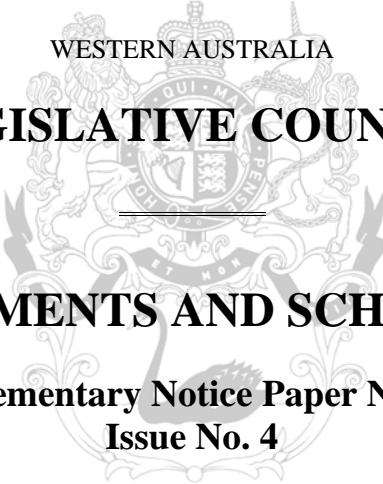


WESTERN AUSTRALIA



**LEGISLATIVE COUNCIL**

**AMENDMENTS AND SCHEDULES**

**Supplementary Notice Paper No. 192**  
**Issue No. 4**

**TUESDAY, 16 JUNE 2020**

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***PLANNING AND DEVELOPMENT AMENDMENT BILL 2020 [192-1]***

When in committee on the *Planning and Development Amendment Bill 2020*:

**Clause 4**

**Hon Rick Mazza:** To move –

43/4 Page 4, lines 7 to 13 — To delete the lines.

**Hon Dr Steve Thomas:** To move –

1/4 Page 4, line 21 — To delete the line.

**Minister for Environment representing the Minister for Planning:** To move –

14/4 Page 4, line 21 — To delete the line.

**Hon Tjorn Sibma:** To move –

2/4 Page 4, after line 25 — To insert:

(vi) the *Local Government Act 1995*;

**Minister for Environment representing the Minister for Planning:** To move –

15/4 Page 4, lines 26 and 27 — To delete the lines and insert:

(c) any enactment, other than the following —

- (i) this Act;
- (ii) an enactment covered by paragraph (b);
- (iii) the EP Act;

**Hon Rick Mazza:** To move –

44/4 Page 5, lines 5 to 20 — To delete the lines.

**Hon Rick Mazza:** To move –

45/4 Page 5, lines 27 to 29 — To delete the lines.

**Hon Rick Mazza:** To move –

46/4 Page 6, lines 3 to 22 — To delete the lines and insert:

- (a) development that has an estimated cost of —
  - (i) in the case of a development that is wholly or partly in the metropolitan region — \$10 million or more;
  - or
  - (ii) in any other case — \$5 million or more;
  - or

**Hon Alison Xamon:** To move –

25/4 Page 6, lines 22 to 25 — To delete the lines.

**Minister for Environment representing the Minister for Planning:** To move –

16/4 Page 7, line 3 — To delete “*commenced* — the” and insert:

*commenced* — has the

**Minister for Environment representing the Minister for Planning:** To move –

17/4 Page 8, after line 16 — To insert:

- (3) To avoid doubt, this Part is subject to section 5 of the EP Act.

**Hon Tjorn Sibma:** To move –

4/4 Page 10, after line 6 — To insert:

- (7) The Premier, within 14 days after a direction is given, is to cause a copy of the direction to be published in the *Gazette* and, as soon as is practicable, is to cause a copy of the direction to be laid before each House of Parliament or dealt with under section 268A.

**Minister for Environment representing the Minister for Planning:** To move –

18/4 Page 10, after line 6 — To insert:

- (7) The Minister, within 14 days after the day on which a direction is given under subsection (5), must cause a copy of it to be published in the *Gazette* and, as soon as is practicable, must cause a copy of it to be laid before each House of Parliament or dealt with under section 268A.

**Hon Alison Xamon:** To move –

26/4 Page 10, after line 6 — To insert:

- (7) The Minister must —
- (a) set criteria that the Minister will apply in deciding for the purposes of subsection (2)(b) or (4)(b) whether a development application raises issues of such State or regional importance that it would be appropriate for the application to be determined under section 274; and
  - (b) apply those criteria whenever deciding for the purposes of subsection (2)(b) or (4)(b) whether a development application raises issues of such State or regional importance that it would be appropriate for the application to be determined under section 274.
- (8) The chief executive officer must ensure that copies of the following are publicly available on a website maintained by, or on behalf of, the department principally assisting in the administration of this Act —
- (a) any notification made to the Minister under subsection (1);
  - (b) if a development application is referred to the Commission under subsection (3) — the referral and the application;
  - (c) if a direction is given under subsection (5) — the direction and the development application;
  - (d) the current version of the criteria set under subsection (7)(a).

