

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 98

FIRST SESSION OF THE FORTIETH PARLIAMENT

TUESDAY, 6 NOVEMBER 2018

1. Meeting of Assembly

The Assembly met at 2.00 pm pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

2. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Local Government on the Murchison Country Zone meeting.

The Minister for Citizenship and Multicultural Interests on Diwali 2018.

The Minister for Community Services on the Financial Counselling Association's Awards Night.

3. Questions

Questions without Notice were taken.

Questions on Notice Nos 4365 to 4371 were asked.

4. Personal Explanation

The Parliamentary Secretary representing the Minister for Water made a personal explanation in relation to a grievance by Dr M.D. Nahan on 1 November 2018.

5. Unanswered Question on Notice

Mr W.R. Marmion asked why no answer had been received in respect of his Question on Notice No. 4091.

6. Message from the Governor

Message No. 30 from His Excellency the Governor was reported assenting to the following bills –

Court Jurisdiction Legislation Amendment Bill 2017, Act No. 28 of 2018.

Courts Legislation Amendment Bill 2017, Act No. 29 of 2018.

7. Papers

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

By the Clerk –

Bush Fires Act 1954 – Local Laws (City of Karratha Bush Fire Brigades Local Law 2018 G.G. 02/11/2018) (1995).

Fish Resources Management Act 1994 – Management Plans (Abrolhos Islands and Mid West Trawl Managed Fishery Management Plan Amendment 2018 [1152] G.G. 02/11/2018) (1996).

Iron Ore (Robe River) Agreement Act 1964 – By-laws (Iron Ore (Robe River) Cape Lambert Ore and Service Wharves Amendment By-laws 2018 G.G. 02/11/2018) (1997).

Local Government Act 1995 – Local Laws (City of Karratha Fencing Amendment Local Law 2018 G.G. 02/11/2018) (1998).

Rights in Water and Irrigation Act 1914 – Regulations (Rights in Water and Irrigation Amendment Regulations (No. 2) 2018 G.G. 30/10/2018) (1999).

Sentencing Act 1995 – Regulations (Sentencing Amendment Regulations (No. 2) 2018 G.G. 30/10/2018) (2000).

8. Correction to Tabled Paper

The Speaker announced that he had authorised corrections to the following Tabled Paper tabled on 11 September 2018 –

Animal Resources Authority – Annual Report 2017–2018 (1599).

Paper

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

By the Speaker –

Animal Resources Authority – Annual Report 2017–2018, Erratum (2001).

9. Notices of Motion

10. Expiration of Notice of Motion

The Speaker advised members that Private Members' Business Notice of Motion No. 1, notice of which was given on 7 November 2017 and renewed for a further 30 sitting days on 12 June 2018, would be removed and would not appear on the next Notice Paper.

11. Removal of Order of the Day

The Speaker advised members that the Order of the Day that appeared on the last Notice Paper as No. 1 under Private Members' Business, Perth Children's Hospital, had not been debated for more than 12 calendar months and had been removed from the Notice Paper.

12. Matter of Public Interest – METRONET Major Projects

The Speaker informed the Assembly that he was in receipt of a notice from Mrs L.M. Harvey that she intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mrs L.M. Harvey moved,

That this House condemns the Minister for Transport for a lack of transparency and a failure to deliver continuous disclosure on Metronet major projects as recommended by the Langoullant Inquiry and subsequently adopted by the McGowan Government.

Debate ensued.

Question put.

The Assembly divided.

Ayes (17)

Mr I.C. Blayney	Mr P.A. Katsambanis	Dr M.D. Nahan
Mr V.A. Catania	Mr Z.R.F. Kirkup	Mr D.C. Nalder
Ms M.J. Davies	Mr A. Krsticevic	Mr K.M. O'Donnell
Mrs L.M. Harvey	Mr S.K. L'Estrange	Mr P.J. Rundle
Mrs A.K. Hayden	Mr R.S. Love	Ms L. Mettam (<i>Teller</i>)
Dr D.J. Honey	Mr W.R. Marmion	

Noes (35)

