

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 232

TUESDAY, 10 NOVEMBER 2020

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Statement by President — Passing of Former President Hon Clive Griffiths AO

The President made the following Statement —

It is with sadness that I advise that the Hon Clive Griffiths AO, former President of the Legislative Council passed away on Sunday morning (8 November 2020) after a long illness.

Clive had a long and distinguished career in the Legislative Council, he was President for 20 years, a record that has never been broken.

He was a prominent member of the Commonwealth Parliamentary Association; he was its chairman from 1990 to 1993, the only Western Australian member to hold this position.

When he retired in 1997, he was appointed as Western Australia's Agent General in London.

He was a frequent visitor to Parliament House, and continued to provide me with Presidential advice and support until recently. He will be missed.

My condolences to his wife Norma, daughter Lynda, grandchildren Justin and Danielle and family.

Details regarding a condolence motion will be provided in due course.

3. Statement by President — Professional Development for Members

The President made the following Statement —

I have received joint correspondence from the President and Speaker of the New South Wales Parliament, Hon John Ajaka and Hon Jonathan O'Dea, regarding a professional development program developed for Members of the New South Wales Parliament.

In the brochure that outlines the program, they say:

Paths into politics are varied. There is no specific training required to become a parliamentarian, and historically little effort to develop and train members over their parliamentary careers. Yet new members quickly find themselves dealing with difficult policy and ethical decisions, in a combative environment, and under intense public scrutiny.

Public trust in democracies and our public institutions has declined. To help reverse that trend, it makes sense to invest in the skills and wellbeing of the very people at the centre of our democratic institutions – you, our members.

Their program has three major pillars:

- (1) Thought leadership – that encourage deep thinking and skills development;

- (2) Educational resources – that enhance the education of members about their compliance responsibilities;
- (3) Support mechanisms – that provide services to ensure members are adequately supported in their role including such things as code of conduct, disclosure of pecuniary interests, and ethical decision-making.

In my capacity as President, I am keen to support the ongoing professional development of Members of the Legislative Council. To that end, I would like to develop a program that goes beyond the existing training and information provided through our new Member induction and the current guides and training given to Members on their roles in the House and as members of parliamentary committees. The NSW model provides a very good starting point for us.

I will today be sending to all MLCs correspondence containing more information about the New South Wales program and seeking your feedback on developing a professional development program for Members of the Legislative Council. I ask that you review this information and provide your feedback to me before close of business on Monday, 23 November 2020.

4. Statement by President — Update on Supreme Court Actions

The President made the following Statement —

Members may have read an article in Saturday's *The West Australian* newspaper regarding decisions delivered in the following two Supreme Court legal actions last Friday:

- Supreme Court Action CIV 2716 of 2019 *Attorney General of Western Australia v President of the Legislative Council of Western Australia and the Clerk of the Legislative Council of Western Australia*.
- Supreme Court Action CIV 2717 of 2019 *President of the Legislative Council of Western Australia v Corruption and Crime Commission and Darren Foster and Nigel Pratt*.

Reports 55 to 58 of the Standing Committee on Procedure and Privileges set out the background to these actions, which the Legislative Council has authorised me to defend and commence, respectively, on the Council's behalf.

On 27 February 2020, during a full day hearing, a number of disputed interlocutory matters arising in both actions were considered. These matters related to various parties' applications for discovery, to strike-out pleadings and for requests for further and better particulars. His Honour Justice Allanson delivered his decisions on all of these matters on Friday.

I table the decisions for both actions, which I note are also publicly available online on the eCourts Portal of Western Australia.

Subject to satisfactory discovery of all relevant documents by late December 2020, it is anticipated that the hearing of both these expedited actions will take place in 2021.

The President tabled the decision for the interlocutory hearing in the Supreme Court Action CIV 2716 of 2019 *Attorney General of Western Australia v President of the Legislative Council and the Clerk of the Legislative Council of Western Australia*. (Tabled Paper 4580).

The President tabled the decision for the interlocutory hearing in the Supreme Court Action CIV 2717 of 2019 *President of the Legislative Council of Western Australia v Corruption and Crime Commission and Darren Foster and Nigel Pratt*. (Tabled Paper 4581).

5. Petition

Hon Samantha Rowe presented a petition from 2,183 petitioners requesting the Legislative Council to mandate that all neuroendocrine tumour referrals go to Fiona Stanley Hospital as a State-recognised centre of excellence for neuroendocrine tumours. (Tabled Paper 4582).

6. Ministerial Statement — Gibson Desert (Pila) Nature Reserve

The Minister for Environment made a Ministerial Statement with respect to the renaming of the Gibson Desert Nature Reserve to Pila Nature Reserve.

7. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Independent Auditor's Assurance Report — Electricity Generation and Retail Corporation — Compliance with Electricity Corporations (Electricity Generation and Retail Corporation) Regulations 2013 and the Segregation and Transfer Pricing Guidelines 2013..... 4569

Leader of the House

Orders —

Local Government Act 1995 (Local Government (COVID-19 Response) Amendment Order 2020 G.G. 03/11/2020)..... 4570

Regulations —

Caravan Parks and Camping Grounds Act 1995; Control of Vehicles (Off-road Areas) Act 1978; Dog Act 1976; Local Government Act 1995 (Local Government Regulations Amendment Regulations (No. 2) 2020 G.G. 06/11/2020) 4571

Local Government Act 1995 (Local Government (Employee Superannuation) Amendment Regulations 2020 G.G. 06/11/2020 and Local Government (Financial Management) Amendment Regulations 2020 G.G. 06/11/2020)..... 4572

Rules —

Lotteries Commission Act 1990 (Lotteries Commission (Authorised Lotteries) Amendment Rules 2020 G.G. 06/11/2020)..... 4573

Minister for Environment

Standards —

Bush Fires Act 1954 (Bush Fire Risk Treatment Standards 2020 G.G. 06/11/2020)..... 4574

Minister for Regional Development

Annual Reports —

Commission for Occupational Safety and Health (2019-20) (Date received 09/11/2020) 4575

Regulations —

Liquor Control Act 1988 (Liquor Control (Kadjina Restricted Area) Regulations 2020 G.G. 06/11/2020)..... 4576

Regional Development Commissions Act 1993 (Regional Development Commissions (Act Amendment) Regulations 2020 G.G. 06/11/2020) 4577

Parliamentary Secretary to the Deputy Premier

Regulations —

Medicines and Poisons Act 2014 (Medicines and Poisons Amendment Regulations 2020 G.G. 06/11/2020)..... 4578

Regulations —

Mental Health Act 2014 (Mental Health Amendment Regulations (No. 3) 2020 G.G. 06/11/2020)..... 4579

8. Suspension of Standing Orders — Variations to Order of Business and Sitting Times

The Leader of the House moved, without notice —

That so much of the Standing Orders be suspended as to enable the following variations to the order of business and sitting times as follows —

- (a) Tuesday, 10 November 2020:
 - (i) The sitting to be suspended for one hour, between 6.00pm and 7.00pm.
- (b) Wednesday, 11 November 2020:
 - (i) That Motions on Notice be dispensed with.
 - (ii) The sitting to be suspended between 6.00pm and 7.00pm.
 - (iii) The Council to sit beyond the usual adjournment time and take Members' Statements at 9.45pm.
- (c) Thursday, 12 November 2020:
 - (i) That Non-Government Business and Private Members' Business be dispensed with.
 - (ii) The Council to sit beyond the usual adjournment time and take Members' Statements at a time ordered by the House.

The motion requiring the concurrence of an absolute majority.

Question put.

The 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.

9. Order of Business

Ordered — That Orders of the Day Nos 1, *Local Government (Rules of Conduct) Amendment Regulations 2020 — Disallowance*, 2, *Local Government (Rules of Conduct) Amendment Regulations 2020 — Disallowance*, 3, *Local Government (Rules of Conduct) Amendment Regulations 2020 — Disallowance*, 4, *Curtin University Statute No. 12 — Admission and Enrolment — Disallowance*, 5, *Curtin University Statute No. 5 — Election of Council Members — Disallowance*, and 6, *Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020 — Disallowance*, be taken after Order of the Day No. 36, *Dog Amendment (Stop Puppy Farming) Bill 2020*. (Leader of the House).

10. Electricity Networks Access Code Amendments (No. 2) 2020 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice —

That pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 7, *Electricity Networks Access Code Amendments (No. 2) 2020 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

11. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2020–2021

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

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper 4389A-D (2020–2021 Budget Statements), laid upon the Table of the House on Thursday, 8 October 2020.

Debate resumed.

Question — put and passed.

12. Environmental Protection Amendment Bill 2020 and Environmental Protection Amendment Bill (No. 2) 2020

The Orders of the Day for the further consideration of these Bills, in Committee of the Whole House, having been read.

The Acting President left the Chair.

(Hon Simon O'Brien in the Chair)

Environmental Protection Amendment Bill 2020

Clause 28.

Debate resumed on the amendment moved by Hon Dr Steve Thomas as follows —
Page 37, lines 23 and 24 — To delete “on the environment;” and insert:

that cause material environmental harm or serious environmental harm;

Hon Dr Steve Thomas, by leave, withdrew his amendment.

