

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

NOTICES AND ORDERS OF THE DAY

No. 57

THURSDAY, 22 JUNE 2000, 9.00 a.m.

Prayers [★]

Petitions

Papers

Giving Notices of Motion

Brief Ministerial Statements [★]

Questions Without Notice [★]

- approximately 2.00 p.m. each day

Matter of Public Interest

- one per week on any day

Private Members' Business

- 4.00 p.m. to 7.00 p.m. Wednesdays

Grievances

- approximately 9.00 a.m. Thursdays

Private Members' Statements

- 12.50 p.m. Thursdays

[★] *Note: On days when the Assembly meets at 2.00 p.m. Brief Ministerial Statements and Questions Without Notice will follow immediately after Prayers.*

Memorandum: An electronic version of the Assembly's Questions on Notice booklet is available on the Parliament's Internet site at www.parliament.wa.gov.au.

Business of the House - Order of the Day

1. *Procedure and Privileges Committee.*

To report.

Government Business - Orders of the Day

1. **Hope Valley-Wattleup Redevelopment Bill 2000. (Minister for Planning). (No. 114, 2r. - 6/4/00).
Second reading. Adjourned debate (Mr Cunningham).*

2. *Child Support (Adoption of Laws) Amendment Bill 1999. (Minister for Police). (LC No. 3, 2r. - 16/3/00).*
Second reading. Adjourned debate (Mr McGowan).
3. *Restraining Orders Amendment Bill 2000. (Minister for Police). (LC No. 74, 2r. - 14/6/00).*
Second reading. Adjourned debate (Mr Cunningham).
4. *Stamp Amendment Bill 1999. (Minister assisting the Treasurer). (LC No. 68, 2r. - 4/4/00).*
Second reading. Adjourned debate (Mr Cunningham).
5. *Statutes (Repeals and Minor Amendments) Bill 1998. (Premier). (LC No. 57, 2r. - 29/3/00).*
Second reading. Adjourned debate (Mr Cunningham).
6. *Liquor Licensing Amendment (Petrol Stations and Lodgers' Registers) Bill 2000. (Deputy Premier). (LC No. 90, 2r. - 14/6/00).*
Second reading. Adjourned debate (Mr Cunningham).
7. *Electoral Amendment Bill 2000. (Minister for Parliamentary and Electoral Affairs). (No. 134, 2r. - 14/6/00).*
Second reading. Adjourned debate (Mr Cunningham).
8. *Bail Amendment Bill 2000. (Parliamentary Secretary to the Minister for Justice). (No. 96, 2r. - 23/3/00).*
Second reading. Adjourned debate (Mr McGowan).
9. *Acts Amendment (Prisons Administration) Bill 2000. (Parliamentary Secretary to the Minister for Justice). (No. 101, 2r. - 21/3/00).*
Second reading. Adjourned debate (Mr McGowan).
10. *Director of Public Prosecutions Amendment Bill 2000. (Minister for Police). (No. 93, 2r. - 21/3/00)*
Second reading. Adjourned debate (Mr McGowan).
11. *Animal Welfare Bill 1999. (Minister for Local Government). (No. 79, 2r. - 24/11/99).*
Second reading. Adjourned debate (Mr McGowan).
12. *Acts Amendment and Repeal (Competition Policy) Bill 2000. (Premier). (No. 132, 2r. - 25/5/00).*
Second reading. Adjourned debate (Mr Kobelke).
13. **Planning Appeals Bill 1999. (Minister for Planning). (No. 102, 2r. - 24/6/99).*
Further consideration in detail - Clause 20.
14. **Planning Appeals (Transitional and Consequential Provisions) Bill 1999. (Minister for Planning). (No. 103, 2r. - 24/6/99).*
Second reading.
15. *Parks and Reserves Amendment Bill 1998. (Minister for Lands). (No. 14, 2r. - 15/10/98).*
Further consideration in detail - Clause 4.
16. *Salaries and Allowances Amendment Bill 1999. (Premier). (No. 12, 2r. - 21/10/99).*
Second reading. Adjourned debate (Mr Cunningham).
17. *Maritime Bill 1999. (Deputy Premier). (No. 39, 2r. - 25/11/99).*
Second reading. Adjourned debate (Mr Cunningham).
18. *Maritime and Transport Legislation Amendment and Repeal Bill 1999. (Deputy Premier). (No. 37, 2r. - 25/11/99).*
Second reading. Adjourned debate (Mr Cunningham).
19. *Maritime Fees and Charges (Taxing) Amendment Bill 1999. (Deputy Premier). (No. 34, 2r. - 25/11/99).*
Second reading. Adjourned debate (Mr Cunningham).

20. **Heritage Bill 1999. (Minister for Heritage). (No. 95, 2r. - 24/6/99).*
Heritage (Consequential Provisions) Bill 1999. (Minister for Heritage). (No. 94, 2r. - 24/6/99).
 Second reading. Adjourned debate (Minister for Heritage in reply - continuation of remarks).
21. **Acts Amendment (Australian Datum) Bill 2000. (Minister for Lands). (No. 92, 2r. - 23/3/00).*
 Second reading. Adjourned debate (Mr Cunningham).
22. **Zoological Parks Authority Bill 2000. (Minister for the Environment). (No. 80, 2r. - 29/3/00).*
 Second reading. Adjourned debate (Mr Cunningham).
23. *Offshore Minerals Bill 2000. (Minister for Resources Development). (No. 126, 2r. - 11/5/00).*
 Second reading. Adjourned debate (Mr Cunningham).
24. *Offshore Minerals (Consequential Amendments) Bill 2000. (Minister for Resources Development). (No. 127, 2r. - 11/5/00).*
 Second reading. Adjourned debate (Mr Cunningham).
25. *Offshore Minerals (Registration Fees) Bill 2000. (Minister for Resources Development). (No. 128, 2r. - 11/5/00).*
 Second reading. Adjourned debate (Mr Kobelke).
26. *Building Legislation Amendment Bill 2000. (Minister for Fair Trading). (No. 123, 2r. - 24/5/00).*
 Second reading. Adjourned debate (Mr Cunningham).
27. **State Records Bill 1999. (Minister for the Arts). (No. 83, 2r. - 24/11/99).*
 Second reading. Adjourned debate (Mr McGowan).
28. *State Records (Consequential Provisions) Bill 1999. (Minister for the Arts). (No. 84, 2r. - 24/11/99).*
 Second reading. Adjourned debate (Mr McGowan).
29. **Culture, Libraries and the Arts Bill 1998. (Minister for the Arts). (No. 35, 2r. - 27/10/98).*
 Further consideration in detail - Clause 4.
 Adjourned debate (Mr Bloffwitch) on the motion moved by the Hon. P.G. Pental -
 That the Bill be referred to a Select Committee for consideration and report by 16 March 2000.
30. *Culture, Libraries and the Arts (Consequential Provisions) Bill 1998. (Minister for the Arts). (No. 36, 2r. - 27/10/98).*
 Second reading.

Private Members' Business - Notices of Motion

1. *Western Australian Health and Hospital System. (Notice given - 10/8/99, renewed - 14/3/00).*
 Ms McHale: To move -
- (1) That the House express its concern at the continuing failure of the Government to provide an effective public health and hospital system for the people of Western Australia.
- (2) The House notes in particular -
- (a) the failure of the Minister for Health to properly account to the people of Western Australia for the financial position confronting the State's hospitals;
- (b) the failure of the Government to honour its election promises in relation to surgery waiting lists; and
- (c) the failure of the Minister for Health to develop an effective strategy to deal with suicide and related mental health issues.

2. *Crime Levels in Western Australia. (Notice given - 10/8/99, renewed - 14/3/00).*

Mrs Roberts: To move -

That this House expresses its most serious concern at the rising levels of crime across the State. We note that the level of crime has risen markedly during the period of the Court Government and call on the Premier and the Minister for Police to -

- (a) explain the reasons for the marked increase in crime;
- (b) commit the resources that are necessary to reduce the levels of crime to the lowest of any State in the Nation; and
- (c) commit the resources that are necessary to bring the clearance rates for crime to the highest of any State in the Nation.

3. *Hand Held Mobile Phones. (Notice given - 10/8/99, renewed - 14/3/00).*

Mrs Roberts: To move -

That this House views with alarm the substantial increase in road fatalities in 1998 and calls upon the Government to legislate to ban the use of hand held mobile phones whilst driving as a matter of urgency.

