

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 233

WEDNESDAY, 11 NOVEMBER 2020

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. Message from His Excellency the Governor — Assent to Bills

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bills —

10 November 2020 — Message No. 40	Act No.
Work Health and Safety Bill 2019	36 of 2020
Safety Levies Amendment Bill 2019	37 of 2020
Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020	38 of 2020

3. Petitions

Hon Colin Holt presented a petition from 1,866 petitioners requesting the Legislative Council to recommend that the State Government reject Alcoa's proposed Huntly Mine expansion and the proposed increase in production at the Pinjarra Refinery and bauxite export. (Tabled Paper 4592).

Hon Donna Faragher presented a petition from 776 petitioners requesting the Legislative Council to support access to a qualified teacher and a library technician, or library officer, at school libraries. (Tabled Paper 4593).

Hon Colin Holt, by leave, presented a non-conforming petition from 95 petitioners requesting the Legislative Council to oppose the biosecurity levy imposed on the residents of Boyup Brook. (Tabled Paper 4594).

4. Ministerial Statement — Order to Produce Documents — COVID-19 Pandemic Restrictions

The Leader of the House made a Ministerial Statement with respect to the tabling of documents in relation to COVID-19 pandemic restrictions, as ordered by the Council on 4 November 2020.

The Leader of the House tabled COVID-19 pandemic restriction advice given to the Chief Health Officer and staff. (Tabled Paper 4595).

5. Ministerial Statement — Retirement of the Chief Advocate

The Parliamentary Secretary to the Minister for Mental Health made a Ministerial Statement with respect to the retirement of Ms Debra Colvin, Chief Advocate of the Mental Health Advocacy Service.

6. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Audit Results Report — Annual (2019-20) Financial Audits of State Government Entities (November 2020) 4587

Minister for Regional Development

Reports —

Aqwest — Statement of Corporate Intent (2020-21) 4588

Busselton Water — Statement of Corporate Intent (2020-21) 4589

Forest Products Commission — Statement of Corporate Intent (2020-21) 4590

Water Corporation — Statement of Corporate Intent (2020-21) 4591

7. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Robin Chapple in the Chair)

Joint Standing Committee on the Corruption and Crime Commission — Report No. 14 — Red flags...red faces. Corruption risk in public procurement in Western Australia

Debate resumed on the motion of Hon Stephen Dawson, That the Report be noted.

Pursuant to Temporary Order 4, consideration of the report was postponed.

Standing Committee on Environment and Public Affairs — Report No. 52 — Punitive not protective: when the mandatory registration of young people is not based on risk

Hon Alison Xamon moved, That consideration be postponed until the next sitting.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 13 — Annual Report 2018–19

Debate resumed on the motion of Hon Alison Xamon, That the Report be noted.

Hon Nick Goiran moved, That consideration be postponed until the next sitting.

Question — put and passed.

Standing Committee on Estimates and Financial Operations — Report 82 — The Local Projects Local Jobs program and the establishment of a Parliamentary Budget Office

Debate resumed on the motion of Hon Alison Xamon, That the Report be noted.

Pursuant to Temporary Order 4, consideration of the report was postponed.

Joint Standing Committee on the Commissioner for Children and Young People — Report 5 — From Words to Action — Fulfilling the obligation to be child safe

Hon Stephen Dawson moved, That the Report be noted.

Hon Nick Goiran moved, That consideration be postponed until the next sitting.

Question — put and passed.

Standing Committee on Public Administration — Report 31 — Coming home safely: WorkSafe and the workplace culture in Western Australia

Hon Kyle McGinn moved, That the Report be noted.

Debate ensued.

Interruption pursuant to order.

The Acting President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Joint Standing Committee on the Corruption and Crime Commission — Report 14 — *Red flags...red faces. Corruption risk in public procurement in Western Australia*, made progress and postponed further consideration until the next sitting.
- (2) Standing Committee on Environment and Public Affairs — Report 52 — *Punitive not protective: when the mandatory registration of young people is not based on risk* and postponed further consideration until the next sitting.
- (3) Joint Standing Committee on the Corruption and Crime Commission — Report 13 — *Annual Report 2018–19*, made progress and postponed further consideration until the next sitting.
- (4) Standing Committee on Estimates and Financial Operations — Report 82 — *The Local Projects Local Jobs program and the establishment of a Parliamentary Budget Office*, made progress and postponed further consideration until the next sitting.
- (5) Joint Standing Committee on the Commissioner for Children and Young People — Report 5 — *From Words to Action — Fulfilling the obligation to be child safe* and postponed consideration to the next sitting.
- (6) Standing Committee on Public Administration — Report 31 — *Coming home safely: WorkSafe and the workplace culture in Western Australia*, made progress and seeks to sit again.

