

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 221

THURSDAY, 24 SEPTEMBER 2020

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### 1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

### 2. Petition

Hon Tim Clifford presented a petition from 25 petitioners requesting the Legislative Council to call on the Minister for Transport to address community concerns by installing noise abatement walls as part of the Tonkin Gap Project. (Tabled Paper 4370).

### 3. Papers

The following Papers were laid on the Table by —

#### President

*Annual Reports* —

Commissioner for Children and Young People (2019-20) (Date received 23/09/2020)..... 4323

Corruption and Crime Commission (2019-20) (Date received 23/09/2020)..... 4324

*Auditor General's Papers* —

Transparency Report: Current Status of WA Health's COVID-19 Response  
Preparedness (Report No. 5) (September 2020)..... 4325

*Reports* —

Ombudsman Western Australia — Preventing Suicide by Children and Young People  
(2020) — (Volume 1) Ombudsman's forward and executive summary ..... 4326

Ombudsman Western Australia — Preventing Suicide by Children and Young People  
(2020) — (Volume 2) A report on giving effect to the recommendations arising  
from the Ombudsman's investigation into ways that State Government  
Departments and authorities can prevent or reduce suicide by young people  
(2014) ..... 4327

Ombudsman Western Australia — Preventing Suicide by Children and Young People  
(2020) — (Volume 3) Investigation into ways that the State Government  
Departments and authorities can prevent or reduce suicide by children and  
young people ..... 4328

#### Leader of the House

*Annual Reports* —

Australian Criminal Intelligence Commission (2018-19) (Date received 23/09/2020) ..... 4329

Director of Equal Opportunity in Public Employment (2019-20) (Date received 23/09/2020)	4330
Director of Public Prosecutions, Office of the (2019-20) (Date received 23/09/2020)	4331
Equal Opportunity Commission (2019-20) (Date received 23/09/2020)	4332
Gender Reassignment Board (2019-20) (Date received 23/09/2020)	4333
Gold Corporation (2019-20) (Date received 23/09/2020)	4334
Infrastructure Western Australia (2019-20) (Date received 23/09/2020)	4335
Legal Aid (2019-20) (Date received 23/09/2020)	4336
Premier and Cabinet, Department of the (2019-20) (Date received 23/09/2020)	4337
Public Sector Commission (2019-20) (Date received 23/09/2020)	4338
Public Trustee (2019-20) (Date received 23/09/2020)	4339
School Curriculum and Standards Authority (2019-20) (Date received 23/09/2020)	4340
Venues West (2019-20) (Date received 23/09/2020)	4341

### **Minister for Environment**

#### *Annual Reports —*

Biodiversity Conservation and Attractions (2019-20) (Date received 23/09/2020)	4342
Botanic Gardens and Parks Authority (2019-20) (Date received 23/09/2020)	4343
Disability Services Commission (2019-20) (Date received 23/09/2020)	4344
Keep Australia Beautiful Council (2019-20) (Date received 23/09/2020)	4345
Main Roads (2019-20) (Date received 23/09/2020)	4346
Police Force WA (2019-20) (Date received 23/09/2020)	4347
Swan River Trust (2019-20) (Date received 23/09/2020)	4348
Transport, Department of (2019-20) (Date received 23/09/2020)	4349
Zoological Parks Authority (2019-20) (Date received 23/09/2020)	4350

#### *Proposals —*

Land Administration Act 1997 — Submission No. 16/2020 — Proposed excision from Class A Reserve No. 17391 for road dedication and lease development of the former Tawarri Reception Centre in the City of Nedlands	4351
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### **Parliamentary Secretary to the Deputy Premier on behalf of the Minister for Regional Development**

#### *Annual Reports —*

Gascoyne Development Commission (2019-20) (Date received 23/09/2020)	4352
Mid-West Development Commission (2019-20) (Date received 23/09/2020)	4353
Mines, Industry Regulation and Safety, Department of (2019-20) (Date received 23/09/2020)	4354
Peel Development Commission (2019-20) (Date received 23/09/2020)	4355
Rottnest Island Authority (2019-20) (Date received 23/09/2020)	4356
Rural Business Development Commission (2019-20) (Date received 23/09/2020)	4357

#### *Notices —*

Financial Management Act 2006(section 82) — Notice from the Minister for Racing and Gaming regarding Legislative Council Question without Notice No. 899 asked by the Hon Colin Holt	4358
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### **Parliamentary Secretary to the Deputy Premier**