4. *Reference to the Public Accounts and Expenditure Review Committee. (Notice given - 10/8/99, renewed - 14/3/00).*

Mr Brown: To move -

That the Public Accounts and Expenditure Review Committee be requested to examine whether the Government used the resources of the State in an ethical, effective and proper way in its assessment of an application by Trade Centre Pty Ltd to develop a resort on the west coast of the North West Cape.

5. *Levels of Domestic Violence. (Notice given - 10/8/99, renewed - 14/3/00).*

Mr Carpenter: To move -

- (1) That this House notes with extreme concern the continuing levels of domestic violence in Western Australia and the failure of the State Government to provide sufficient resources to protect women and children in danger as a result of domestic violence.
- (2) The House calls upon the Minister for Family and Children's Services to ensure adequate protections are available to all people at risk and to immediately reinstate funding for the Women's Refuge Group, the peak body for women's refuges in Western Australia.

6. *Incidence of Domestic Homicides. (Notice given - 10/8/99, renewed - 14/3/00).*

Mr Carpenter: To move -

- (1) That this House expresses its concern at the recent incidence of domestic homicides in Western Australia and calls upon the Minister for Family and Children's Services to conduct a full review of the accessibility of services for families and individuals in crisis, with a particular emphasis on the safety of children.
- (2) The House notes the failure of the Federal Government to continue funding for the Community Help Reference Page in the *White Pages* and calls upon the State Government to provide the necessary funding to ensure the Help Page is reinstated.

7. *Government Action Taken as a Follow Up to the Year Three Literacy Assessment. (Notice given - 10/8/99, renewed - 14/3/00).*

Mr Carpenter: To move -

That this House calls upon the Minister for Education to detail what measures he has taken to provide additional resources, teachers and other supports to Western Australian primary schools as a follow up to the Year Three Literacy Assessment conducted across the State last year. In particular, the House calls upon the Minister for Education to provide details on the additional resources allocated in 1999 for schools in remote and rural areas where the 1998 Literacy Assessment identified results significantly below the State average.

8. *Equality of Opportunity in Access to Education. (Notice given - 10/8/99, renewed - 14/3/00).*

Mr Carpenter: To move -

That this House notes the failure of this State Government to fulfil the fundamental obligation it has to support equality of opportunity in access to education by adequately staffing schools in the Government School system and calls upon the Minister for Education to take immediate steps to remedy that situation by -

- (a) acknowledging the Education Department, and not the local school community, has primary responsibility for ensuring adequate staffing levels in schools;
- (b) providing adequate incentive packages for teachers in schools in regional areas and in metropolitan schools classified as hard to staff; and
- (c) ensuring adequate resources and support for teachers in all metropolitan and regional schools with a particular emphasis on schools classified as hard to staff.

9. *Women's Right to Vote. (Notice given - 19/8/99, renewed - 23/3/00).*

Mrs Holmes: To move -

That the House recognises the significance of women gaining the right to vote in Western Australia a hundred years ago and the value of their ever increasing contribution to the political, social and economic decisions that enhance the society in which we all live.

10. *Telstra Directory Assistance Call Charges. (Notice given - 7/9/99, renewed - 28/3/00).*

Mr Brown: To move -

That this Parliament -

- (a) calls on the Australian Government to use its controlling interest in Telstra to ensure Telstra continues to provide a service to the public and the business community without being mesmerised by the profit bottom line;
- (b) notes that Telstra has commenced giving more emphasis to the profit making than to providing a public service by its decision to charge small businesses for directory assistance calls. This 'service' charge will be the first of many to be imposed on consumers unless the Government moves to protect the public interest; and
- (c) calls on the Federal Government to support small businesses by reversing the Telstra decision to impose a charge on small business for Directory Assistance calls.

11. *Perth Parking Management Regulations 1999. (Notice given - 21/9/99, renewed - 2/5/00).*

Ms MacTiernan: To move -

That this House resolves to amend the Perth Parking Management Regulations 1999 by inserting a Regulation -

- “5(e) the vehicle is parked in or on a hotel or motel building or on land on which there is a hotel or motel building, by or for a person who is an overnight occupant of the hotel or motel and is parked in a space set aside for the use of such guests by the operator.”.

12. *Old Treasury Complex. (Notice given - 27/10/99, renewed - 14/6/00).*

Hon. P.G. Pental: To move -

That this House expresses its profound regret at the Government's decision to allow the Old Treasury Complex to be developed as a boutique hotel, in direct repudiation of the Government's own written policy in 1993, thus resulting in a serious breach of faith with the electorate.

13. *Tender of Air Travel Contract for Cabinet Ministers. (Notice given - 23/11/99).*

Dr Gallop: To move -

That this House calls on the Auditor General to investigate and report to Parliament on the circumstances surrounding and processes followed in the selection of Marooomba Airlines to provide additional air travel for Cabinet Ministers.

14. *Department of Education Staffing Procedures. (Notice given - 21/12/99).*

Hon. P.G. Pental: To move -

That this House notes with satisfaction the decision to reinstate Ms Laura Longley to be a Deputy Principal at a senior high school in Western Australia after having effectively been dismissed from the service earlier this year, and requests the Minister to spell out in full detail reasons for her restoration and reinstatement, and to report on the archaic departmental procedures which led to her departing the service in mid-1999.

15. *State Finances. (Notice given - 14/3/00).*

Dr Gallop: To move -

That this House calls on the Premier to explain why he misled the people of Western Australia at the time of the 1999-2000 State Budget about the real state of the State finances and why after years of record revenue growth and massive asset sales, we have a record deficit and rising debt.

16. *Inquiry into Retail Fuel Pricing in the Non-Metropolitan Areas of the State. (Notice given - 14/3/00).*

Mr Graham: To move -

- (1) That the Minister for Fair Trading be required to establish an open and public inquiry into retail fuel pricing in the non-metropolitan areas of the State. The Terms of Reference for such an inquiry should include requirements that the inquiry, amongst other matters, determine -
 - (a) why fuel prices seem to be disproportionately higher in some regions than in others;
 - (b) the effect, if any, of State and Federal Government policy on the retail price of fuel in the non-metropolitan areas of the State;
 - (c) the effect, if any, of the changes being effected on the system of franchising fuel outlets in the non-metropolitan areas of the State;
 - (d) the effect, if any, of State Government taxes and charges on the retail price of fuel in the non-metropolitan areas of the State;
 - (e) any legislative changes that are deemed necessary to lower the retail price of fuel in the non-metropolitan areas of the State; and
 - (f) any recommendations that can be expeditiously acted upon to lower the retail price of fuel in the non-metropolitan areas of the State.
- (2) The report of the inquiry should be tabled in State Parliament by the Minister for Fair Trading no later than the last sitting day in June 2000.

17. *Government Vision of Education, Health and Justice. (Notice given - 14/3/00).*

Dr Gallop: To move -

That this House endorses the view expressed by the Deputy Premier that the Coalition Government lacks a vision for education, health and justice and that too many decisions are being taken in the interests of political expediency and not good government.

18. *GST on Rents of Residents of Caravan Parks. (Notice given - 14/3/00).*

Mr McGowan: To move -

That this House condemns the Court Government for its complicity in the GST with the Howard Government and in particular for the imposition of the GST on the rents of residents of caravan parks.

19. *Disallowance of Town Planning Amendment Regulations (No. 2) 1999. (Notice given - 21/3/00).*

Ms MacTiernan: To move -

That the Town Planning Amendment Regulations (No. 2) 1999, published in the *Government Gazette* on 21 December 1999, and tabled in the Legislative Assembly on 14 March 2000 under the Town Planning and Development Act 1928, be and are hereby disallowed.

20. *Opposition to Federal Parliament Overriding State Legislation. (Notice given - 28/3/00).*

Mr Nicholls: To move -

That this House -

- (a) opposes any move in the Federal Parliament to override properly enacted Western Australian laws concerning repeat home burglary as inserted into The Criminal Code (WA) by the Criminal Code Amendment Act (No. 2) 1996; and
- (b) reaffirms its support for this legislation.

21. *Northbridge Tunnel. (Notice given - 2/5/00).*

Dr Edwards: To move -

That this House condemns the Court Government for its disregard of both the environment and local residents in constructing the Northbridge tunnel.

