

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS**No. 80****FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT**

TUESDAY, 4 MAY 2010**1. Meeting of Assembly**

The Assembly met at 2.00 p.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Speaker's Statement – Media Arrangements

The Speaker advised members that he had approved media organisations taking television file footage and still photographs of the Chamber for 10 minutes from 2.00 p.m.

3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Premier on the changes that had been made to the Ministry which came into effect on 28 April 2010.

Paper

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

By the Premier –

Reconstitution of the Ministry – Ministers' Representation in the Other House: Allocation of Portfolios, 30 April 2010 (2037).

Reconstitution of the Ministry – State Government Ministerial Offices, 28 April 2010 (2038).

Speaker's Statement – Chamber Seating

The Speaker advised members that as a result of the change in portfolio allocations, he had approved a change in the seating arrangements in the Chamber.

The Minister for Health on a formal review into the adverse reactions to the seasonal influenza vaccine in children under five years of age.

The Minister for Heritage on the Government's response to the damage to buildings of heritage significance during the Goldfields earthquake on 20 April 2010.

4. Questions

Questions without Notice were taken.

Questions on Notice Nos 2773 to 2859 were asked.

Questions on Notice Nos 2113, 2115, 2116, 2134, 2135, 2139, 2141, 2162, 2165, 2169, 2203, 2244, 2245, 2247 to 2264, 2296, 2297, 2315, 2332, 2333, 2339, 2420, 2422, 2423, 2429, 2449, 2456, 2457, 2465, 2480, 2490, 2491, 2542, 2682, 2690, 2697 and 2698 were answered.

Papers tabled by the Premier; Treasurer; Minister for State Development –

Question on Notice No. 2134 – Air Charter Travel undertaken by the Premier and Government Ministers on Carriers other than Marooomba Airlines between 13 May 2009 and 19 February 2010 (2034).

Question on Notice No. 2135 – Air Charter Travel undertaken by the Premier and Government Ministers with Marooomba Airlines between 13 May 2009 and 19 February 2010 (2035).

Question on Notice No. 2449 – Details of Payments made to Term-of-Government employees who ceased employment on or after 6 August 2008 (2036).

5. Petitions

Proposed Dumping of Dredging Spoil in King George Sound – Mr P.B. Watson presented a petition from 1,102 persons requesting that the dumping of dredging spoil by the Albany Port Authority in King George Sound be opposed (P. 274).

Proposed Roe Highway Stage 8 – Mr E.S. Ripper presented a petition from 1,948 persons requesting that Roe Highway Stage 8 be deleted from the Metropolitan Region Scheme (P. 275).

Urban Development South of the Moore River – Mr A.J. Simpson presented a petition from 39 persons requesting that the Legislative Assembly support the recommendation that the land adjoining the proposed Wilbinga Conservation Park be protected from future development (P. 276).

6. Papers

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

By the Clerk –

Questions on Notice – Additional Information provided by the Premier in relation to Questions on Notice 1931, 1932, 1935 and 2001 (2027).

Conservation and Land Management Act 1984 – Lease No. 2170/97 between the Department of Environment and Conservation and Mr D. Goldfinch and Mrs K. Goldfinch for a Water Hole for Commercial Purposes in Portion of State Forest No. 21 near Ferndale Plantation (2028).

Legal Contribution Trust – Financial Statements and Key Performance Indicators for the six month period ended 31 December 2009 (2029).

Members of Parliament Interstate and Overseas Travel – Report of Interstate and Overseas Travel Undertaken by Members of Parliament Funded by the Imprest System for the three months ended 31 December 2009 (2030).

Subiaco Redevelopment Act 1994 – Ministerial Approval for the sale of Lot 1 Station Street, Subiaco with value in excess of \$1 million pursuant to section 22(2)(a) of the Act (2031).

Subiaco Redevelopment Act 1994 – Ministerial Approval for the sale of Lot 2 Station Street and Lot 3 Wexford Street, Subiaco with value in excess of \$1 million pursuant to section 22(2)(a) of the Act (2032).

Trans-Tasman Mutual Recognition Act 1997 – Trans-Tasman Mutual Recognition (Modification of Act) Regulations 2010 (No. 1) (2033).

7. Notices of Motion

8. Notice of Motion Lapsed

The Speaker advised that Private Members' Notice of Motion No. 10 had lapsed and, unless the member indicated otherwise, would be removed from the Notice Paper.

9. Notice of Motion Removal

The Speaker advised that Private Members' Notice of Motion No. 1, notice of which was given on 1 April 2009 and renewed for a further 30 sitting days on 17 September 2009, would be removed from the next Notice Paper.