**Hon Tjorn Sibma:** To move –

5/4 Page 11, line 25 — To delete “does not have” and insert:

has

**Hon Alison Xamon:** To move –

27/4 Page 15, after line 8 — To insert:

- (7) Despite subsections (3) to (6), the Commission must not grant approval for development if the Commission considers that to do so would substantially undermine the purpose and intent of a legal instrument referred to in subsection (2).

**Hon Alison Xamon:** To move –

**28/4** Page 15, lines 14 to 20 — To delete the lines

**Minister for Environment representing the Minister for Planning:** To move –

**19/4** Page 15, line 22 — To delete the line and insert:

- (a) consult the CEO (as defined in the *Contaminated Sites Act 2003* section 3(1)) if the development is of land referred to in section 58(1)(a)(i) of that Act in respect of which a memorial is registered under section 58 of that Act; and

**Hon Alison Xamon:** To move –

**29/4** Page 16, after line 13 — To insert:

- (d) have due regard to any submission made, or advice given, to the Commission in the course of a consultation under paragraph (a), (b) or (c).

**Hon Charles Smith:** To move –

**9/4** Page 16, after line 27 — To insert:

- (5A) The Commission must —
  - (a) in the manner the Commission considers appropriate, advertise the development application, inviting members of the public to make submissions to the Commission within the period specified in the invitation; and
  - (b) have due regard to any submissions made by members of the public within that period in response to the invitation.
- (5B) The period specified in the invitation under subsection (5A) must be a period of not less than 28 days after the day on which the development application is first advertised.

**Hon Alison Xamon:** To move –

**30/4** Page 16, after line 27 — To insert:

- (5A) The Commission must —
    - (a) on a website maintained by, or on behalf of, the Commission and in any other manner the Commission considers appropriate —
      - (i) advertise the development application, inviting members of the public to make submissions to the Commission within the period specified in the invitation; and
      - (ii) make the development application and other relevant documents publicly available throughout the specified period for the purpose of enabling submissions to be made by members of the public;
- and

- (b) have due regard to any submissions made by members of the public within the specified period in response to the invitation.
- (5B) The specified period under subsection (5A)(a)(i) must be a period of not less than 21 days after the day on which the development application is first advertised on the website.
- (5C) For the purposes of subsection (5A)(a) —
  - (a) the advertisement must be maintained on the website throughout the specified period; and
  - (b) the advertisement, and the development application and other relevant documents, must be maintained on a part of the website that is specifically dedicated to advertising development applications under subsection (5A)(a).

**Minister for Environment representing the Minister for Planning:** To move –

**20/4** Page 16, line 28 to page 17, line 7 — To delete the lines and insert:

- (6) The Commission must —
  - (a) consult any person or body not referred to in subsections (2) to (5) whom the Commission considers it appropriate to consult; and
  - (b) in the manner the Commission considers appropriate, advertise the development application, inviting submissions from members of the public generally or from a class or group of members of the public that the Commission considers appropriate; and
  - (c) have due regard to any submissions made by members of the public in response to the invitation under paragraph (b).
- (6A) The Commission may do anything else that is not covered by subsections (2) to (6) and that the Commission considers it appropriate to do in order to obtain a document, information, an opinion or any other contribution from any person or body.

**Hon Charles Smith:** To move –

**10/4** Page 17, lines 1 to 3 — To delete the lines.

**Hon Alison Xamon:** To move –

**31/4** Page 17, lines 1 to 3 — To delete the lines.

**Minister for Environment representing the Minister for Planning:** To move –

**21/4** Page 17, lines 8 and 9 — To delete “referred to in subsection (6)(a), (b) or (c),” and insert:

under subsection (6)(a) or (b) or (6A),

**Hon Charles Smith:** To move –

**11/4** Page 17, line 9 — To delete “(6)(a), (b) or (c),” and insert:

(6)(a) or (c),

**Hon Alison Xamon:** To move –

**32/4** Page 17, line 9 — To delete “(6)(a), (b) or (c),” and insert:

(6)(a) or (c),

**Hon Charles Smith:** To move –

**12/4** Page 17, lines 15 and 16 — To delete the lines.

**Hon Alison Xamon:** To move –

**33/4** Page 17, lines 15 and 16 — To delete the lines.

**Hon Alison Xamon:** To move –

**34/4** Page 18, line 21 — To delete “Divisions 3 and 4.” and insert:

Division 4.