22. *Disallowance of Regulation 4 of the Workers' Compensation and Rehabilitation Amendment Regulations (No. 11) 1999. (Notice given - 3/5/00).*

Mr Kobelke: To move -

That this House disallows Regulation 4 of the Workers' Compensation and Rehabilitation Amendment Regulations (No. 11) 1999, under the Workers' Compensation and Rehabilitation Act 1981, a copy of which was laid upon the table of the Legislative Assembly on 21 December 1999.

23. *Trade and Professional Registration. (Notice given - 23/5/00).*

Hon. P.G. Pental: To move -

That this House, recognising that continuation of trade and professional registration is vital to the maintenance of standards, and protective of the rights of consumers in Western Australia -

- (a) rejects moves by the Australian Productivity Council for the States to repeal laws relating to architects' registration;
- (b) re-affirms the need for legislative backing for the registration of trades, professions and other occupations; and

- (c) calls on the Western Australian Government to report to the House on the changes needed, if any, to strengthen and modernise the Architects Act 1921 as a means of addressing any shortcomings.
-

Private Members' Business - Orders of the Day

1. *Police (Confidence Power and Review) Amendment Bill 1998. (Dr Gallop). (No. 6, 1r. - 12/8/98).*
To be read a second time.
2. *Coroners Act Amendment (Deaths in Custody) Bill 1998. (Mr Riebeling). (No. 168, 1r. - 24/6/98).*
To be read a second time.
3. *Local Government (Political Donations and Electoral Expenditure) Amendment Bill 1997. (Dr Gallop). (No. 108, 2r. - 19/11/97).*
Second reading. Adjourned debate (Minister for Local Government).
4. *Public Scrutiny of Bills and Regulations Bill 1997. (Mr Brown). (No. 113, 2r. - 26/11/97).*
Second reading. Adjourned debate (Mr MacLean).
5. *Scrutiny of Government Publicity Bill 1997. (Dr Gallop). (No. 72, 2r. - 17/9/97).*
Second reading. Adjourned debate (Leader of the House).
6. *Occupational Safety and Health Amendment Bill 1999. (Dr Gallop). (No. 109, 2r. - 23/6/99).*
Consideration in detail.
7. *Superannuation and Family Benefits Amendment Bill 1999. (Hon. P.G. Pental). (No. 106, 2r. - 23/6/99).*
Second reading. Adjourned debate (Dr Constable).
8. *Liquor Licensing Amendment Bill 1998. (Ms Warnock). (LC No. 7, 2r. - 12/5/99).*
Second reading. Adjourned debate (Mr Bloffwitch).
9. *Police Act Amendment (Prohibition of Street Prostitution) Bill 1999. (Mrs Roberts). (No. 82, 2r. - 17/11/99).*
Second reading. Adjourned debate (Leader of the House).
10. *Therapeutic Goods (Western Australia) Bill 1999. (Ms McHale). (No. 88, 2r. - 24/11/99).*
Second reading. Adjourned debate (Mr Bradshaw).
11. *Deaths and Suicides at Graylands Hospital. (Moved - 15/3/00).*
Adjourned debate (Parliamentary Secretary to the Minister for Health - continuation of remarks) on the motion moved by Ms McHale -
That this House notes with alarm the distressing report on deaths and suicides at Graylands Hospital and calls upon the Government to -
 - (a) respond to the call for an inquiry into the matters raised by the families of patients who have tragically suicided;
 - (b) adequately fund mental health services to ensure comprehensive community services are available and that in-patient services are appropriately funded; and
 - (c) begin to take seriously the needs of people affected by mental illness.

12. *Police Service in Geraldton. (Moved - 5/4/00).*

Adjourned debate (Mr Barron-Sullivan - continuation of remarks) on the amendment moved by the Minister for the Environment -

To delete all words after “That this House” and substitute the following -

“acknowledges the concerns expressed by the Member for Geraldton in regards to crime in his electorate and that this House supports the statements of the Minister for Police in establishing that police clearance rates across the State have improved and that crime rates are trending down because of the significant increases in resources that the Government has provided to the Police Service since 1993.”

to the motion moved by Mrs Roberts -

That this House supports the statements of the Member for Geraldton last week when he -

- (a) indicated that the Court Government was not doing enough on law and order;
- (b) said that there is a shortage of police in Geraldton; and
- (c) suggested that the Premier is out of touch in the sheltered environment of Nedlands.

13. *Impact of GST on Small Business. (Moved - 3/5/00).*

Adjourned debate (Deputy Premier - continuation of remarks) on the motion moved by Mr Brown -

- (1) That this House expresses concern about the impact of the Goods and Services Tax on small business in terms of -
 - (a) driving a percentage of small businesses out of business;
 - (b) imposing a significant cost on small business by requiring it to change its operating and accounting systems; and
 - (c) imposing higher ongoing compliance costs.
- (2) That this House calls on the Government to -
 - (a) publicly call on the Howard Government to provide higher levels of assistance to small business to enable it to comply with the new tax and ensure the Australian Taxation Office does not take a harsh approach to compliance in the early stages of the new tax; and
 - (b) extend the \$400 training allowance provided by the State Government to small business in the South West to small business throughout the State - without delay.

14. *Prisons (Pyrton) Amendment Bill 2000. (Mr Brown). (No. 139, 2r. - 14/6/00).*

Second reading. Adjourned debate (Mr Tubby).

Awaiting Governor’s Message

Police (Immunity from Civil Liability) Bill 1998. (Hon. P.G. Pental). (No. 13, 2r. - 9/9/98).

Second reading.

Message Received from the Legislative Council

Misuse of Drugs Amendment (Cannabis Cautioning Notices) Bill 1999. (LC No. 19).

Committees to Report

Select Committee into the Pricing of Petroleum Products in Western Australia - 30 September 2000

Government Responses to Committee Recommendations

<i>Committee</i>	<i>Ministers to Respond</i>	<i>Date Due</i>
Public Accounts Committee “Review of Auditor General’s Reports Nos 1 to 5 of 1999” - Report No. 44	Health, Treasurer, Employment and Training	23 June 2000
Public Accounts Committee “State Budget Estimates Information and Process in the Legislative Assembly” - Report No. 45	Treasurer	25 August 2000

References to Committees

<i>Committee</i>	<i>Reference</i>	<i>Date Due</i>
Public Accounts Committee -	State Support for the Mid West Iron and Steel Project	
Standing Committee on Uniform - Legislation and Intergovernmental Agreements	Developments in Organ Donation, Transplantation and Xenotransplantation; the adequacy of the Human Tissue and Transplant Act 1982 and the need for improved uniform legislation	30 November 2000

* Denotes amendments appear in the Notices and Amendments section of the Notice Paper.

† Denotes time allocated for the Bill appears in the Notices and Amendments section of the Notice Paper.



NOTICES AND AMENDMENTS

Acts Amendment (Australian Datum) Bill 2000

Clause 5

The Minister for Lands: To move -

Page 4, lines 1 to 28 - To delete the clause and substitute the following -

“ **5. *Mining Act 1978* amended**

(1) This section amends the *Mining Act 1978**.

[* *Reprinted as at 26 July 1999.*

For subsequent amendments see Acts Nos. 42 and 60 of 1999.]

(2) The following section is inserted at the end of Part I -

“ **9B. Position on the Earth’s surface**

(1) Where for the purposes of this Act, or the regulations made for the purposes of this Act, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position is to be determined by reference to the prescribed Australian datum.

(2) Regulations that prescribe a datum for the purposes referred to in subsection (1), or amend that datum or prescribe another datum to replace that datum, may make any transitional or savings provisions that are necessary or convenient to be made -

(a) in relation to mining tenements granted or acquired before the regulations take effect;

(b) in relation to applications for mining tenements pending when the regulations take effect; or

(c) for any other purpose.

(3) Regulations referred to in subsection (2) may modify or otherwise affect the operation of this Act. ”.

(3) Section 56B is repealed. ”.

Culture, Libraries and the Arts Bill 1998

Clause 29

The Minister for Arts: To move -

Page 19, lines 18 to 21 - To delete the lines and substitute the following -

“ **29. Attendance of State Librarian at Libraries Council meetings**

The person for the time being holding or acting in the office of State Librarian -

(a) may attend any meeting of the Libraries Council; and

(b) is to attend any such meeting if notified by the Libraries Council that the person's attendance at the meeting is required,

but is not entitled to vote.

”.

