and Development Amendment Act 2020* section 68(2) comes into operation, the 2nd row in the Table to section 112 —
 - (a) does not come into operation; and
 - (b) is deleted on that day.
- (4) Despite subsection (1), if section 112 has not come into operation before the day on which the *Planning and Development Amendment Act 2020* section 70 comes into operation, the 4th row in the Table to section 112 —
 - (a) does not come into operation; and
 - (b) is deleted on that day.

No. 3

Clause 4, page 3, lines 5 to 15 — To delete the lines and insert:

- (1) In section 3(1) delete the definitions of:
 - bilateral agreement*
 - Chairman*
 - Deputy Chairman*
 - implementation agreement or decision*
 - implementation conditions*
 - proposal*

- (1A) In section 3(1) delete the definitions of:

applicant

licensee

prescribed premises

works approval

No. 4

Clause 4, page 5, lines 4 and 5 — To delete the lines.

No. 5

Clause 4, page 6, after line 6 — To insert:

- (2A) In section 3(1) insert in alphabetical order:

prescribed activity means an activity prescribed as a prescribed activity for the purposes of Part V;

No. 6

Clause 4, page 6, after line 31 — To insert:

- (3A) In section 3(1) in the definition of *planning instrument* paragraph (b) delete “section 29 and published in the *Gazette*; or” and insert:

Part 3; or

No. 7

Clause 16, page 24, lines 24 to 27 — To delete the lines and insert:

The Authority must keep a public record of each referred proposal, and shall in that public record set out —

- (a) whether or not that proposal is to be assessed under this Part; and
- (b) if the proposal is to be assessed under this Part, the level of assessment.

No. 8

Clause 18, page 25, after line 1 — To insert:

- (1A) In section 40(3) delete “subsection (2)(b).” and insert:

subsection (2)(b) and publish an indicative outline of the timing of the environmental review.

No. 9

Clause 28, page 33, lines 25 to 27 — To delete the lines and insert:

under section 45(2).

No. 10

Clause 28, page 33, line 34 to page 34, line 3 — To delete “has a role, or have roles, in making major decisions in relation to matters in the proposal that may have significant effects on the environment.” and insert:

the Minister considers to be a key decision-making authority.

No. 11

Clause 28, page 35, line 4 — To delete “must — ” and insert:

must within 30 days of the agreement or decision being made —

No. 12

Clause 28, page 36, line 29 — To insert after “must”:

within 30 days of the agreement or decision being made

No. 13

Clause 31, page 47, line 10 — To insert after “Minister”:

and the proponent of the proposal

No. 14

Clause 32, page 51, line 28 — To delete “prescribing” and insert:

prescribing, or providing for the determination of,

No. 15

Clause 44, page 59, after line 28 — To insert:

- (2) Before regulations are made declaring an area of the State as an environmentally sensitive area for the purposes of this Part —
 - (a) the CEO must, in a prescribed manner, notify each owner or occupier of land in that area of the State of the proposed regulations and invite comments about the proposed regulations to be made within the period specified in the notification; and

- (b) the Minister must take into account any comments about the proposed regulations made by an owner or occupier of land in that area of the State pursuant to an invitation under paragraph (a).
- (3) Subsection (1) does not apply to regulations proposing to declare an area of the State as an environmentally sensitive area if a declaration of that area as an environmentally sensitive area already has effect under subsection (1).
- (4) The CEO must notify the agency (as defined in the *Public Sector Management Act 1994* section 3(1)) principally assisting the Minister administering the *Transfer of Land Act 1893* in its administration of the declaration or amendment of an environmentally sensitive area with a view to that agency including information as to the environmentally sensitive area in information disseminated by it as to property interests in land.

No. 16

Clause 60, page 82, line 18 — To insert after “licence”:

and payment of the application fee prescribed by or determined under the regulations,

No. 17

Clause 60, page 84, line 3 — To insert after “licence”:

and payment of the application fee prescribed by or determined under the regulations,

No. 18

Clause 60, page 89, line 12 — To insert after “application”:

and payment of the application fee prescribed by or determined under the regulations,

No. 19

Clause 60, page 90, line 5 — To insert after “licence”:

and payment of the application fee prescribed by or determined under the regulations,

No. 20

Clause 104, page 165, lines 14 to 16 — To delete the lines and insert:

- (3) In Schedule 1 Part 2 Division 1 insert in alphanumerical order:

2	53A(1)	\$62 500	\$12 500
3	53B(1)	\$62 500	\$12 500
4	62	\$62 500	\$12 500
5	63(3)	\$62 500	\$12 500

(4) In Schedule 1 Part 2 Division 1 insert in alphanumerical order:

11B	86O(1)	\$62 500	\$12 500
11C	86P(2)	\$62 500	\$12 500

No. 21

Clause 105, page 166, lines 3 to 5 — To delete the lines and insert:

(3) In Schedule 1 Part 2 Division 2 insert in alphanumerical order:

2	53A(1)	\$125 000	\$25 000
3	53B(1)	\$125 000	\$25 000
4	62	\$125 000	\$25 000
5	63(3)	\$125 000	\$25 000

(4) In Schedule 1 Part 2 Division 2 insert in alphanumerical order:

11B	86O(1)	\$125 000	\$25 000
11C	86P(2)	\$125 000	\$25 000

No. 22

Clause 108, page 167, after line 15 — To insert:

(1A) In Schedule 2 item 1 insert in alphabetical order:

fee includes charge;

No. 23

Clause 108, page 168, after line 5 — To insert:

(3A) In Schedule 2 item 2A:

(a) in paragraph (b) delete “regulations.” and insert:

regulations;

(b) after paragraph (b) insert:

(c) prescribing fees that are payable before or when the authorisation is amended, transferred or surrendered.