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

Clauses 29 and 30 agreed to.

Clause 31.

The Minister for Environment moved —

Page 47, line 10 — To insert after “Minister”:

and the proponent of the proposal

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 32.

The Minister for Environment moved —

Page 51, line 28 — To delete “prescribing” and insert:

prescribing, or providing for the determination of,

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 33 agreed to.

Clause 34.

Hon Dr Steve Thomas moved —

Page 53, lines 12 and 13 — To delete the lines and insert:

- (b) if a requisition is issued to the person who referred the proposal and is not complied with within the compliance period — the compliance period;
- (c) if a requisition is issued to a Government Department and is not complied with within the compliance period — 14 days.

Debate ensued.

Amendment — put and negatived.

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

Clauses 35 to 43 agreed to.

Clause 44.

Hon Dr Steve Thomas moved —

Page 59, lines 21 to 28 — To delete the lines and insert:

51B. Registration of an environmentally sensitive area by regulation

- (1) Regulations may declare as an environmentally sensitive area for the purposes of this Part —
 - (a) an area of the State specified in the regulations; or
 - (b) an area of the State of a class specified in the regulations.
- (2) Before a regulation is declared under this section, the CEO must —
 - (a) notify each owner or occupier of the land to which the environmentally sensitive area would relate of their intention to declare by regulation an environmentally sensitive area; and
 - (b) take into account any comments received from any owner or occupier of the land to which the environmentally sensitive area would relate.
- (3) The CEO must deliver a memorial of an environmentally sensitive area to the relevant land registration officer.
- (4) The memorial must be in a form approved by the relevant land registration officer.
- (5) The relevant land registration officer must register the memorial and accordingly endorse or note the appropriate register or record in respect of the land to which the environmentally sensitive area declaration applies.

Debate ensued.

Point of Order

The Minister for Environment raised the following Point of Order —

I have before me correspondence from the Director General of the Department of Water and Environmental Regulation, Mr Mike Rowe. It states—

Based on the updated costs of notifications under section 70A of the *Transfer of Land Act 1893*, and the number of titles which include ESAs (98,042), the cost of notification without any allowance for the administrative resources required to undertake the process would be more than \$17.1 million. This does not account for removal of areas without native vegetation, as to do this would require further investigation.

It is beyond the resources of the Department of Water and Environmental Regulation (the Department) to undertake this process without an appropriation including salary costs for additional positions or the imposition of a fee or cost recovery charge to cover these costs. The *Constitution Acts Amendment Act 1899*, at s.46(3) states that “the Legislative Council may not amend any Bill so as to increase any proposed charge or burden on the people”. Therefore, the Legislative Council cannot ensure that the resourcing required to implement this amendment is provided.

Based on the requirement for an appropriation to implement Dr Thomas’s amendment, and the inability to impose cost recovery due to section 46(3) of the *Constitution Acts Amendment Act 1899*, it is the Department’s opinion that this change cannot be made by the Legislative Council.

I ask that Madam Deputy Chair give a ruling on this matter.

The Minister for Environment tabled a letter from the Director General of the Department of Water and Environmental Regulation regarding the registration of environmentally sensitive areas as a memorial on certificate of title dated 8 September 2020. (Tabled Paper 4583).

13. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Premier tabled a list of organisations that had grant applications rejected by Lotterywest for the past three years, in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 4584).

The Minister for Regional Development representing the Minister for Tourism tabled documents in relation to Tourism Business Survival Grants, in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 4585).

The Minister for Environment representing the Minister for Housing, by leave, incorporated into *Hansard* information in relation to the Government's purchase of 32 off the plan apartments as part of the Social Housing Economic Recovery Package, in response to a question without notice asked by Hon Colin Tincknell.

The Minister for Regional Development representing the Minister for Forestry, in accordance with Standing Order 108(2), advised that an answer to question on notice 3326 asked by Hon Diane Evers will be provided on 12 November 2020.

14. Environmental Protection Amendment Bill 2020 and Environmental Protection Amendment Bill (No. 2) 2020

Resumption of consideration of these Bills in Committee of the Whole House (*see item No. 12 above*).
The President left the Chair.

In Committee

(Hon Robin Chapple in the Chair)

Environmental Protection Amendment Bill 2020

Clause 44.