Heritage Bill 1999

New Part 4

Hon. P.G. Pandal: To move -

Page 15, after line 14 - To insert the following -

“ **PART 4 - MOVEABLE HERITAGE**

17. Interpretation

In this Part -

“**cultural heritage significance**” in relation to a moveable object or collection of objects means significance to any group or community (including future generations) in relation to the archaeological, architectural, cultural, historical, scientific, social or technical value of the moveable object or collection of objects;

“**inventory**” means the inventory of moveable heritage referred to in section 19(a) and “moveable heritage inventory” has the same meaning;

“**moveable heritage**” means any moveable object having cultural heritage significance; and

“**moveable object**” means any moveable object or collection of objects which in relation to their cultural heritage significance are not otherwise protected by this Act or any other Act.

18. Purpose

The purpose of this Part is to give effect to the Report of the Select Committee on Heritage Laws, so far as it relates to moveable heritage, tabled on 23 January 1995.

19. Council must prepare moveable heritage inventory and report to Minister

The Council must, within 18 months from the day on which this Act commences, submit a written report to the Minister containing -

- (a) a comprehensive inventory of the State's moveable heritage;
- (b) a consideration of the options available for the preservation and conservation of moveable heritage generally and in particular the moveable objects identified in the inventory including the option of incorporating the inventory into the Register and otherwise amending this Act so as to bring moveable heritage within its scheme; and
- (c) recommendations for the preservation and conservation of moveable heritage generally and in particular the moveable objects identified in the inventory.

20. Council must consult certain bodies and community on moveable heritage inventory

- (1) In preparing the inventory required under paragraph (a) of section 19C the Council must consult with -
 - (a) the Western Australian Museum;
 - (b) any person or body to which for the purposes of this section it is referred in writing by the Western Australian Museum;
 - (c) the Royal Western Australian Historical Society;
 - (d) the National Trust of Australia (W.A.); and
 - (e) the community generally.
- (2) In consulting with the community generally as required by paragraph (e) of subsection (1) of this section the Council must ensure that a notice in accordance with subsection (3) is published in -
 - (a) the *Government Gazette*; and
 - (b) a daily newspaper circulating generally throughout the State.
- (3) A notice under subsection (2) must -
 - (a) state the fact of and reasons for the notice including reference to the preparation of a moveable heritage inventory under this Part; and
 - (b) invite public submissions in writing to the Council within 2 months from the date of publication of the notice.
- (4) Where as part of its consultation the Council receives any written submission from any body referred to in paragraphs (a), (b), (c) or (d) of subsection (1) the Council must publish such submission in full in the report required under this Part.

21. Minister to table report

The Minister must table the report in both Houses within 30 sitting days from the day on which the report is due to be submitted to the Minister under section 19C. ”.

Hope Valley-Wattleup Redevelopment Bill 2000

Clause 3

Mr Thomas: To move -

Page 2, lines 15 to 17 - To delete the lines and substitute the following -

“ **“Authority”** means the Hope Valley-Wattleup Redevelopment Authority; ”.

Clause 4

Mr Thomas: To move -

Page 3, line 30 - To insert after “Schedule 1” the following -

“ but shall not include the Wattleup or Hope Valley town sites ”.

New Part 2

Mr Thomas: To move -

Page 5, after line 18 - To insert the following -

“ **Part 2 - Hope Valley-Wattleup Redevelopment Authority**

Division 1 - Establishment of Authority

6. Authority established

- (1) There is established by this subsection a body by the name of the Hope Valley-Wattleup Redevelopment Authority.
- (2) The Authority is a body corporate with perpetual succession and a common seal and is capable of -
 - (a) acquiring, holding and disposing of real and personal property;
 - (b) suing and being sued; and

- (c) doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(3) The Authority is an agent of the Crown in right of the State.

7. Membership of Authority

(1) The Authority consists of 7 members appointed by the Minister of whom -

- (a) 2 are to be members of the council of the City of Cockburn who must be nominated by formal resolution of that council;
- (b) 2 are to be members of the council of the Town of Kwinana who must be nominated by formal resolution of that council; and
- (c) each of the others is to be a person who in the opinion of the Minister has a relevant qualification.

(2) A relevant qualification for the purposes of subsection (1)(c) is knowledge of and experience in one or more of the fields of urban planning, environmental management, business management, property development, financial management, engineering, transport, housing and community affairs.

(3) As far as is practicable, the membership of the Authority must comprise persons who between them have knowledge or experience covering all of the fields mentioned in subsection (2).

(4) The Chief executive officer is not to be appointed as a member of the Authority.

8. Chairperson and deputy chairperson

The Minister must appoint one of the members to be chairperson and another to be deputy chairperson of the Authority.

9. Constitution and proceedings

The provisions of Schedule 2 have effect with respect to the constitution and proceedings of the Authority.

10. Remuneration and expenses of members

A member must be paid out of the funds of the Authority such remuneration and travelling and other allowances as are determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

11. Protection of members and officers

(1) A member or any officer of the Authority is not personally liable for any act done or omitted to be done in good faith by the Authority or in the performance of any function under this Act.

- (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

12. Particular duties of members

- (1) Where a matter is before a meeting for consideration and a member present at the meeting has a direct or indirect pecuniary interest in the matter, he or she must as soon as possible after the relevant facts have come to his or her knowledge, disclose that he or she has an interest to the other members present at the meeting, and -
- (a) the disclosure must be recorded in the minutes of the meeting; and
 - (b) the member must not thereafter be present during any consideration or discussion of, and must not vote on any determination of, the matter.
- (2) A member must not disclose any information acquired by virtue of the performance of any function unless the disclosure is made -
- (a) in connection with the carrying out of this Act or under any legal duty; or
 - (b) for the purposes of any proceedings arising out of this Act or any report of such proceedings; or
 - (c) in the case of -
 - (i) a member appointed under section 7(1)(a) or (b); or
 - (ii) a member of a committee who is a member of the council of the City of Cockburn, or the Town of Kwinana, as the case may be,
 in connection with the discharge of his or her duties as a member of such council but then only within a closed committee meeting of that council.
- (3) A member who commits a breach of any provision of this section -
- (a) is liable to the Authority for any profit made by him or her for any damage suffered by the Authority as a result of the breach of that provision; and
 - (b) commits an offence against this Act and is liable to a fine of \$10 000.
- (4) This section is in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

Division 2 - Staff

13. Chief executive officer

- (1) Subject to section 15, the Minister -
- (a) must appoint a chief executive officer of the Authority; and
 - (b) subject to any relevant order, award or agreement under the *Industrial Relations Act 1979*, may, after consultation with the Minister for Public Sector Management, determine the remuneration and other terms and conditions of service of the chief executive officer.
- (2) The function of the chief executive officer is, subject to the control of the Authority, to administer the day to day operations of the Authority.

14. Other staff

- (1) The Authority may appoint such officers as may be necessary to enable the Authority to perform its functions.
- (2) Subject to section 15 and any relevant order, award or agreement under the *Industrial Relations Act 1979*, the Authority may, after consultation with the Minister for Public Sector Management, determine the remuneration and other terms and conditions of service of persons appointed under subsection (1).
- (3) The Authority may engage under a contract for services or other arrangement such consultants and professional or technical or other assistance as it considers necessary to enable the Authority to perform its functions.

15. Officers in Senior Executive Service

Notwithstanding anything in this division, if there is, in the case of an officer of the Authority who is a member of the Senior Executive Service (within the meaning of the *Public Sector Management Act 1994*), an inconsistency between this Act and that Act, that Act shall prevail.

16. Use of staff and facilities of departments, agencies and instrumentalities

The Authority may, by arrangement made between it and the Minister concerned, and on such terms and conditions as may be mutually arranged by it with that Minister and with the relevant employing authority within the meaning of the *Public Sector Management Act 1994*, make use, either full-time or part-time, of -

- (a) the services of any officer or employee in the Public Service of the State or in a State agency or instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any facilities of a department of the Public Service of the State or of a State agency or instrumentality.

Clause 6

Mr Thomas: To move -

Page 6, line 8 - To insert after "Part 3" the following -

“ and to control developments in that area in accordance with Part 4 ”.

Mr Thomas: To move -

Page 6, lines 9 to 11 - To delete the lines.