10. Matter of Public Interest – Affordable Housing and Land Supply

The Speaker informed the Assembly that he was in receipt of a notice from Mr E.S. Ripper that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mr E.S. Ripper moved,

That this House condemns the Barnett Government's performance in providing affordable housing and in restricting land supply and calls upon the new Minister for Housing to provide a full explanation of what reforms he will implement to improve the situation.

Debate ensued.

Question put.

The Assembly divided.

Ayes (26)

Ms L.L. Baker	Mr M. McGowan	Mr T.G. Stephens
Ms A.S. Carles	Mr M.P. Murray	Mr C.J. Tallentire
Mr R.H. Cook	Mr A.P. O'Gorman	Mr P.C. Tinley
Ms J.M. Freeman	Mr P. Papalia	Mr A.J. Waddell
Mr J.N. Hyde	Mr J.R. Quigley	Mr P.B. Watson
Mr W.J. Johnston	Ms M.M. Quirk	Mr M.P. Whitely
Mr J.C. Kobelke	Mr E.S. Ripper	Mr B.S. Wyatt
Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Ms A.J.G. MacTiernan	Ms R. Saffioti	

Noes (29)

Mr P. Abetz	Mr J.H.D. Day	Mr P.T. Miles
Mr F.A. Alban	Mr J.M. Francis	Ms A.R. Mitchell
Mr C.J. Barnett	Mr B.J. Grylls	Dr M.D. Nahan
Mr I.C. Blayney	Dr K.D. Hames	Mr C.C. Porter
Mr J.J.M. Bowler	Mrs L.M. Harvey	Mr D.T. Redman
Mr T.R. Buswell	Mr A.P. Jacob	Mr A.J. Simpson
Mr G.M. Castrilli	Dr G.G. Jacobs	Mr M.W. Sutherland
Mr V.A. Catania	Mr R.F. Johnson	Mr T.K. Waldron
Dr E. Constable	Mr A. Krsticevic	Mr J.E. McGrath (<i>Teller</i>)
Mr M.J. Cowper	Mr W.R. Marmion	

Question thus negatived.

11. Approvals and Related Reforms (No. 4) (Planning) Bill 2009

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

Debate resumed.

Question put.

The Assembly divided.

Ayes (51)

Mr P. Abetz	Mr J.N. Hyde	Ms M.M. Quirk
Mr F.A. Alban	Mr A.P. Jacob	Mr D.T. Redman
Ms L.L. Baker	Dr G.G. Jacobs	Mr E.S. Ripper
Mr C.J. Barnett	Mr R.F. Johnson	Mrs M.H. Roberts
Mr I.C. Blayney	Mr W.J. Johnston	Ms R. Saffioti
Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.J. Simpson
Mr G.M. Castrilli	Mr A. Krsticevic	Mr T.G. Stephens
Mr V.A. Catania	Mr F.M. Logan	Mr M.W. Sutherland
Dr E. Constable	Mr M. McGowan	Mr C.J. Tallentire
Mr R.H. Cook	Mr W.R. Marmion	Mr D.A. Templeman
Mr M.J. Cowper	Mr P.T. Miles	Mr P.C. Tinley
Mr J.H.D. Day	Ms A.R. Mitchell	Mr A.J. Waddell
Mr J.M. Francis	Mr M.P. Murray	Mr T.K. Waldron
Ms J.M. Freeman	Dr M.D. Nahan	Mr P.B. Watson
Mr B.J. Grylls	Mr A.P. O’Gorman	Mr M.P. Whitely
Dr K.D. Hames	Mr C.C. Porter	Mr B.S. Wyatt
Mrs L.M. Harvey	Mr J.R. Quigley	Mr J.E. McGrath (<i>Teller</i>)

Noes (1)

Dr J.M. Woollard (*Teller*)

Question thus passed.

Bill read a second time.

The Minister for Planning moved,

That in relation to the Approvals and Related Reforms (No. 4) (Planning) Bill 2009, the amendments listed on the Notice Paper standing in his name be made *pro forma*.

Question put and passed.

The amendments agreed to under the foregoing motion were –

Clause 23.

The Minister for Planning: To oppose the clause.

Clause 24.

The Minister for Planning: To oppose the clause.

Clause 45.

The Minister for Planning: To oppose the clause.

Clause 46.