Report adopted.

8. Statement by President — Senate Vacancy

The President made the following Statement —

I have a message from His Excellency the Governor that transmits to the Legislative Council a copy of a dispatch that he has received from the President of the Senate of the Commonwealth of Australia, notifying that a vacancy has happened in the representation of the State of Western Australia in the said Senate. The dispatch from the President of the Senate reads as follows —

Your Excellency

Vacancy in the representation of Western Australia

Pursuant to the provisions of section 21 of the Commonwealth of Australia Constitution, I notify Your Excellency there is a vacancy in the representation of the State of Western Australia caused by the resignation of Senator the Hon Mathias Cormann today, Friday, 6 November 2020.

Yours sincerely

Senator the Honourable Scott Ryan
President of the Senate

The Leader of the House moved, without notice —

That with reference to the Message reported to the Council by the President from His Excellency the Governor, the Honourable Madam President be requested to confer with the Honourable Mr Speaker in order to fix a day and place whereon and whereat the Legislative Council and the Legislative Assembly, sitting and voting together, shall choose a person to hold the place of the senator whose place has become vacant.

Question — put and passed.

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. 34, *Dog Amendment (Stop Puppy Farming) Bill 2020*. (Leader of the House).

10. Environmental Protection Amendment Bill 2020

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Environment moved, That the report be adopted.

Question — put and passed.

The Minister for Environment moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Environmental Protection Amendment Bill 2020* to be read a third time.

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.

The Minister for Environment moved, That the Bill be read a third time.

Point of Order

Hon Nick Goiran raised the following Point of Order —

Just looking at the *Daily Notice Paper*, I note that it is a cognate debate with the *Environmental Protection Amendment Bill (No. 2) 2020*. Does that remain the case?

President's Ruling

The President ruled as follows —

We have had this discussion previously on a similar type of cognate debate and the Bills had been split up. One bill had been referred to the other place for an amendment, and the primary Bill, if you like, had remained in this place for completion. We are in the same situation with these Bills, this Bill, the *Environmental Protection Amendment Bill 2020*, and the *Environmental Protection Amendment Bill (No. 2) 2020*, which has been sent to the other place. They have now been split up. This Bill will be dealt with separately, and in due course I anticipate that the other Bill will be returned to this place, perhaps with an amendment, and will be dealt with in due course.

The 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.

11. 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 resumed.

Question — put and passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon Matthew Swinbourn in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2 agreed to.

Clause 3.

Debate ensued.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Education and Training, by leave, incorporated into *Hansard* information in relation to education assistants and Aboriginal and Islander education officers working in public schools, in response to a question without notice asked by Hon Donna Faragher.

The Minister for Environment tabled documents in relation to threatened or listed fauna cared for, injured or killed on Barrow Island from 2015 to 2019, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 4596).

The Leader of the House representing the Minister for Child Protection tabled documents in relation to employees at the Department for Child Protection, by directorate and district, in 2016, 2017, 2018, 2019 and 2020, in response to question on notice 3256 asked by Hon Colin Tincknell. (Tabled Paper 4597).

The Minister for Education and Training tabled documents in relation to education assistants for every public school in 2016, 2017, 2018, 2019 and 2020, in response to question on notice 3286 asked by Hon Colin Tincknell. (Tabled Paper 4598).

The Minister for Education and Training tabled documents in relation to student attendance rates at Government schools in 2020, in response to question on notice 3289 asked by Hon Colin Tincknell. (Tabled Paper 4599).

The Minister for Environment representing the Minister for Planning tabled correspondence in relation to the Western Australian Planning Commission's direction to the Town of Victoria Park to modify Town Planning Scheme No. 1, Amendment No. 78, in response to question on notice 3247 asked by Hon Tjorn Sibma. (Tabled Paper 4600).