Ms L.L. Baker	Mr F.M. Logan	Mrs M.H. Roberts
Dr A.D. Buti	Mr M. McGowan	Ms C.M. Rowe
Mr J.N. Carey	Ms S.F. McGurk	Ms R. Saffioti
Mrs R.M.J. Clarke	Mr K.J.J. Michel	Ms A. Sanderson
Mr R.H. Cook	Mr S.A. Millman	Ms J.J. Shaw
Mr M.J. Folkard	Mr Y. Mubarakai	Mrs J.M.C. Stojkovski
Ms J.M. Freeman	Mrs L.M. O'Malley	Mr C.J. Tallentire
Ms E.L. Hamilton	Mr P. Papalia	Mr D.A. Templeman
Mr T.J. Healy	Mr S.J. Price	Mr R.R. Whitby
Mr M. Hughes	Mr D.T. Punch	Ms S.E. Winton
Mr W.J. Johnston	Mr J.R. Quigley	Mr D.R. Michael (<i>Teller</i>)
Mr D.J. Kelly	Ms M.M. Quirk	

Question thus negated.

13. Sentence Administration Amendment (Multiple Murderers) Bill 2018

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

Urgent Bill

The Leader of the House moved, That the Sentence Administration Amendment (Multiple Murderers) Bill 2018 be considered an urgent bill.

Debate ensued.

Question put and passed.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 6 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Attorney General moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

14. Community Titles Amendment (Consistency of Charging) Bill 2018

Message No. 61 dated 6 November 2018 from the Legislative Council was reported agreeing to the bill without amendment.

15. Community Titles Bill 2018

Message No. 60 dated 6 November 2018 from the Legislative Council was reported as follows –
The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Community Titles Bill 2018* 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 Community Titles Bill 2018

No. 1

Clause 16, page 28, line 23 — To delete the line and insert:

- (6) When a community title for a lot comes into existence it confers on the owner of the lot —

No. 2

Clause 22, page 37, lines 10 to 11 — To delete “may, and must, if the Planning Commission so requires,” and insert:

must

No. 3

Clause 22, page 37, line 20 — To delete “may” and insert:

must

No. 4

Clause 99, page 125, line 26 — To delete “monitoring” and insert:

enforcing

No. 5

Clause 142, page 167, lines 4 to 8 — To delete the lines and insert:

- (i) provide, in accordance with the regulations, details of proposed arrangements for obtaining independent advice or representation referred to in section 159; and

No. 6

Clause 144, page 168, lines 18 to 22 — To delete the lines and insert:

- (4) The *Planning and Development Act 2005* applies to the application subject to —

- (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community titles scheme; and
- (b) any other appropriate modifications.

No. 7

New Clause 145A, page 169, after line 30 — To insert:

145A. Reference of full proposal to independent advocate

- (1) In this section —
independent advocate means a person to whom a full proposal is referred under subsection (2).
- (2) A community corporation to which a full proposal is submitted under section 145 must refer the proposal for review and assessment to a person who —
 - (a) is independent of the community corporation and the proponent of the termination proposal; and
 - (b) satisfies any requirements of the regulations regarding experience or qualifications.
- (3) The independent advocate must, in accordance with the regulations —
 - (a) review the full proposal; and
 - (b) provide the community corporation with an independent assessment of the full proposal; and
 - (c) at a time and place arranged with the community corporation, make a presentation of its assessment open to the persons mentioned in section 145(3)(a), conducted so as to take account of the needs of any of those persons who have sensory or mobility disabilities.
- (4) The independent advocate must, in accordance with the regulations —
 - (a) endeavour to identify any owners of lots in the community corporation's community titles scheme for whom arrangements for fuller or more extensive advice or representation are to be made under regulations made under section 159(1)(b); and
 - (b) advise those owners of their entitlements under regulations made under section 159; and
 - (c) if requested by those owners, refer them to independent providers of the advice or representation which they are to obtain; and
 - (d) if requested by those owners, assist them in obtaining benefits under the trust referred to in section 159(2).
- (5) In any proceedings before the Tribunal under Part 12 in which there is a dispute about whether an owner of a lot in the community corporation's community titles scheme is entitled to fuller or more extensive advice or representation under regulations made under section 159(1)(b) or is entitled to benefit under a trust referred to in section 159(2), the independent advocate may, in accordance with the regulations, represent the owner in the proceedings.
- (6) The regulations may prescribe how a person's independence is to be determined for the purposes of subsection (2)(a).
- (7) The community corporation —

- (a) must pay the remuneration of, and reimburse the expenses incurred by, the independent advocate; and
- (b) may charge fees under section 158 to cover the cost of paying those fees and reimbursing those expenses.

