

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 231

THURSDAY, 5 NOVEMBER 2020

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. Ministerial Statement — Mr Bobby Pepper

The Minister for Agriculture and Food made a Ministerial Statement with respect to the passing of Mr Bobby Pepper.

3. Papers

The following Papers were laid on the Table by —

President

Addendums —

Office of the Auditor General — Transparency Report: Major Projects (Report 6)
(October 2020) 4556

Minister for Environment

Annual Reports —

Australian Crime Commission — Criminal Investigation (Covert Powers) Act 2012
(2019-20) (Date received 4/11/2020)..... 4557

Housing Authority (2019-20) (Date received 4/11/2020)..... 4558

Reports —

Police Force Western Australia — Terrorism (Preventative Detention) Act 2006
(section 54(2)) Quarterly Report 30 September 2020 4559

4. Climate Change and Greenhouse Gas Emissions Reduction 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.

5. 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*, 6, *Curtin University Statute No. 12 — Admission and Enrolment — Disallowance*, 7, *Curtin University Statute No. 5 — Election of Council Members — Disallowance*, and 9, *Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020 — Disallowance*, be taken after Order of the Day No. 38, *Dog Amendment (Stop Puppy Farming) Bill 2020*. (Minister for Regional Development).

6. Order of Business

Ordered — That Order of the Day No. 10, *Estimates of Revenue and Expenditure — Consolidated Account Estimates 2020–2021*, be taken after Order of the Day No. 38, *Dog Amendment (Stop Puppy Farming) Bill 2020*. (Minister for Regional Development).

7. Shire of Narembeen Cemeteries Local Law 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. 4, *Shire of Narembeen Cemeteries Local Law 2020 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

8. Shire of Narembeen Fencing Local Law 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. 5, *Shire of Narembeen Fencing Local Law 2020 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

9. Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 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. 8, *Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2020 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

10. Safety Levies Amendment Bill 2019

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Acting President left the Chair.

In Committee

(Hon Dr Steve Thomas in the Chair)

Clause 2.

Debate resumed.

Clause agreed to.

Clauses 3 to 7 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Minister for Regional Development representing the Minister for Industrial Relations moved, That the Bill be read a third time.

The Deputy 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.

Question — put and passed.

Bill read a third time and passed.

11. Order of Business

Ordered — That Order of the Day No. 10, Estimates of Revenue and Expenditure — Consolidated Account Estimates 2020–2021 be taken forthwith. (Leader of the House).

12. 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.

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

13. 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.

In Committee

(Hon Simon O'Brien in the Chair)

Environmental Protection Amendment Bill 2020

Clause 1.

Debate resumed.

The Minister for Environment tabled documents in relation to the commencement of the Bill and the consequential work required and priorities list. (Tabled Paper 4560).

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Clause — put and negatived.

New Clause 2.

Hon Michael Mischin moved —

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.

Debate ensued.

New Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

The Minister for Environment moved —

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

Debate ensued.

Amendment — put and passed.

The Minister for Environment, by leave, moved —

Page 5, lines 4 and 5 — To delete the lines.

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;

Amendments — put and passed.

The Minister for Environment moved —

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

Amendment — put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clause 7 agreed to.

Clause 8.

Debate ensued.

Clause agreed to.

Clauses 9 to 14 agreed to.

Clause 15.

Debate ensued.

Hon Robin Chapple moved —

Page 15, after line 20 — To insert:

37C. Aboriginal cultural heritage

- (1) In this section —
Aboriginal cultural heritage matter means a matter for which provision for preservation, protection or management is made under the *Aboriginal Heritage Act 1972* or any Act that replaces that Act.
- (2) In deciding whether to assess a referred proposal, and in assessing a referred proposal, the Authority must consider any Aboriginal cultural heritage matter that is likely to be significantly affected by the implementation of the proposal.
- (3) If, after the assessment of a proposal, the proponent of the proposal becomes aware of an Aboriginal cultural heritage matter that is likely to be significantly affected by the implementation of the proposal, the proponent must give the Authority written notice of the matter.
- (4) If the Authority becomes aware of an Aboriginal cultural heritage matter that is likely to be significantly affected by the implementation of an approved proposal, the Authority must carry out an inquiry under section 46 as to whether or not the implementation conditions relating to the proposal, or any of them, should be amended.
- (5) Section 46 applies to an inquiry under subsection (4) as if the Minister had requested the inquiry under section 46(1).

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (4)

Hon Robin Chapple
 Hon Tim Clifford

Hon Diane Evers
 Hon Alison Xamon (*Teller*)

Noes (27)

Hon Ken Baston
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Laurie Graham
 Hon Alannah MacTiernan
 Hon Rick Mazza
 Hon Kyle McGinn

Hon Michael Mischin
 Hon Simon O'Brien
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Charles Smith
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

Hon Dr Steve Thomas moved —

Page 20, lines 23 and 24 — 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.

Amendment — put and negatived.

Debate resumed.

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

Clause 16.

Debate ensued.

Hon Dr Steve Thomas moved —

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.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 17 agreed to.

Clause 18.

Debate ensued.

The Minister for Environment moved —

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.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 19 to 24 agreed to.

Clause 25.

Debate ensued.

Clause agreed to.

Clause 26 agreed to.

Clause 27.

Hon Dr Steve Thomas moved —

Page 32, lines 2 to 5 — To delete the lines and insert:

(1) Delete section 44(1) and insert:

- (1) If the Authority assess a proposal, it must prepare a report on the outcome of its assessment of the proposal and give the report (the *assessment report*) to the Minister within one calendar year of the date of the Authority giving written notice of its decision to assess the proposal under section 39A(3).
- (1a) If the Authority is unable to complete its assessment in the time period stipulated in section 44(1), it may seek in writing an extension of time from the Minister.
- (1b) If the Minister grants in writing the extension of time sought by the Authority under section 44(1a), the Minister must —
 - (a) give notice to the person who submitted the proposal; and
 - (b) cause the written notice of that extension to be published.