#### *Annual Reports —*

Chief Psychiatrist (2019-20) (Date received 23/09/2020)	4359
Child and Adolescent Health Service (2019-20) (Date received 23/09/2020)	4360

Health and Disability Services Complaints Office (2019-20) (Date received 23/09/2020).....	4361
Healthway (2019-20) (Date received 23/09/2020).....	4362
Local Health Authorities Analytical Committee (2019-20) (Date received 23/09/2020) .....	4363
Mental Health Tribunal (2019-20) (Date received 23/09/2020) .....	4364
North Metropolitan Health Service (2019-20) (Date received 23/09/2020) .....	4365
Post Graduate Medical Council (2019-20) (Date received 23/09/2020).....	4366
Quadriplegic Centre (2019-20) (Date received 23/09/2020).....	4367
Queen Elizabeth II Medical Centre Trust (2019-20) (Date received 23/09/2020).....	4368
Reproductive Technology Council Western Australia (2019-20) (Date received 23/09/2020) .....	4369

**4. Joint Standing Committee on the Corruption and Crime Commission — Report 15 — If not the CCC...then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force**

Hon Jim Chown presented Report 15 of the Joint Standing Committee on the Corruption and Crime Commission, *If not the CCC...then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force*. (Tabled Paper 4371).

**5. Standing Committee on Environment and Public Affairs — Report 55 — Overview of Petitions, 1 January 2019 to 30 June 2019**

Hon Matthew Swinbourn presented Report 55 of the Standing Committee on Environment and Public Affairs, *Overview of Petitions 1 January 2019 to 30 June 2019*. (Tabled Paper 4372).

**6. Standing Committee on Environment and Public Affairs — Report 56 — Overview of Petitions 1 July 2019 to 30 June 2020**

Hon Matthew Swinbourn presented Report 56 of the Standing Committee on Environment and Public Affairs, *Overview of Petitions 1 July 2019 to 30 June 2020*. (Tabled Paper 4373).

**7. Curtin University Statute No. 12 — Admission and Enrolment — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Curtin University Statute No. 12 — Admission and Enrolment* published in the *Gazette* on 24 July 2020 and tabled in the Legislative Council on 11 August 2020 under the *Curtin University Act 1966*, be and is hereby disallowed. (Tabled Paper 4021).

**8. Curtin University Statute No. 5 — Election of Council Members — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Curtin University Statute No. 5 — Election of Council Members* published in the *Gazette* on 24 July 2020 and tabled in the Legislative Council on 11 August 2020 under the *Curtin University Act 1966*, be and is hereby disallowed. (Tabled Paper 4021).

**9. Vocational Education and Training (Colleges) Amendment Regulations (No. 2) 2020 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Vocational Education and Training (Colleges) Amendment Regulations (No. 2) 2020* published in the *Gazette* on 30 June 2020 and tabled in the Legislative Council on 11 August 2020 under the *Vocational Education and Training Act 1996*, be and are hereby disallowed. (Tabled Paper 4030).

## 10. Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2020 — Disallowance

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2020* published in the *Gazette* on 26 June 2020 and tabled in the Legislative Council on 11 August 2020 under the *Dangerous Goods Safety Act 2004*; *Mines Safety and Inspection Act 1994*; *Mining Act 1978*; *Offshore Minerals Act 2003*; *Petroleum (Submerged Lands) Act 1982*; *Petroleum (Submerged Lands) Registration Fees Act 1982*; *Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967*; *Petroleum and Geothermal Energy Resources Act 1967*; and *Petroleum Pipelines Act 1969*, be and are hereby disallowed. (Tabled Paper 4055).

## 11. Western Australian Public Sector

Hon Tjorn Sibma: To move on the next day of sitting —

That this House —

- (a) express its concern about the Premier's comprehensive mismanagement of the Western Australian public sector;
- (b) notes the failure of the McGowan Government to deliver on its promise to improve the accountability and performance of senior executive service level officers;
- (c) notes the failed Voluntary Targeted Separation Scheme;
- (d) acknowledges the failure of the McGowan Government's rushed machinery of government (MoG) changes and the consequential negative impact that these MoG changes have had on service delivery in Western Australia; and
- (e) acquaints the Legislative Assembly accordingly.