New clauses

Mr Thomas: To move -

Page 6, after line 11 - To insert the following -

“ **7. Powers**

- (1) The Authority may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Authority may -
 - (a) acquire, manage and dispose of land, but only with approval of the Minister in the case of an acquisition or disposal of land that, in the opinion of the Authority, exceeds \$1 000 000 in value;
 - (b) subdivide, amalgamate, improve, develop and alter land;
 - (c) subject to subsection (4) -
 - (i) participate in any business arrangement;
 - (ii) acquire, hold and dispose of shares, units or other interests in any business arrangement;
 and
 - (d) enter into any contract or arrangement with a person, including a public authority or a local government for the performance by that person or body of any work or the supply of equipment or services.
- (3) In performing its functions the Authority may act alone or in conjunction with any person or any Department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.
- (4) In performing its functions the Authority must have regard to and must seek to enhance and preserve the colonial heritage and significance of the redevelopment area and its adjacent areas.
- (5) Notwithstanding anything in this section or in section 6, the Authority may pay for the carrying out of any work on land that is contiguous with the redevelopment area if the work is in its opinion directly related to the improvement of the redevelopment area or the functions of the Authority.
- (6) Any power conferred by subsection (2)(c) is only exercisable with the approval of the Governor in Council and subject to any conditions attached to the approval.
- (7) Wherever the Minister or Governor in Council has cause to grant any approval in this section the text of such approval must be laid before both Houses of Parliament within 28 sitting days after the date on which the approvals are given.

- (8) In exercising any power under this section the Authority is not required to comply with section 20 of the *Town Planning and Development Act 1928* but -
- (a) anything that would otherwise require approval of the Western Australian Planning Commission under that section may be done with the approval of the Minister subject to any conditions attached to that approval;
 - (b) before the Minister makes any decision required by paragraph (a) he or she is to seek the advice of the Western Australian Planning Commission and consider any advice offered; and
 - (c) where this subsection applies, section 21 of the *Town Planning and Development Act 1928* is to be read as if references to the Commission were references to the Minister.
- (9) The annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* shall include a summary of approvals given by the Minister under subsection 2(a) or the Governor or the Governor in Council under subsection (6).
- (10) In subsection (2)(c) -
- “**business arrangement**” means a proprietary limited company, partnership, trust, joint venture or arrangement for sharing profits;
- “**participate**” includes form, promote, establish, enter into, manage, dissolve, wind up and do anything incidental to the doing of those things.

8. Conditional disposition of land

- (1) The Authority may attach any condition or restriction to a disposition of land under section 7 (2)(a).
- (2) Without limiting subsection (1), the Authority and a transferee may agree that the transferee -
- (a) is required to make specified improvements to land; or
 - (b) is subject to restrictions on the disposal of or dealing with the land,
- and the agreement may confer on the Authority rights and remedies against, and the power to impose sanctions on, the transferee in relation to the enforcement of any condition or restriction.
- (3) The Authority may deliver a memorial relating to a condition or restriction under this section to the Registrar of Titles who must, on payment of the appropriate fee, register the memorial against the relevant land.
- (4) A memorial under subsection (3) must be in a form approved by the Registrar of Titles.
- (5) While a memorial is registered under subsection 93, the Registrar of Titles must not, without the consent in writing of the Authority, register under the *Transfer of Land Act 1893* any instrument affecting the land to which the memorial relates.
- (6) The Authority must, as soon as is practicable after the relevant land ceases to be subject to the condition or restriction to which a memorial relates, by notice in a form approved by the Registrar of Titles withdraw that memorial, and the Registrar shall cancel the memorial accordingly.

Clause 9

Mr Thomas: To move -

Page 7, line 13 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 7, line 18 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 7, line 22 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 7, lines 26 to 29 - To delete the lines.

Clause 10

Mr Thomas: To move -

Page 8, line 9 - To delete “Commission” and substitute the following -

“ Authority ”.

New clauses

Mr Thomas: To move -

Page 8, after line 12 - To insert the following new clauses -

“ **11. Delegation**

- (1) The Authority may by resolution, either generally or as otherwise provided by the resolution, delegate to an eligible person any of its functions under this Act other than this power of delegation.

- (2) In subsection (1) “**eligible person**” means -
- (a) a member or the chief executive officer of the Authority;
 - (b) the Western Australian Planning Commission;
 - (c) the chief executive officer of the department principally assisting the Minister to whom administration of the *Town Planning and Development Act 1928* is committed in the administration of that Act;
 - (d) the Commissioner of Main Roads appointed under section 7 of the *Main Roads Act 1930*; and
 - (e) a local government.
- (3) The Authority may by resolution revoke a delegation under subsection (1).

12. Minister may give directions

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority shall give effect to any such direction.
- (2) The text of any direction given under subsection (1) must be included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* and published in the *Government Gazette* within 28 days and laid before each House of Parliament within 14 days of being published if Parliament is in session or within 14 sitting days of the next ensuing session.
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1966*.

13. Minister to have access to information

- (1) For parliamentary purposes or for the proper conduct of the Minister’s public business, the Minister is entitled to have information in the possession of the Authority and to have and retain copies of documents.
- (2) For the purposes of subsection (1) the Minister may -
- (a) request the Authority to furnish information to the Minister;
 - (b) request the Authority to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of the staff of the Authority to obtain information and furnish it to the Minister.
- (3) The Authority must comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section -
- “**document**” includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

“information” means documents or other information relating to the functions of the Authority being information, as so defined, specified, or of a description specified, by the Minister; and

“parliamentary purposes” means the purpose of -

- (a) answering a question asked in a House of Parliament; or
- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament. ”.

Clause 12

Mr Marlborough: To move -

Page 9, line 21 - To insert after “Act” the following -

“ except that land may not be reserved, zoned or classified for heavy industry as defined in the Metropolitan Region Scheme ”.

Mr Thomas: To move -

Page 9, after line 21 - To insert the following -

“ (2) The master plan shall make provision for general industry, rural living, horticulture and conservation areas, and appropriate buffer zones, in a mosaic that best reflects the wishes of residents and land owners, provides for a higher and better use for land and rehabilitates land unused or damaged from earlier uses. ”.

Clause 13

Mr Thomas: To move -

Page 9, line 24 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 10 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 16 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 21 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 22 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 24 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 10, line 27 - To delete “Commission” and substitute the following -

“ Minister ”.

Clause 14

Mr Thomas: To move -

Page 10, line 30 - To delete “Commission” and substitute the following -

“ Minister ”.

Clause 16

Mr Thomas: To move -

Page 12, line 7 - To delete “Commission” and substitute the following -

“ Minister ”.

Mr Thomas: To move -

Page 12, lines 13 to 19 - To delete the lines.

Mr Thomas: To move -

Page 12, lines 20 & 21 - To delete “, after taking into account the recommendations of the Commission, is to” and substitute the following -

“ may ”.

Clause 17

Ms MacTiernan: To move -

Page 13, lines 16 to 18 - To delete the lines.

New clause

Ms MacTiernan: To move -

Page 13, after line 20 - To insert the following -

“18. Parliamentary Scrutiny

- (1) A copy of the master plan and any amendments to it shall be laid before each House of Parliament within 6 sitting days of the House next following the date of publication of the notice of approval of the master plan or amendment in the *Government Gazette*.
- (2) Either House may by resolution, notice of which has been given at any time within 12 sitting days of that House after the copy of the master plan or amendment was laid before it, disallow the master plan or amendment.
- (3) If neither House passes a resolution disallowing the master plan or an amendment, the master plan or amendment comes into effect from and after the last day on which the scheme might have been disallowed, or such later day as is specified in the plan or amendment.”.

Clause 18

Mr Thomas: To move -

Page 13, line 25 - To delete “Commission” and substitute the following -

“ Minister ”.

Clause 20

Mr Thomas: To move -

Page 15, line 10 - To delete “Commission” and substitute the following -

“ Minister ”.

Clause 26

Mr Thomas: To move -

Page 19, line 14 - To delete “Commission” and substitute the following -

“ Authority ”.

Clause 27

Mr Thomas: To move -

Page 19, line 28 - To delete “Commission” and substitute the following -

“ Authority ”.

Clause 28

Mr Thomas: To move -

Page 20, line 10 - To delete “Commission” and substitute the following -

“ Authority ”.

Clause 29

Mr Thomas: To move -

Page 20, line 17 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 20, line 28 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 21, line 1 - To delete "Commission" and substitute the following -

" Authority ".

Mr Thomas: To move -

Page 21, line 5 - To delete "Commission" and substitute the following -

" Authority ".

Mr Thomas: To move -

Page 21, line 9 - To delete "Commission" and substitute the following -

" Authority ".