**Hon Alison Xamon:** To move –

**35/4** Page 18, line 22 — To delete “Subject to Division 3, if” and insert:

If

**Minister for Environment representing the Minister for Planning:** To move –

**22/4** Page 18, lines 34 and 35 — To delete the lines.

**Hon Alison Xamon:** To move –

**36/4** Page 19, line 12 — To delete “subsection; or” and insert:

subsection, which must be a period of 24 months or less beginning on the day on which the approval is granted; or

**Hon Tjorn Sibma:** To move –

**6/4** Page 19, line 14 — To delete “48 months” and insert:

24 months

**Hon Alison Xamon:** To move –

**37/4** Page 19, line 14 — To delete “48” and insert:

24

**Hon Alison Xamon:** To move –

**38/4** Page 21, line 8 to page 26, line 24 — To delete the lines.

**Minister for Environment representing the Minister for Planning:** To move –

23/4 Page 24, after line 24 — To insert:

- (6A) The Minister, within 14 days after the day on which the direction is given, must cause a copy of it to be published in the *Gazette* and, as soon as is practicable, must cause a copy of it to be laid before each House of Parliament or dealt with under section 268A.

**Hon Tjorn Sibma:** To move –

7/4 Page 24, after line 27 — To insert:

- (8) The Minister, within 14 days after a direction is given, is to cause a copy of the direction to be published in the *Gazette* and, as soon as practicable, is to cause a copy of the direction to be laid before each House of Parliament or dealt with under section 268A.

**Hon Tjorn Sibma:** To move –

8/4 Page 26, after line 24 — To insert:

- (7) The Minister, within 14 days after a direction is given, is to cause a copy of the direction to be published in the *Gazette* and, as soon as is practicable, is to cause a copy of the direction to be laid before each House of Parliament or dealt with under section 268A.

**Minister for Environment representing the Minister for Planning:** To move –

24/4 Page 26, after line 24 — To insert:

- (7) The Minister, within 14 days after the day on which the direction is given, must cause a copy of it to be published in the *Gazette* and, as soon as is practicable, must cause a copy of it to be laid before each House of Parliament or dealt with under section 268A.

**Hon Charles Smith:** To move –

**13/4** Page 27, lines 1 to 3 — To delete the lines and insert:

- (2) Any of the following may apply to the State Administrative Tribunal (the *Tribunal*) for a review of the Commission’s decision to make the determination —
  - (a) the applicant;
  - (b) any person who, within the period specified in the invitation under section 276(5A) (including as applied by section 279(6)), made a submission in response to the invitation and who, in that submission, objected to, or in effect objected to, as the case requires —
    - (i) the granting of approval for the development or any part or aspect of the development; or
    - (ii) the granting of the application under section 279.

**Hon Alison Xamon:** To move –

**39/4** Page 27, lines 12 to 15 — To delete the lines.

**Hon Alison Xamon:** To move –

**40/4** Page 27, lines 21 to 23 — To delete the lines and insert:

or any Part 17 regulations.

**Hon Alison Xamon:** To move –

**41/4** Page 28, after line 28 — To insert:

**284A. Approval granted by Commission under s. 274 disallowable by Parliament where approval is contrary to certain advice**

- (1) This section applies if —
  - (a) the Commission grants approval for development under section 274; and
  - (b) the approval is granted contrary to —
    - (i) any submission made, or advice given, to the Commission in the course of a consultation under section 276(3)(a), (b) or (c); or
    - (ii) any submission made to the Commission under section 276(4) within the specified period.
- (2) The Minister must cause a copy of the approval, including the Commission’s reasons for granting the approval, to be laid before each House of Parliament within 6 sitting days of the House after the approval is granted.
- (3) The approval is cancelled if —
  - (a) a copy of the approval, including the Commission’s reasons for granting the approval, is not laid before a House of Parliament in accordance with subsection (2); or



- (b) within 14 sitting days of a House of Parliament after the copy of the approval, including the Commission's reasons, is laid before the House, the House passes a resolution disallowing the approval.
- (4) The Commission's reasons for granting the approval must include an explanation of why the Commission did not follow the submission or advice referred to in subsection (1)(b).
- (5) That explanation must also be included in the reasons given to the applicant, and made publicly available, under section 274(7).

**Hon Alison Xamon:** To move –

**42/4** Page 29, line 21 to page 30, line 3 — To delete the lines and insert:

- (2) Without limiting subsection (1), Part 17 regulations may prescribe powers, duties, procedures or any other matters for the purposes of, or in relation to —
  - (a) applications, notifications, referrals or directions under this Part; or
  - (b) the consideration or determination of applications or notifications under this Part.

**Clause 67**

**Hon Rick Mazza:**

**47/67** Page 67, lines 21 to 27 — To oppose the clause.