The Minister for Planning: To move –

Page 30, lines 2 to 4 – To delete the lines and substitute:

“

prescribed development application means —

- (a) a development application of a class or kind prescribed for the purposes of subsection (2)(a); or
- (b) a development application of a class or kind prescribed for the purposes of subsection (2)(ba) in respect of which an applicant has made an election in accordance with regulations made under subsection (2)(ba)(i);

”

The Minister for Planning: To move –

Page 30, lines 8 and 9 – To delete “prescribed under the regulations —” and substitute:

“ or kind prescribed for the purposes of this paragraph — ”.

The Minister for Planning: To move –

Page 30, after line 15 – To insert:

“

- (ba) providing that, despite any other provision of this Act or a planning instrument, if—
 - (i) an applicant for approval of development elects in accordance with the prescribed procedure to have a development application determined by a DAP; and
 - (ii) the development application is of a class or kind prescribed by the regulations for the purposes of this paragraph,
 the development application —
 - (iii) must be determined by a DAP as if the DAP were the responsible authority under the relevant planning instrument in relation to the development; and
 - (iv) cannot be determined by a local government or the Commission;

”.

The Minister for Planning: To move –

Page 32, line 1 to page 35, line 16 — To delete the lines.

Clause 47.

The Minister for Planning: To oppose the clause.

Clause 48.

The Minister for Planning: To oppose the clause.

Clause 49.

The Minister for Planning: To oppose the clause.

Clause 51.

The Minister for Planning: To oppose the clause.

Clause 53.

The Minister for Planning: To move –

Page 41, after line 29 – To insert:

“

- (4) The Minister must, as soon as is practicable after the order is given to the local government, cause a copy of the order to be laid before each House of Parliament or dealt with under section 268A.

”.

New clause 55A.

The Minister for Planning: To move –

Page 42, after line 11 – To insert:

“

55A. Section 246 amended

In section 246(4) delete “before, or transmitted in accordance with section 248(1) to the Clerk of, each House of Parliament.” and insert:

before each House of Parliament or dealt with under section 268A.

New clause 55B.

The Minister for Planning: To move –

Page 42, after line 11 – To insert in numerical order:

“

55B. Section 248 deleted

Delete section 248.

New clause 55C.

The Minister for Planning: To move –

Page 42, after line 11 – To insert in numerical order:

“

55C. Section 268A inserted

After section 267 insert:

268A. Laying before House of Parliament that is not sitting

- (1) If section 77A(4) or 246(4) requires the Minister, as soon as is practicable, to cause a copy of an order or direction to be laid before each House of Parliament, or dealt with under this section, and —
 - (a) at the commencement of the period after the day on which the order or direction is given, a House of Parliament is not sitting; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 14 days after the order or direction is given,

the Minister is to transmit a copy of the order or direction to the Clerk of that House.

- (2) A copy of an order or direction transmitted to the Clerk of a House is to be taken to have been laid before that House.
- (3) The laying of a copy of an order or direction that is regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

New clause 56A.

The Minister for Planning: To move –

Page 43, after line 5 – To insert:

“

56A. Section 4 amended

In section 4(1) in the definition of *planning scheme* delete paragraph (a) and “and” after it and insert:

- (a) the provisions of the scheme being —
- (i) the provisions set out in the scheme; and
 - (ii) any State planning policy that, with any modifications set out in the scheme, has effect under section 77(2)(b) as part of the scheme; and
 - (iii) any provisions that have effect under section 257B(2) as part of the scheme;
- and

Clause 56.

The Minister for Planning: To oppose the clause.

New clause 57A.

The Minister for Planning: To move —

Page 43, after line 26 — To insert:

“

57A. Section 68 amended

In section 68(2) delete “Nothing” and insert:

Except as provided in section 257B(3), nothing

New clause 57B.

The Minister for Planning: To move —

Page 43, after line 26 — To insert in numerical order:

“

57B. Section 69 amended

After section 69(2) insert:

- (3) This section applies subject to section 256 and the regulations made under it and sections 257A and 257B.

New clause 57C.

The Minister for Planning: To move —

Page 43, after line 26 — To insert in numerical order:

“

57C. Section 73 amended

- (1) In section 73(1):

- (a) in paragraph (b) delete “local government;” and insert:

local government.

- (b) delete paragraphs (c), (d) and (e).
- (2) After section 73(1) insert:
 - (2A) A local planning scheme may —
 - (a) supplement provisions prescribed under section 256; and
 - (b) deal with any special circumstances or contingencies for which adequate provisions are not prescribed under section 256.

”.

New clause 57D.