Mr Thomas: To move -

Page 21, line 11 - To delete "Commission's" and substitute the following -

" Authority's ".

Mr Thomas: To move -

Page 21, line 13 - To delete "Commission" and substitute the following -

" Authority ".

Mr Thomas: To move -

Page 21, line 14 - To delete "Commission" and substitute the following -

" Authority ".

Clause 30

Mr Thomas: To move -

Page 21, line 18 - To delete "Commission" and substitute the following -

" Authority ".

Clause 32

Mr Thomas: To move -

Page 22, line 24 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 23, line 21 - To delete “Commission” and substitute the following -

“ Authority ”.

Clause 33

Mr Thomas: To move -

Page 24, line 14 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 24, line 23 - To delete “Commission” and substitute the following -

“ Authority ”.

Clause 34

Mr Thomas: To move -

Page 25, line 12 - To delete “Commission” and substitute the following -

“ Authority ”.

Mr Thomas: To move -

Page 25, lines 20 and 21 - To delete the lines and substitute the following -

“ (b) references in that Part to the Commission and the Scheme were references to the Authority and to the master plan respectively; and ”.

Mr Thomas: To move -

Page 25, after line 28 - To insert the following -

- “ (4) Notwithstanding any provision in this or any other Act owners of properties in the Wattleup or Hope Valley townsites which are acquired for purposes of this Act will be offered compensation according to the following formula -
- (a) a base price calculated to be sufficient to buy a similar property, having regard to: lot size and age style and size of any house or other improvements in the locality of Spearwood;
 - (b) where the calculation envisaged in paragraph (a) cannot be practically made the Valuer General will determine an amount which in his opinion is sufficient to purchase an equivalent property having regard to lot size and the age, style and size of any house or other improvements in a metropolitan locality with equivalent amenity;
 - (c) an additional amount of 10% of the amount calculated in paragraph (a) or (b) to compensate property owners for inconvenience. ”.

New Part 5

Mr Thomas: To move -

Page 26, after line 5 - To insert the following -

“ **Part 5 - Financial provisions**

35. Funds of Authority

- (1) The funds available for the purpose of enabling the Authority to perform its functions consist of -
 - (a) moneys from time to time appropriated by Parliament;
 - (b) moneys received by the Authority from performing any of its functions;
 - (c) moneys borrowed by the Authority under section 36 or 37;
 - (d) the proceeds of sale by the Authority of land;
 - (e) rents derived from land leased by the Authority; and
 - (f) other moneys lawfully received by, made available to or payable to the Authority.
- (2) The funds referred to in subsection (1) must be paid into and placed to the credit of an account at a bank approved by the Treasurer to be called the “Hope Valley-Wattleup Redevelopment Authority Account”.

- (3) There shall be paid from the moneys from time to time in the Account -
- (a) interest on and repayments of moneys borrowed by or advanced to the Authority;
 - (b) the remuneration and travelling and other allowances payable to members and to the chief executive officer and other officers referred to in section 13; and
 - (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

36. Borrowing by Authority from Treasurer

- (1) The Authority may borrow from the Treasurer such amounts as the Treasurer approves on such conditions relating to repayment and payment of interest as the Treasurer imposes.
- (2) By virtue of this subsection the Account and the assets of the Authority are charged with the due performance by the Authority of all obligations arising from any advance made under this section.

37. Borrowing by Authority generally

- (1) This section is in addition to, and not in derogation from, the provisions of section 36.
- (2) The Authority may -
 - (a) with the prior approval of the Treasurer in writing and on such terms and conditions as the Treasurer approves, borrow moneys for the purpose of performing its functions; and
 - (b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 38.

38. Guarantee by Treasurer

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in such form and subject to such terms as the Treasurer determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 37.
- (2) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) -
 - (a) is hereby guaranteed by the State; and
 - (b) shall be charged to the Consolidated Fund, which to the necessary extent is appropriated accordingly.
- (3) By virtue of this subsection the Account and the assets of the Authority are charged with the due repayment of any payment made by the Treasurer under a guarantee given under subsection (1) and with the performance and observance by the Authority of any covenants and conditions which the Treasurer imposes as a term of that guarantee.
- (4) The Treasurer must cause any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given under subsection (1) to be credited to the Consolidated Fund.

- (5) Before a guarantee is given by the Treasurer under subsection (1), the Authority must give to the Treasurer such security as the Treasurer requires and must execute all such instruments as are necessary for the purpose.
- (6) Where a guarantee is given by the Treasurer under subsection (1) the Treasurer must cause the text of such guarantee to be published in the *Government Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session.

39. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

40. Surplus

Subject to section 14 of the *Financial Administration and Audit Act 1985*, any surplus in the Account at the end of any financial year may be applied by the Authority for the purposes of this Act. ”.

Clause 35

Mr Thomas: To move -

Page 27, line 9 - To delete “Commission” and substitute the following -

“ Authority ”.

New clause

Mr Thomas: To move -

Page 28, after line 11 - To insert the following -

“ 36. Execution of documents by Authority

- (1) A document is duly executed by the Authority, if -
- (a) the common seal of the Authority is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the Authority by the member or members or officer or officers of the Authority authorized by the Authority to do so.
- (2) The common seal of the Authority must not be affixed to any document except by resolution of the Authority.

- (3) The common seal of the Authority must be affixed to a document in the presence of the chairperson and another member, or the chairperson and the chief executive officer, and each of them must sign the document to attest that the common seal was so affixed.
- (4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.
- (5) When a document is produced bearing a seal purporting to be the common seal of the Authority, it shall be presumed that that seal is the common seal of the Authority until the contrary is shown.
- (6) All courts and persons acting judicially must take notice of the common seal of the Authority. ”.

Clause 37

Mr Thomas: To move -

Page 28, after line 30 - To insert the following -

- “ (3) The Minister must prepare a report based on his or her review made under subsections (1) and (2) and must, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament. ”.

Clause 38

Mr Thomas: To move -

Page 29, lines 26 to 31 - To delete the lines and substitute the following -

- “ (ib) prepared under the *Hope Valley-Wattleup Redevelopment Act 2000*, means the Hope Valley-Wattleup Redevelopment Authority established under that Act; ”.

New Schedule

Mr Thomas: To move -

Page 33, after the last line - To insert the following -

“ **Schedule 2** [Section 9]

Provisions as to the constitution and proceedings of the Authority

1. Term of office

- (1) Except as otherwise provided by this Act, a member holds office for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment, but may from time to time be reappointed.
- (2) A member, unless he or she sooner resigns, is removed from office or his or her office becomes vacant under clause 2(b), continues in office until his or her successor comes into office, notwithstanding that the term for which he or she was appointed may have expired.

2. Resignation, removal, etc.

The office of a member becomes vacant if he or she -

- (a) resigns the office by written notice addressed to the Minister;
- (b) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (c) is removed from office by the Governor on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his or her duties and proved to the satisfaction of the Governor;
- (d) in the case of a member appointed under section 7(1)(a) or (b) ceases to be a member of the council of the City of Cockburn or the Town of Kwinana, as the case may be.

3. Temporary members

- (1) Where a member other than the chairperson is unable to act by reason of sickness, absence or other cause the Minister may appoint another person to act temporarily in his or her place, and while so acting according to the tenor of his or her appointment that other person is deemed to be a member of the Authority.
- (2) Where the member who is deputy chairperson is performing the functions of the chairperson, the Minister may, under subclause (1), appoint another person to act in his or her place as member.
- (3) No act or omission of a person acting in place of another under this clause shall be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

- (4) The appointment of a person as a temporary member may be terminated at any time by the Minister.

4. Chairperson and deputy chairperson

- (1) The office of chairperson or deputy chairperson becomes vacant if -
 - (a) the person holding the office resigns the office by notice in writing to the Minister;
 - (b) the person holding the office ceases to be a member of the Authority;
 - (c) the Minister declares the office to be vacant.
- (2) During any vacancy in the office of chairperson or while he or she is unable to act by reason of sickness, absence or other cause, the deputy chairperson shall perform the functions of the chairperson.
- (3) No act or omission of the deputy chairperson acting as the chairperson shall be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.