The Minister for Regional Development representing the Minister for State Development, Jobs and Trade, by leave, incorporated into *Hansard* information in relation to the Gascoyne Gateway project in Exmouth, in response to a question without notice asked by Hon Robin Chapple.

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

Resumption of consideration of this Bill in Committee of the Whole House (*see item 11 above*).

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 3.

Debate resumed.

Clause agreed to.

Clause 4.

Debate ensued.

Hon Colin de Grussa moved —

Page 3, line 7 — To delete “18” and insert:

15

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Diane Evers
 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 Charles Smith
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Ken Baston (*Teller*)

Noes (11)

Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Laurie Graham
 Hon Alannah MacTiernan
 Hon Kyle McGinn

Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus passed.

Clause, as amended, agreed to.

Clause 5.

Hon Colin de Grussa moved —

Page 3, line 12 — To delete “18” and insert:

15

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 6 agreed to.

Clause 7.

Hon Colin de Grussa moved —

Page 4, line 10 — To delete “October” and insert:

July

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 8 agreed to.

Clause 9.

Hon Colin de Grussa moved —

Page 5, line 10 — To delete “October” and insert:

July

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Diane Evers
 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 Charles Smith
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
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 Hon Laurie Graham
 Hon Alannah MacTiernan
 Hon Kyle McGinn

Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus passed.

Clause, as amended, agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendments.

The Minister for Environment representing the Minister for Emergency Services moved, That the report be adopted.

Report adopted.

The Minister for Environment representing the Minister for Emergency Services moved, That the Bill be read a third time.

The Acting President announced that the 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.

Question — put and passed.

Bill read a third time and passed.

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

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 234

The Legislative Assembly acquaints the Legislative Council that, in response to the requested amendments in Legislative Council Message No. 144 to the *Environmental Protection Amendment Bill (No. 2) 2020*, the Legislative Assembly has made the amendments.

Mr S.J. Price

Acting Speaker

Legislative Assembly Chamber

Perth, 11 November 2020

Ordered — That consideration, in Committee of the Whole House, of Message No. 234 be taken forthwith.

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 4 agreed to.

Postponed Clause 2 agreed to.

Clause 5 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Minister for Environment moved, That the Bill be read a third time.

The Acting President announced that the 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.

Question — put and passed.

Bill read a third time and passed.

15. Criminal Law (Unlawful Consorting) Bill 2020

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

Debate ensued.

Hon Nick Goiran sought leave to continue his remarks at the next sitting.

Leave granted.

On the motion of Hon Pierre Yang the debate was adjourned to the next sitting.

16. Order of BusinessOrdered — That Order of the Day No. 1, *Local Government (Rules of Conduct) Amendment Regulations 2020 — Disallowance*, be taken forthwith. (Leader of the House).**17. Local Government (Rules of Conduct) Amendment Regulations 2020 — Disallowance**The Order of the Day having been called for the motion of Hon Aaron Stonehouse moved *pro forma* as follows —

That the *Local Government (Rules of Conduct) Amendment Regulations 2020* published in the *Gazette* on 14 August 2020 and tabled in the Legislative Council on 18 August 2020 under the *Local Government Act 1995*, be and are hereby disallowed. (Tabled Paper 4108).

Debate ensued.

Question — put.

The Council divided.

Ayes (17)

Hon Martin Aldridge
Hon Tim Clifford
Hon Peter Collier
Hon Colin de Grussa
Hon Donna Faragher
Hon Nick Goiran
Hon Colin Holt
Hon Michael Mischin
Hon Simon O'Brien

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

Noes (12)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Diane Evers
 Hon Alannah MacTiernan

Hon Kyle McGinn
 Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Question thus passed.

18. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

19. Members' Statements

Statements were taken.

20. Building and Construction Industry (Security of Payment) Bill 2020

The President reported the receipt of Message No. 232 from the Legislative Assembly forwarding the Bill for concurrence.

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

The Minister for Regional Development representing the Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4601).

Debate stands adjourned.

21. Adjournment

The Council adjourned at 10.33pm until Thursday, 12 November 2020 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina.

NIGEL PRATT
 Clerk of the Legislative Council

HON KATE DOUST MLC
 President of the Legislative Council