## 12. COVID-19 Pandemic

Non-Government Business No. 1 having been called, Hon Tjorn Sibma moved, without notice —

That this House urges the McGowan Government to —

- (a) justify why and on what grounds it has abandoned a COVID-19 suppression strategy in favour of an elimination strategy;
- (b) regularly publish official information (including public health information) underpinning all of its major COVID-19 decisions;
- (c) permit key officials including the Chief Health Officer and the Police Commissioner, to regularly brief the public on COVID-19 matters;
- (d) explain apparent inconsistencies with quarantine exemptions granted over the course of the pandemic;
- (e) table its plan for, and advise its preparedness to manage, a potential second-wave outbreak; and
- (f) respect Western Australians suffering isolation from their loved ones located throughout Australia and overseas.

Debate ensued.

*Motion lapsed.*

## 13. 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*, 5, *Transport Regulations Amendment (Fees and Charges) Regulations (No. 2) 2020 — Disallowance*, 6, *Energy Operators (Electricity Generation and Retail Corporation) (Charges) Amendment By-laws 2020 — Disallowance*, 7, *Shire of Narembeen Cemeteries Local Law 2020 —*

*Disallowance*, and 8, *Shire of Narembeen Fencing Local Law 2020 — Disallowance*, be taken after Order of the Day No. 33, *Environmental Protection Amendment Bill (No. 2) 2020*. (Leader of the House).

**14. City of Vincent Parking and Parking Facilities Amendment Local Law 2020 — Disallowance — Discharge from Notice Paper**

The Order of the Day having been called, Hon Martin Pritchard moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 4, *City of Vincent Parking and Parking Facilities Amendment Local Law 2020*, be discharged from the Notice Paper.

Question — put and passed.

**15. Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019**

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

The President left the Chair.

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**In Committee**

(Hon Martin Aldridge in the Chair)

***Work Health and Safety Bill 2019***

Postponed Clause 30A.

Debate resumed.

Clause, as amended, agreed to.

Clause 35.

Debate ensued.

Clause agreed to.

Clauses 36 to 39 agreed to.

Clause 40.

Debate ensued.

Clause agreed to.

Clauses 41 to 43 agreed to.

Clause 44.

Debate ensued.

Clause agreed to.

Clauses 45 to 45C agreed to.

Clause 46.

Debate ensued.

Clause agreed to.

Clause 47 agreed to.

Clause 48.

Debate ensued.

Clause agreed to.

Clauses 49 to 64 agreed to.

Clause 65.

Debate ensued.

Clause agreed to.

Clauses 66 to 68 agreed to.

Clause 69.

Debate ensued.

Clause agreed to.

Clauses 70 and 71 agreed to.

Clause 72.

Hon Nick Goiran moved —

Page 71, line 11 — To delete the line and insert:

- (c) subject to subsection (5), chosen by the health and safety representative, in consultation with the person conducting the business or undertaking.

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (15)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Colin de Grussa  
 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 (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 Kyle McGinn  
 Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Charles Smith  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Alison Xamon  
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

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

Clauses 73 to 75 agreed to.

Clause 76.

Debate ensued.

Clause agreed to.

Clauses 77 to 83 agreed to.

Clause 84.

Debate ensued.

Clause agreed to.

Clauses 85 to 88 agreed to.

Clause 89.

Debate ensued.

Clause agreed to.

Clause 89A.

Debate ensued.

Clause agreed to.

Clauses 90 to 99 agreed to.

Clause 100.

Debate ensued.

Clause agreed to.

Clauses 101 to 154 agreed to.

Clause 155.

Debate ensued.

The Minister for Regional Development representing the Minister for Industrial Relations tabled a memorandum of advice from the Government to all Members of Parliament setting out the Government's rationale for a proposition to amend clause 231 of the Bill. (Tabled Paper 4510).

Clause agreed to.

Clauses 156 to 171 agreed to.

Clause 172.

Debate ensued.

Clause agreed to.

Clauses 173 to 190 agreed to.

Clause 191.

Debate ensued.

Clause agreed to.

Clauses 192 to 215 agreed to.

Clause 216.

Debate ensued.

Clause agreed to.

Clauses 217 to 222 agreed to.

Clause 223.

Hon Alison Xamon moved —

Page 146, after line 9, the Table after item 5 — To insert:

5A.	Section 155A(6)(b) (decision to withhold approval of legal practitioner on other reasonable grounds)	The witness.
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Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 224 to 229C agreed to.

Clause 230.

Debate ensued.

The Minister for Regional Development representing the Minister for Industrial Relations moved that further consideration of Clause 230 be postponed until after New Clause 230A.

Question — put and passed.

New Clause 230A.