5. Meetings

- (1) The first meeting of the Authority shall be convened by the chairperson and thereafter, subject to subclause (2), meetings shall be held at such times and places as the Authority determines.
- (2) A special meeting of the Authority may at any time be convened by the chairperson.
- (3) The chairperson shall preside at all meetings of the Authority at which he or she is present.
- (4) If both the chairperson and the deputy chairperson are absent from a meeting the members present shall appoint one of their number to preside.
- (5) A quorum of a meeting of the Authority is 4 members.
- (6) At any meeting of the Authority the chairperson, deputy chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.
- (7) The Authority shall cause accurate minutes to be kept of the proceedings at its meetings.

6. Committees

- (1) The Authority may from time to time appoint committees of such members, or such members and other persons, as it thinks fit and may discharge or alter any committee so appointed.
- (2) Subject to the directions of the Authority and to the terms of any delegation under section 11, each committee may determine its own procedures.

(3) Persons appointed under subclause (1) are subject to the provisions of section 12.

7. Resolution may be passed without meeting

A resolution in writing signed or assented to by each member by letter, telegram, telex or facsimile transmission shall be as valid and effectual as if it had been passed at a meeting of the Authority.

8. Leave of absence

The Authority may grant leave of absence to a member on such terms and conditions as the Authority thinks fit.

9. Authority to determine own procedures

Subject to this Act, the Authority shall determine its own procedures. ”.

Planning Appeals Bill 1999

Clause 21

Ms MacTiernan: To move -

Page 14, lines 12 and 13 - To delete the lines.

Clause 23

Ms MacTiernan: To move -

Page 15, lines 12 to 15 - To delete the lines and substitute the following -

“ (3) The Planning Appeal Panel is to conduct a formal hearing in which each party will have the right to appear and address any issue raised in their submissions to the assessors or in the assessor’s report. ”.

Ms MacTiernan: To move -

Page 15, after line 23 - To insert the following -

“ (8) The Planning Appeals Panel must be impartial and must act in accordance with the rules of natural justice, equity fairness and good conscience. ”.

Clause 24

Ms MacTiernan: To move -

Page 16, line 4 - To delete the line.

Ms MacTiernan: To move -

Page 16, line 5 - To insert after "appeal" the following -

" without a fair and reasonable justification for such withdrawal ".

Clause 25

The Minister for Planning: To move -

Page 16, lines 20 and 21 - To delete the lines.

The Minister for Planning: To move -

Page 16, line 22 - To delete "*Heritage Act 1999*" and substitute the following -

" *Heritage of Western Australia Act 1990* ".

Ms MacTiernan: To move -

Page 17, after line 10 - To insert the following -

- " (5) A copy of a written notice to the Director issued under subsection (1) is to be laid before each House of Parliament within 14 days after the direction is given or if a House of Parliament is not sitting when the direction is given and the Minister is of the opinion that the House will not sit during those 14 days, given to the Clerk of that House.
- (6) A document given to the Clerk of a House is to be taken -
- (a) to have been laid before that House; and
 - (b) to be a document published by order or under the authority of that House.
- (7) The laying of a document that is taken to have occurred under subsection (5)(a) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the document is given to the Clerk. "

Clause 26

Ms MacTiernan: To move -

Page 17, after line 18 - To insert the following -

“ (2) Any person investigating an appeal under subsection (1) must be impartial and must act in accordance with the rules of natural justice, equity, fairness and good conscience. ”.

Clause 28

Ms MacTiernan: To move -

Page 18, line 25 to page 19, line 13 - To delete the lines.

Clause 31

The Minister for Planning: To move -

Page 21, line 20 - To insert after “A referral” the following -

“ by the Minister ”.

The Minister for Planning: To move -

Page 21, line 21 - To delete “and determined”.

Clause 32

The Minister for Planning: To move -

Page 22, lines 1 to 25 - To oppose the clause with a view to substituting the following -

“ **32. Referral under section 30 of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 30(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the owner or occupier against a decision of -
 - (a) if section 30(1)(a) of that Act applies, the Council; or
 - (b) if section 30(1)(b) of that Act applies, the person with whom negotiations have taken place,not to enter into a Heritage Agreement in respect of the building or land.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions set out in section 30(1) of that Act. ”.

Clause 33

The Minister for Planning: To move -

Page 23, lines 1 to 23 - To oppose the clause with a view to substituting the following -

“ **33. Referral under section 37 of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 37(3) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the aggrieved person against the Minister’s decision to make the recommendation under section 37(1) of that Act.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions referred to in accordance with section 37(3) of that Act.

”.

Clause 34

The Minister for Planning: To move -

Page 23, line 24 to page 24, line 9 - To oppose the clause with a view to substituting the following -

“ **34. Referral under section 60A of the *Heritage of Western Australia Act 1990***

- (1) A referral under section 60A(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the person subject to the Stop Work Order against a decision of the Minister to extend the Order to continue to have effect for more than 42 days after the Order was made.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine that the Stop Work Order -
 - (a) is not to continue to have effect for more than 42 days after it was made;
 - (b) is to continue to have effect for a specified period;
 - (c) is to continue to have effect unless and until a notice is published pursuant to section 53 of that Act notifying persons that the place, or any portion of the place, concerned will not be entered in the Register; or
 - (d) is to continue to have effect permanently,
on such terms as the Panel determines.

35. Referral under section 73 of the *Heritage of Western Australia Act 1990*

- (1) A referral under section 73(4) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the aggrieved person against the Minister’s decision under that section.

- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions referred to it in accordance with sections 73(4) and (7) of that Act.

36. Referral under section 76 of the *Heritage of Western Australia Act 1990*

- (1) A referral under section 76(1) of the *Heritage of Western Australia Act 1990* is to be dealt with as if it were an appeal by the owner against the Council's decision under that section.
- (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel is to determine the questions set out in section 76(1) of that Act.

”.

Clause 35

The Minister for Planning: To move -

Page 24, line 11 - To delete “33 or 34” and substitute the following -

“ 32 to 36 ”.

Clause 39

The Minister for Planning: To move -

Page 27, lines 7 to 10 - To delete the lines and substitute the following -

- “ (5) An Assessor who is not employed under Part 3 of the *Public Sector Management Act 1994* -
- (a) is to be appointed for a term not exceeding 3 years specified in the instrument of appointment and is eligible for reappointment; and
 - (b) is to be paid the remuneration and allowances determined by the Minister on the recommendation of the Minister for Public Sector Management.
- ”.

Clause 44

The Minister for Planning: To move -

Page 30, line 4 - To insert after “under this Act” the following -

“ and the decisions made on those appeals ”.

Ms MacTiernan: To move -

Page 30, lines 10 and 11 - To delete the lines and substitute the following -

“ (3) The Registrar must ensure that the register of appeals available to the public contains a copy of the Panel’s written decision together with its reasons. ”.

Schedule 1

The Minister for Planning: To move -

Page 36, line 10 - To delete “*Heritage Act 1999*” and substitute the following -

“ *Heritage of Western Australia Act 1990* ”.

The Minister for Planning: To move -

Page 36, after line 18 - To insert the following -

“ *Midland Redevelopment Act 1999* Midland Redevelopment
• land in redevelopment area Authority ”.

Planning Appeals (Transitional and Consequential Provisions) Bill 1999

New Part 5

The Minister for Planning: To move -

Page 5, after line 7 - To insert the following -

“ **Part 5 - *Heritage of Western Australia Act 1990***

8. The Act amended

The amendments in this Part are to the *Heritage of Western Australia Act 1990**.

[* *Act No. 103 of 1990.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, 115.]

9. Section 3 amended

Section 3(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition -

“ **“Planning Appeal Panel”** means a Planning Appeal Panel under the *Planning Appeals Act 2000*; ”;

- (b) after the definition on “this Act” by deleting the semicolon and inserting a full stop instead;
- (c) by deleting the definition of “Town Planning Appeal Tribunal” and “Tribunal”.

10. Section 30 amended

- (1) Section 30(1) is amended as follows:

- (a) by deleting “to the Town Planning Appeal Tribunal”;

- (b) by inserting after “be reasonable” -

“ , to be dealt with under section 32 of the *Planning Appeals Act 2000* ”.

- (2) Section 30(2) is amended by deleting “to the Tribunal” and inserting instead -

“ under subsection (1) ”.

- (3) Section 30(4) is amended as follows:

- (a) by deleting “The Tribunal shall determine a question referred under this section and in so doing -” and inserting instead -

“ When determining a matter referred under subsection (1) a Planning Appeal Panel - ”;

- (b) in paragraphs (c)(ii) and (d) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

- (c) in paragraph (e) by deleting “proceed by way of review of relevant decisions taking” and inserting instead -

“ take ”;

(d) in paragraph (g) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

(e) by deleting “Tribunal” in the last 2 places where it appears and inserting instead -

“ a Planning Appeal Panel ”.