Debate ensued.

Amendment — put and negatived.

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

Clause 28.

Debate ensued.

The Minister for Environment moved —

Page 33, lines 25 to 27 — To delete the lines and insert:

under section 45(2).

Amendment — put and passed.

The Minister for Environment moved —

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.

Amendment — put and passed.

Debate resumed.

Hon Dr Steve Thomas moved —

Page 34, line 17 — To insert after “must”:

within 60 days of receiving a report from the Authority under section 44(1) of this Act

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Hon Dr Steve Thomas moved —

Page 35, line 4 — To delete “must — ” and insert:

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

Amendment — put and passed.

Hon Dr Steve Thomas moved —

Page 36, line 29 — To insert after “must”:

within 30 days of the agreement or decision being made

Debate ensued.

Amendment — put and passed.

Hon Dr Steve Thomas moved —

Page 37, lines 23 and 24 — To delete “on the environment;” and insert:

that cause material environmental harm or serious environmental harm;

14. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Attorney General tabled page 28 from the *Director of Public Prosecutions Annual Report (2019-20)* in relation to offenders subject to ongoing orders and applications, in response to a question without notice asked by Hon Michael Mischin. (Tabled Paper 4561).

The Leader of the House representing the Premier, by leave, incorporated into *Hansard* information in relation to the shortage of farm workers to harvest this year’s crops, in response to a question without notice asked by Hon Dr Steve Thomas.

The Minister for Education and Training tabled documents in relation to demountable classrooms at each primary and secondary school for 2016 and 2020, in response to question on notice 3287 asked by Hon Colin Tincknell. (Tabled Paper 4562).

The Minister for Education and Training tabled documents in relation to transportable classrooms in public schools for term one of 2020, in response to question on notice 3292 asked by Hon Colin Tincknell. (Tabled Paper 4563).

The Minister for Education and Training tabled documents in relation to teacher to student ratios in public schools, in response to question on notice 3294 asked by Hon Colin Tincknell. (Tabled Paper 4564).

The Minister for Education and Training tabled documents in relation to the cost to the Department of Education for one employee in various categories of roles, in response to question on notice 3296 asked by Hon Colin Tincknell. (Tabled Paper 4565).

The Minister for Environment representing the Minister for Emergency Services, by leave, incorporated into *Hansard* information in relation to the recommendations of the inquest into the deaths of four individuals resulting from the 2015 fire event near Esperance, in response to a question without notice asked by Hon Colin de Grussa.

The Minister for Environment representing the Minister for Finance tabled documents in relation to the expiration of Government accommodation office leases in the next ten years, in response to question on notice 3249 asked by Hon Tjorn Sibma. (Tabled Paper 4566).

The Minister for Regional Development; Agriculture and Food; Ports; Minister Assisting the Minister for State Development; Jobs and Trade tabled documents in relation to the Minister’s visit to the Agricultural region on 24 September 2020, in response to question on notice 3305 asked by Hon Martin Aldridge. (Tabled Paper 4567).

15. Statement by President — Non-Government Business Schedule — 10 November 2020

The President made the following Statement —

Today I have received two pieces of correspondence. The first one states —

Dear Madam President,

I write today to advise that the National Party are in agreement to notify of a change regarding the Non-Government Business schedule for the month of November.

Currently the National Party are scheduled to manage Non-Government Business on 12 November 2020.

The Nationals WA advise we intend to waive Non-Government Business on 12 November 2020. This will allow the Legislative Council to proceed with debating some of the remaining items on the notice paper in a timely manner.

Yours sincerely

Hon Jacqui Boydell

16. Statement by President — Hon Rick Mazza — Resignation from Standing Committee on Procedure and Privileges

The President made the following Statement —

The second piece of correspondence that I have received today states—

Dear Madam President,

It is with disappointment and regret, that I advise that for matters of a personal nature that I hereby tender my resignation from the Standing Committee on Procedure and Privileges with immediate effect.

I thank all Members and Clerks of the Committee for their collegiate work during my time on the Committee and wish them all the best for the future.

Yours sincerely

Hon Rick Mazza

17. 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 13 above*).

The President left the Chair.

In Committee

(Hon Robin Chapple in the Chair)

Environmental Protection Amendment Bill 2020

Clause 28.

Debate ensued on the amendment 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;

Interruption pursuant to order.

The President resumed the Chair.

The Deputy 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.

18. Members' Statements

Statements were taken.

19. Message from His Excellency the Governor — Assent to Bill

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

4 November 2020 — Message No. 39	Act No.
Pay-roll Tax Relief (COVID-19 Response) Amendment Bill 2020	35 of 2020

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

The President reported the receipt of Message No. 230 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question — put and passed.

Bill read a first time.

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

The Minister for Environment representing the Minister for Emergency Services tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4568).

Debate stands adjourned.

21. Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020

The following Message from the Legislative Assembly was reported —

Madam President	Message No. 231
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The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendment made by the Legislative Council in the *Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020*.

Mr S.J. Price
Acting Speaker
Legislative Assembly Chamber
Perth, 5 November 2020

22. Adjournment

The Council adjourned at 5.48pm until Tuesday, 10 November 2020 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Martin Aldridge, Hon Adele Farina, Hon Colin Holt and Hon Aaron Stonehouse.

NIGEL PRATT
Clerk of the Legislative Council

HON KATE DOUST MLC
President of the Legislative Council