Deputy Chair's Ruling

The Deputy Chair ruled as follows —

Prior to question time, the Minister sought a ruling on amendment 12/44. Hon Dr Steve Thomas has moved an amendment to impose an obligation on the CEO to deliver a memorial of an environmentally sensitive area to a relevant land registration officer. Further, the land registration officer is to register that memorial accordingly. The Minister has requested a ruling about whether this amendment involves an appropriation of funds and therefore is not in order pursuant to section 46(3) of the *Constitution Acts Amendment Act 1899*.

Over time, the Legislative Council has adopted a narrow interpretation of section 46(3) so as not to restrict its rights and privileges in relation to Bills. Under this interpretation, amendments in the Legislative Council have been ruled in order if they involve a redirection or reallocation of proposed expenditure, the subject of an existing appropriation. However, the imposition of a new legal and definable financial responsibility may involve an appropriation. On its face, this amendment will impose a substantial new legal and definable financial obligation on the Minister; the advice from the Department being a cost of up to \$17 million, which could not be absorbed within the Department's existing operating budget. For that reason, I rule that the amendment is not in order.

Amendment ruled out of order.

Debate resumed.

The Minister for Environment moved —
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 section 133B(2) or 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.

Debate ensued.

Hon Martin Aldridge moved to amend the amendment as follows —

In subsection (3) — To delete “section 133B(2) or”.

Debate ensued.

Amendment — put and passed.

Debate resumed.

Amendment, as amended, put and passed.

Debate resumed.

Hon Rick Mazza moved —

That the Legislative Assembly be requested to make the following amendment:

Page 59, after line 28 — To insert:

51BA. Persons affected by declaration entitled to compensation

- (1) A person who suffers loss or damage as a result of a declaration made under section 51B is entitled to make an application to the CEO for compensation for the loss or damage.
- (2) The application must be made in the form and in the manner approved by the CEO and must state —
 - (a) the details of the person’s loss or damage; and
 - (b) the amount of compensation claimed and the grounds for the amount claimed.
- (3) If an application is made under subsection (1), the CEO must determine whether or not compensation should be paid to the person.

- (4) The amount of compensation payable is to be determined by agreement between the person applying for that compensation and the CEO or, in default of any such agreement, by the Magistrates Court on the application of the person so applying or of the CEO.

Deputy Chair's Ruling

The Deputy Chair ruled as follows —

There is an issue with the Member's proposed amendment. It is along similar lines to issues raised with the amendments of Hon Dr Steve Thomas and Hon Aaron Stonehouse. It comes back to section 46(4) of the *Constitution Acts Amendment Act 1899*, which provides —

The Legislative Council may at any stage return to the Legislative Assembly any Bill which the Legislative Council may not amend, requesting by message the omission or amendment of any item or provision therein: provided that any such request does not increase any proposed charge or burden on the people.

The Member's amendment would create a new compensation scheme and does not involve a redirection or reallocation of proposed expenditure that is the subject of an existing appropriation. Rather, it would impose a new legal and definable financial responsibility. Therefore, my ruling is that the amendment would increase a proposed charge or burden on the people and is therefore not in order. Therefore, the Member's amendment cannot proceed.

Debate ensued.

Clause, as amended, agreed to.

Clauses 45 and 46 agreed to.

Clause 47

Hon Dr Steve Thomas moved —

Page 67, after line 12 — to insert:

- (2) In section 51H(1) after “vegetation” insert:

as a result of material environmental harm or serious environmental harm

Debate ensued.

The Minister for Environment tabled the key steps of the Approval Bilateral Agreement. (Tabled Paper 4586).

Debate resumed.

Amendment — put.

The Committee divided.

Ayes (16)

Hon Jacqui Boydell
 Hon Jim Chown
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Colin Holt
 Hon Rick Mazza

Hon Michael Mischin
 Hon Simon O'Brien
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Ken Baston (*Teller*)

Noes (17)

Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Diane Evers
 Hon Adele Farina
 Hon Laurie Graham
 Hon Alannah MacTiernan

Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Charles Smith
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

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

Clauses 48 to 59 agreed to.

Clause 60.

The Minister for Environment, by leave, moved —

Page 82, line 18 — To insert after “licence”:

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

Page 84, line 3 — To insert after “licence”:

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

Page 89, line 12 — To insert after “application”:

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

Page 90, line 5 — To insert after “licence”:

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

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 61 to 63 agreed to.

Clause 64 agreed to.

Clauses 65 to 70 agreed to.

Clause 71.

Debate ensued.

Clause agreed to.

Clauses 72 to 98 agreed to.

New Clause 98A.

Debate ensued.

Hon Dr Steve Thomas moved —

Page 145, after line 27 — To insert:

98A. Section 122 amended

- (1) In section 122(1) delete “may” and insert:

must

- (2) In section 122(1)(a) delete “assessment;” and insert:

assessment, including reasonable timelines for the stages in progress;

Hon Dr Steve Thomas, by leave, withdrew his amendment.