No. 24

Clause 108, page 169, after line 5 — To insert:

36C. Specifying timelines for steps in processes contained in Part V.

No. 25

New Clause 116A, page 180, after line 11 — To insert:

116A. *Planning and Development Amendment Act 2020* amended

- (1) In this section —
section 71 means the *Planning and Development Amendment Act 2020* section 71.
- (2) Despite the *Planning and Development Amendment Act 2020* section 2, if section 71 has not come into operation before the day on which section 55(1) of this Act comes into operation, section 71 —
 - (a) does not come into operation; and
 - (b) is deleted on that day.

CONSIDERATION IN DETAIL

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 1 be agreed to.

Amendment agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 2 be agreed to.

Amendment agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 3 be agreed to.

Amendment agreed to.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

12. Members' Statements

The Deputy Speaker called for members' statements which were then made.

13. Speaker's Statement – Joint Sitting to fill Senate Vacancy

The Speaker advised members that he had consulted with the President of the Legislative Council in relation to holding a Joint Sitting to fill the vacancy in the Senate created by the resignation of Senator Mathias Cormann, and that the Joint Sitting will be held on Wednesday, 25 November 2020 at 11.30 am in the Legislative Council Chamber.

14. Questions

Questions without Notice were taken.

Questions on Notice Nos 6429, 6435, 6468, 6498 and 6507 were answered.

15. Speaker's Ruling – Matter of Privilege

The Speaker advised the House of his ruling on the Matter of Privilege raised the previous day regarding the member for Roe's alleged failure to disclose a conflict of interest. The conflict was alleged to have arisen as a result of the member for Roe's questions to the Minister for Water about State funding of the On-Farm Emergency Water Infrastructure Rebate Scheme in circumstances where the member for Roe had made an application to this scheme and was yet to be paid.

The Speaker noted the personal explanation offered by the member for Roe in which he explained that his intention in raising the issue was to represent his constituents, many of whom were experiencing the same water deficiency conditions. The Speaker tabled correspondence from the member for Roe in which the member provided additional detail about his funding applications.

In considering the Legislative Assembly's Code of Conduct, the Speaker noted that there was no particular issue with a member having a private interest. The key issue related to whether a member had used their office to improperly and dishonestly further the private interest.

On this question, the Speaker accepted that the member for Roe's intention in raising this matter was not to further a private interest, but to represent his constituents.

The Speaker also noted that the Code of Conduct does not consider a conflict of interest to exist if a member is only affected as a member of a broad class. As one of approximately 400 applicants to the rebate scheme, the Speaker was of the view that the member for Roe was a member of a broad class.

The Speaker concluded that the apology offered by the member for Roe in his personal explanation was appropriate, and advised that he would not take any further action on the matter.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Speaker –

Speaker – Letter dated 12 November 2020 from Mr P.J. Rundle to Hon P.B. Watson, Speaker of the Legislative Assembly of Western Australia, in relation to the matter of privilege raised in the House on 11 November 2020 (3984).

16. Unanswered Questions on Notice

Mr P.A. Katsambanis asked why no answer had been received in respect of his Questions on Notice Nos 6413, 6439, 6441 to 6443, 6445, 6446, 6448 to 6451, 6454, 6461, 6462, 6466 and 6469.

17. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

18. Environmental Protection Amendment Bill 2020

The Order of the Day for the further consideration in detail of Legislative Council Message No. 145 was read.

CONSIDERATION IN DETAIL

The Parliamentary Secretary to the Minister for Environment moved, That amendment Nos 4 to 6 be agreed to.

Amendments agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 7 be agreed to.

Amendment agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment Nos 8 to 14 be agreed to.

Amendments agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 15 be agreed to.

Amendment agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment Nos 16 to 24 be agreed to.

Amendments agreed to.

The Parliamentary Secretary to the Minister for Environment moved, That amendment No. 25 be agreed to.

Amendment agreed to.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

19. Conservation and Land Management Amendment Bill 2020

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Mr D.R. Michael moved, That the debate be adjourned.

Question put and passed.

20. Adjournment

Mr D.R. Michael moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 3.58 pm until Tuesday, 17 November 2020 at 2.00 pm.

Members present during any part of the day's proceedings – All the members except Mr V.A. Catania, Ms J. Farrer, Mrs A.K. Hayden, Mr K.M. O'Donnell, Mrs J.M.C. Stojkovski and Mr D.A. Templeman.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. PETER WATSON
Speaker of the Legislative Assembly