

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 192
Issue No. 5
THURSDAY, 18 JUNE 2020

PLANNING AND DEVELOPMENT AMENDMENT BILL 2020 [192-1]

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

Clause 2

Hon Nick Goiran: To move –

48/2 Page 2, after line 10 — To insert:

- (2) However if a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

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.