Clause 99 agreed to.

Clause 100.

Debate ensued.

Clause agreed to.

Clauses 101 to 103 agreed to.

Clause 104.

Debate ensued.

The Minister for Environment moved —

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

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 105.

The Minister for Environment moved —

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

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 106 and 107 agreed to.

Clause 108.

Debate ensued.

The Minister for Environment moved —

Page 167, after line 15 — To insert:

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

fee includes charge;

Amendment — put and passed.

The Minister for Environment moved —

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.

Amendment — put and passed.

The Minister for Environment moved —

Page 169, after line 5 — To insert:

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

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 109 agreed to.

Clause 110.

Hon Dr Steve Thomas moved —

Page 171, after line 13 — To insert:

17. Clearing that —

- (a) is done to minimise the risk of flames contacting a private dwelling-house; and
- (b) is not more than 25 metres from the private dwelling-house; and
- (c) is done in a way that limits damage to neighbouring native vegetation.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (13)

Hon Jim Chown
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Rick Mazza
 Hon Michael Mischin
 Hon Simon O'Brien

Hon Robin Scott
 Hon Tjorn Sibma
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Ken Baston (*Teller*)

Noes (20)

Hon Jacqui Boydell
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Adele Farina
 Hon Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Charles Smith
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

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

Clauses 111 to 116 agreed to.

New Clause 116A.

The Minister for Environment moved —

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.

Amendment — put and passed.

New Clause agreed to.

Clause 117 and 118 agreed to.

Title agreed to.

Environmental Protection Amendment Bill (No. 2) 2020

Clause 1 agreed to.

Clause 2.

Debate ensued.

Hon Michael Mischin moved —

That the Legislative Assembly be requested to make the following amendment:

Page 2, line 7 — To delete “Royal Assent;” and insert:

Royal Assent (*assent day*):

Debate ensued.

Requested amendment agreed to.

Hon Michael Mischin moved —

That the Legislative Assembly be requested to make the following amendment:

Page 2, after line 13 — To insert:

- (2) However —
- (a) if sections 4 and 5 do not come into operation 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.

Requested amendment agreed to.

The Minister for Environment moved that further consideration of Clause 2 be postponed until after consideration of Clause 4.

Question — put and passed.

Clause 3 agreed to.

Clause 4.

Debate ensued.

The Minister for Environment moved —

That the Legislative Assembly be requested to make the following amendment:

Page 2, line 20 — To insert after “prescribe”:

or provide for the determination of

Requested amendment agreed to.

The Minister for Environment moved without notice —

That a message be transmitted to the Legislative Assembly to request that the Legislative Assembly make the amendments requested by the Legislative Council at clauses 2 and 4 of the *Environmental Protection Amendment Bill (No. 2) 2020*.

Question — put and passed.

The Minister for Environment moved, That the Deputy Chair report progress and seek to sit again.

Question — put and passed.

The Acting President resumed the Chair.

Environmental Protection Amendment Bill 2020

The *Environmental Protection Amendment Bill 2020* reported with amendments.

Environmental Protection Amendment Bill (No. 2) 2020

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the *Environmental Protection Amendment Bill (No. 2) 2020*, made progress, and resolved to request the Legislative Assembly to make the amendments to the *Environmental Protection Amendment Bill (No. 2) 2020* as follows —

Clause 2.

Page 2, line 7 — To delete “Royal Assent;” and insert:

Royal Assent (*assent day*):

Page 2, after line 13 — To insert:

(2) However —

- (a) if sections 4 and 5 do not come into operation 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.

Clause 4.

Page 2, line 20 — To insert after “prescribe”:

or provide for the determination of

The Minister for Environment moved, without notice —

That the Report on the *Environmental Protection Amendment Bill (No. 2) 2020* be adopted.

Question — put and passed.

Report adopted.

Legislative Assembly acquainted accordingly.

The Minister for Environment moved, That the report on the *Environmental Protection Amendment Bill 2020* be made an Order of the Day for the next day’s sitting.

Question — put and passed.

15. Business of the House

The Leader of the House advised the Council that the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020* was COVID-19 related business, and pursuant to Temporary Order (6), set maximum time limits to apply to the debate.

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

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate ensued.

Interruption pursuant to order.

17. Members' Statements

Statements were taken.

18. Adjournment

The Council adjourned at 10.16pm until Wednesday, 11 November 2020 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT
Clerk of the Legislative Council

HON KATE DOUST MLC
President of the Legislative Council