Hon Nick Goiran moved —

Page 159, after line 23 — To insert:

### **230. Prosecutions**

- (1) Proceedings for an offence under section 30A or section 31 against this Act may only be brought by —
  - (a) the DPP; or
  - (b) a member of the DPP's staff with the written authorisation of the DPP (either generally or in a particular case).
- (2) The regulator must issue, and publish on the regulator's website, general guidelines for or in relation to the acceptance of WHS undertakings under this Act.
- (3) The DPP must issue, and publish on the DPP's website, general guidelines for or in relation to the prosecution of offences under this Act.

Debate ensued.

The Minister for Regional Development representing the Minister for Industrial Relations moved that further consideration of Clauses 230 to 233 be postponed until after Schedule 3.

Question — put and passed.

Clause 223A agreed to.

Clause 234 agreed to.

### **16. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Attorney General tabled a letter from the Chief Health Officer to the Commissioner of Police in relation to the maintenance of intrastate borders, in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 4390).

The Leader of the House representing the Minister for Sport and Recreation tabled documents in relation to the Shire of Wyndham-East Kimberley's request to relocate the \$590,000 Kununurra water playground, in response to a question without notice asked by Hon Jacqui Boydell. (Tabled Paper 4391).

The Leader of the House representing the Minister for Community Services, by leave, incorporated into *Hansard* information in relation to the Hotels with Heart program, in response to a question without notice asked by Hon Michael Mischin.

The Leader of the House representing the Minister for Community Services, by leave, incorporated into *Hansard* information in relation to the Hotels with Heart program, in response to a question without notice asked by Hon Michael Mischin.

The Minister for Environment representing the Minister for Emergency Services, by leave, incorporated into *Hansard* information in relation to the *Waroona Bushfire Special Inquiry Report*, in response to a question without notice asked by Hon Colin de Grussa.

The Minister for Environment representing the Minister for Housing, in accordance with Standing Order 108(2), advised that an answer to question on notice 3142 asked by Hon Peter Collier will be provided on 13 October 2020.

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to the number of patients placed in over-census beds, in response to a question without notice asked by Hon Jim Chown.

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to funding for alcohol and other drug prevention officers in regional Western Australia, in response to a question without notice asked by Hon Robin Scott.



**17. Papers**

The following Papers were laid on the Table by —

**President**

*Annual Reports —*

Auditor General (2019-20) (Date received 24/09/2020) .....	4374
Information Commissioner, Office of the (2019-20) (Date received 24/09/2020) .....	4375
Legislative Assembly, Department of (2019-20) (Date received 24/09/2020) .....	4376
Legislative Council, Department of (2019-20) (Date received 24/09/2020).....	4377
Parliamentary Services, Department of (2019-20) (Date received 24/09/2020) .....	4378

**Leader of the House**

*Annual Reports —*

Coastal Shipping Commission (2019-20) (Date received 24/09/2020).....	4379
Fire and Emergency Services Superannuation Board (2019-20) (Date received 24/09/2020)...	4380
Fire and Emergency Services, Department of (2019-20) (Date received 24/09/2020) .....	4381
Jobs, Tourism, Science and Innovation, Department of (2019-20) (Date received 24/09/2020).....	4382
Justice, Department of (2019-20) (Date received 24/09/2020) .....	4383
Legal Costs Committee (2019-20) (Date received 24/09/2020) .....	4384
Local Government, Sport and Cultural Industries, Department of (2019-20) (Date received 24/09/2020).....	4385
Planning, Lands and Heritage, Planning Commission, Aboriginal Affairs and Heritage Council (2019-20) (Date received 24/09/2020) .....	4386
Public Transport Authority (2019-20) (Date received 24/09/2020).....	4387
State Emergency Management Committee (2019-20) (Date received 24/09/2020) .....	4388

**18. Work Health and Safety Bill 2019 and Safety Levies Amendment Bill 2019**

Resumption of consideration of these Bills in Committee of the Whole House (*see item 15 above*).

The President left the Chair.

**In Committee**

(Hon Simon O'Brien in the Chair)

Clause 235 agreed to.

Clauses 236 to 272 agreed to.

Clause 272A.

Debate ensued.

Hon Rick Mazza moved —

Page 177, line 21 — To delete “an offence against this Act.” and insert:

a crime under section 30A or a Category 1 offence.

Debate ensued.

*Interruption pursuant to order.*

The President resumed the Chair.

The 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.

**19. Members' Statements**

Statements were taken.

**20. Adjournment**

The Council adjourned at 5.56pm until Thursday, 8 October 2020 at 1.15pm.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Colin Holt and Hon Darren West.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON KATE DOUST MLC**  
President of the Legislative Council