(4) Section 30(5) is amended as follows:

(a) by deleting “the Tribunal” in the first place it appears and inserting instead -

“ a Planning Appeal Panel ”.

(b) in paragraph (c) -

(i) by deleting “Tribunal” and inserting instead -

“ Planning Appeal Panel ”;

(ii) by deleting “of the Tribunal.” and inserting instead -

“ under the *Planning Appeals Act 2000*. ”.

11. Section 37 amended

(1) Section 37(3) is amended as follows:

(a) by deleting “to the Town Planning Appeal Tribunal”;

(b) by deleting “and the Tribunal may determine any such question.” and inserting instead -

“ to be dealt with under section 33 of the *Planning Appeals Act 2000*. ”.

(2) Section 37(4) is amended by deleting “the Town Planning Appeal Tribunal” and inserting instead -

“ a Planning Appeal Panel ”.

(3) Section 37(5) is amended as follows:

(a) by deleting “The Tribunal” and inserting instead -

“ A Planning Appeal Panel ”;

(b) in paragraph (d) by deleting “Tribunal” and inserting instead -

“ Panel ”;

12. Section 59 amended

(1) Section 59(7)(d) is deleted and the following paragraph is inserted instead -

“ (d) in the case of a Stop Work Order -

- (i) subject to subparagraph (ii), on the expiry of 42 days from the making of the Order; or
- (ii) if a Planning Appeal Panel has determined a referral under section 60A, at the time specified in that determination. ”.

(2) Section 59(10) is amended as follows:

(a) by deleting “Town Planning Appeals Tribunal” and inserting instead -

“ a Planning Appeal Panel ”;

(b) by deleting “the Tribunal.” and inserting instead -

“ that Panel ”. ”.

(3) Section 59(19) is repealed.

13. Section 60 replaced

Section 60 is repealed and the following sections are inserted instead -

“ **60. Appeals in relation to Conservation Orders**

- (1) A person aggrieved by a Conservation Order, other than a Consent Order, may appeal against the Order under the *Planning Appeals Act 2000*.
- (2) An appeal under subsection (1) shall not be made while -
 - (a) an application for review of the Order can still be made under section 59(16); or
 - (b) the Order is being reviewed under section 59(17).

60A. Order for continuation of Stop Work Order

- (1) If the Minister wishes a Stop Work Order to continue to have effect for more than 42 days after the Order was made the Minister may refer the question of the duration of the Order to be dealt with under section 34 of the *Planning Appeals Act 2000*.
- (2) A Stop Work Order that is the subject of a referral under subsection (1) remains in force until the matter is dealt with and determined under the *Planning Appeals Act 2000*. ”.

14. Section 73 amended

- (1) Section 73(4) is amended as follows:
- (a) by deleting “to the Town Planning Appeal Tribunal”;
- (b) by inserting after “or revoked” -
- “ to be dealt with under section 35 of the *Planning Appeals Act 2000* ”;
- (c) by deleting “the Tribunal may determine any such question,”;
- (d) by deleting “any such determination.” and inserting instead -
- “ the determination of a Planning Appeals Panel on a referral. ”;
- (2) Section 73(5) is amended by deleting “finding by the Tribunal ” and inserting instead -
- “ referral ”.
- (3) Section 73(7) is amended as follows:
- (a) by deleting “For the purposes of subsection (4) the questions that may be referred to the Tribunal shall be taken to be -” and inserting instead -
- “ The questions that may be referred under subsection (4) are - ”;
- (b) by deleting “to be determined by the Tribunal” and inserting instead -
- “ referred under subsection (4) ”.

15. Section 76 amended

Section 76(1) is amended as follows:

- (a) by deleting “to the Tribunal”;
- (b) by deleting “, and the Tribunal may determine that question and in so doing -” and inserting instead -
 - “ to be dealt with under section 36 of the *Planning Appeals Act 2000*, and in determining the matter a Planning Appeal Panel - ”;
- (c) in paragraph (b) by deleting “Tribunal” and inserting instead -
 - “ Planning Appeal Panel ”;
- (d) by deleting “the Tribunal by” and inserting instead -
 - “ the Panel by ”;
- (e) by deleting “Registrar of the Tribunal” and inserting instead -
 - “ Registrar under the *Planning Appeals Act 2000* ”.

New Part 5

The Minister for Planning: To move -

Page 5, after line 7 - To insert the following -

“ **Part 5 - *Land Tax Assessment Act 1976***

8. Section 15A amended

Section 15 A(1)(b)(iii) of the *Land Tax Assessment Act 1976** is deleted and the following paragraph is inserted instead -

- “ (iii) an appeal against a decision by the Commission not to grant an approval referred to in subparagraph (i) or (ii) is upheld; ”.

[* *Reprinted as at 30 July 1996.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 137-8.]

”.

Clause 9

The Minister for Planning: To move -

Page 6, line 18 - To delete “29” and substitute the following -

“ 30 ”.

Clause 11

The Minister for Planning: To move -

Page 7, after line 16 - To insert the following -

“ (3) Section 43(5)(a) is amended by deleting “the time specified in the notice;” and inserting instead -

“ the 60 days referred to in subsection (3); ”.

New Part 6

The Minister for Planning: To move -

Page 7, after line 20 - To insert the following -

“ **Part 6 - Midland Redevelopment Act 1999**

12. The Act amended

The amendments in this Part are to the *Midland Redevelopment Act 1999**.

[*Act No. 38 of 1999.]

13. Section 52 replaced

Section 52 is repealed and the following section is inserted instead -

“ **52. Appeal**

An applicant aggrieved by a decision of the Authority under section 50 may appeal against that decision under the *Planning Appeals Act 1999*. ”.

14. Section 54 amended

- (1) Section 54(2) is amended by deleting “to the Minister against the direction, and on the appeal the Minister may confirm, vary or cancel the direction.” and inserting instead -
- “ against the direction under the *Planning Appeals Act 1999*. ”.
- (2) Section 54(4) is repealed. ”.

Clause 21

The Minister for Planning: To move -

Page 13, lines 6 to 10 - To delete the lines.

Clause 26

The Minister for Planning: To move -

Page 15, line 13 - To delete “be dealt with under section 30” and substitute the following -

“ the Minister who may, if the Minister considers it appropriate to do so, refer the matter to be dealt with under section 31 ”.

The Minister for Planning: To move -

Page 15, lines 15 to 21 - To delete those lines and substitute the following -

“ (2a) If, after receiving a report and recommendations under the *Planning Appeals Act 1999*, the Minister is satisfied that a local government has failed -

- (a) to enforce effectively the observance of a scheme or a provision of a scheme; or
- (b) to execute any works which the local government is required under a scheme or this Act to execute,

the Minister may order the local government to do all things necessary to enforce the observance of the scheme or provision or to execute the works. ”.

Clause 27

The Minister for Planning: To move -

Page 15, lines 23 to 28 - To delete the lines.

Clause 35

The Minister for Planning: To move -

Page 19, lines 13 and 14 - To delete “to the Director of Planning Appeals”.

Clause 36

The Minister for Planning: To move -

Page 19, line 26 - To delete “to the Director of Planning Appeals”.

State Records Bill 1999

Clause 50

The Minister for the Arts: To move -

Page 33, lines 10 to 13 - To delete the lines and substitute the following -

“ (3) A government organization that had access to a State archive before it was transferred to the State archives collection is, on application to the Director, entitled to have access to it at any reasonable time. ”.

Clause 51

The Minister for the Arts: To move -

Page 33, lines 14 to 19 - To oppose the clause with a view to substituting the following -

“ **51. Access to archives may be controlled**

For the purpose of ensuring the safe custody of and protecting the condition of a State archive, whether in the State archives collection or not, the Director may attach conditions to a person or a government organization having access to it. ”.

Zoological Parks Authority Bill 2000

Clause 6

Hon. P.G. Pental: To move -

Page 4, after line 24 - To insert the following -

- “ (4) One of the persons referred to in subsection (1) must be an elected member of the South Perth City Council nominated by the Council for the purposes of this section.
- (5) Subsection (3) is satisfied by the nomination of a person in accordance with subsection (4). ”

PETER J. McHUGH

Clerk of the Legislative Assembly