No. 8

Clause 146, page 173, lines 14 to 16 — To delete the lines and insert:

- (4) The regulations must prescribe matters relating to the determination of the market value of a lot for a termination valuation report, including a valuation methodology that takes account of —
 - (a) relevant recent sales history; and
 - (b) the highest and best use of the lot; and
 - (c) the value attributable to the owner’s interest in common property.

No. 9

Clause 148, page 177, line 12 — To delete the words “the independent person must”.

No. 10

Clause 149, page 178, lines 25 to 28 — To delete the lines and insert:

- (b) if all or part of the tier parcel of the community titles scheme is or is included in a retirement village within the meaning of the *Retirement Villages Act 1992* — serve notice of the application on the Commissioner within the meaning of that Act; and

No. 11

Clause 149, page 184, after line 13 — To insert:

- (18A) If the Tribunal orders a person under subsection (18)(b) to take steps for the discharge, withdrawal or removal of an estate, interest or right the Tribunal may order the proponent or the owner of a lot in the community titles scheme to make a payment to that person in respect of the discharge, withdrawal or removal of the estate, interest or right.
- (18B) If the whole or part of the tier parcel of a community titles scheme is subject to a residential tenancy agreement within the meaning given in the *Residential Tenancies Act 1987* section 3, the Tribunal may order that on the termination of the community titles scheme —
 - (a) the tenant and the lessor must terminate the residential tenancy agreement under that Act; and
 - (b) the premises subject to the residential tenancy agreement are taken for the purposes of section 69 of that Act to cease to be lawfully usable as a residence; and
 - (c) if the tenant is given notice of termination under section 69 of that Act, then despite section 69(2) of that Act the period of notice must be not less than a period specified by the Tribunal; and
 - (d) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the residential tenancy agreement in respect of the termination of the residential tenancy agreement.

- (18C) If the whole or part of the tier parcel of a community titles scheme is subject to a retail shop lease within the meaning given in the *Commercial Tenancy (Retail Shops) Agreements Act 1985* section 3(1), then despite anything in that Act the Tribunal may order that —
- (a) the retail shop lease is terminated on the termination of the community titles scheme; and
 - (b) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the retail shop lease in respect of the termination of the retail shop lease.
- (18D) If the whole or part of the tier parcel of a community titles scheme is subject to a lease or licence not referred to in subsection (18B) or (18C), the Tribunal may, subject to any other written law, order that —
- (a) the lease or licence is terminated on the termination of the community titles scheme; and
 - (b) the proponent or the owner of a lot in the scheme is to make a payment to the lessee or licensee in respect of the termination of the lease or licence.

No. 12

Clause 150, page 185, lines 17 and 18 — To delete “modifications set out in the regulations.” and insert:
appropriate modifications.

No. 13

Clause 159, page 193, lines 3 to 13 — To delete the lines and insert:

- (1) The regulations —
 - (a) must require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the community titles scheme proposed to be terminated to obtain independent advice or representation in connection with the proposal; and
 - (b) must specify arrangements for obtaining fuller or more extensive advice or representation for a class or classes of owner identified in or under the regulations as vulnerable, having regard to —
 - (i) age, illness, trauma, disability or other factors that may impair the ability of an owner to consider and make an informed decision in relation to a termination proposal; or
 - (ii) financial disadvantage which would significantly impair the ability of the owner to bear the cost of obtaining appropriate professional advice in relation to a termination proposal.
- (2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.
- (3) The regulations may specify terms of a trust referred to in subsection (2).

No. 14

Clause 160, page 194, lines 1 to 5 — To delete the lines and insert:

- (3) The *Planning and Development Act 2005* applies to the required approval subject to —
- (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community scheme; and
 - (b) any other appropriate modifications.

No. 15

Clause 225, page 231, lines 15 to 17 — To delete the lines and insert:

the meaning of the Community Titles Act 2018.

Ordered, by leave, That Legislative Council Message No. 60 be considered in detail forthwith.

CONSIDERATION IN DETAIL

The Minister for Planning moved, That amendments Nos 1 to 15 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

16. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 10.06 pm until Wednesday, 7 November 2018 at 12.00 noon.

Members present during any part of the day's proceedings – All the members except Ms J. Farrer, Mr J.E. McGrath and Mr M.P. Murray.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. PETER WATSON
Speaker of the Legislative Assembly