The Minister for Planning: To move –

Page 43, after line 26 – To insert in numerical order:

“

57D. Section 76 amended

- (1) In section 76(1):
 - (a) in paragraph (a) after “local planning scheme” (each occurrence) insert:
 - or an amendment to a local planning scheme
 - (b) insert “or” after paragraph (a);
 - (c) in paragraph (b) delete “any scheme” and insert:
 - a local planning scheme or an amendment to a local planning scheme
 - (d) in paragraph (b) after “local planning scheme” insert:
 - or an amendment to a local planning scheme
 - (e) after “local planning scheme,” (each occurrence) insert:
 - or an amendment to a local planning scheme
- (2) In section 76(2):
 - (a) delete “a scheme,” and insert:
 - a local planning scheme or an amendment to a local planning scheme,
 - (b) delete “the scheme,” and insert:
 - the scheme or amendment,
 - (c) delete “proposed scheme” and insert:
 - proposed scheme or amendment

- (3) In section 76(3) delete “scheme” and insert:

local planning scheme or an amendment

Note: The heading to amended section 76 is to read:

Minister may order local government to prepare or adopt local planning scheme or amendment

”

New clause 63A.

The Minister for Planning: To move –

Page 47, after line 14 – To insert:

“

63A. Section 181 amended

In section 181(15)(a) delete “1998; or” and insert:

1988; or

”

New clause 63B.

The Minister for Planning: To move –

Page 47, after line 14 – To insert in numerical order:

“

63B. Section 256 replaced

Delete section 256 and insert:

256. Provisions that operate as part of, or are required to be included in, a local planning scheme

- (1) The Minister may make regulations prescribing provisions that deal with any or all of the following —
 - (a) carrying out the general objects of local planning schemes;
 - (b) any matter set out in Schedule 7.
- (2) Before making regulations under subsection (1) the Minister —
 - (a) must consult with the EPA and local governments; and
 - (b) may consult with any other public authority or person the Minister considers is likely to be affected by the proposed regulations; and
 - (c) must have regard to any submissions made pursuant to consultation under paragraphs (a) and (b).
- (3) Consultation under subsection (2) may be undertaken in any way and within such period as the Minister considers appropriate in the circumstances.
- (4) Unless the regulations otherwise provide, provisions prescribed under subsection (1) apply to all local planning schemes.
- (5) The regulations must designate each provision prescribed under subsection (1) as —

- (a) a model provision, being a provision to which section 257A applies; or
 - (b) a deemed provision, being a provision to which section 257B applies.
- (6) The regulations may include provisions of a savings or transitional nature that are necessary or convenient to be made for the purpose of dealing with matters that are incidental to or consequential on the prescribing of a model provision or a deemed provision under this section.
- (7) Without limiting subsection (6), regulations made under that subsection may provide that specified model provisions or deemed provisions of a local planning scheme —
- (a) do not apply; or
 - (b) apply with specified modifications,
- to or in relation to any matter.

257A. Effect of model provisions

- (1) In this section —
- model provision*** means a provision designated as a model provision under section 256(5)(a).
- (2) Subject to subsection (3), a local planning scheme prepared or adopted by a local government must include any model provisions that —
- (a) are prescribed by regulations in force at the time the scheme is approved under section 87; and
 - (b) apply to the scheme.
- (3) When approving a local planning scheme under section 87, the Minister may approve the exclusion from, or variation in, the scheme of a model provision.

257B. Effect of deemed provisions

- (1) In this section —
- deemed provision*** means a provision designated as a deemed provision under section 256(5)(b).
- (2) Deemed provisions, as amended from time to time, have effect and may be enforced as part of each local planning scheme to which they apply, whether they are prescribed before or after the scheme comes into force.
- (3) If a deemed provision that has effect as part of a local planning scheme is inconsistent with another provision of the scheme, the deemed provision prevails and the other provision is to the extent of the inconsistency of no effect.
- (4) It is sufficient compliance with section 54(a), 87(3)(a), 91(1) or 92(2)(b) if a local planning scheme is published under that provision without the deemed provisions.
- (5) Each local government, in preparing a local planning scheme or a consolidation of a local planning scheme, must ensure that the scheme is consistent with any deemed provision that applies to the scheme.

”.

New clause 63C.

The Minister for Planning: To move –

Page 47, after line 14 – To insert in numerical order:

“

63C. Section 257 deleted

Delete section 257.

”

New clause 63D.

The Minister for Planning: To move –

Page 47, after line 14 – To insert in numerical order:

“

63D. Section 258 amended

In section 258(1):

- (a) in paragraph (d) delete “scheme; and” and insert:

scheme.

- (b) delete paragraph (e).

”

Clause 63.

The Minister for Planning: To move –

Page 47, after line 19 – To insert:

“

- (eb) regulate procedures in relation to the carrying out and enforcement of local planning schemes;

”

New clause 64A.

The Minister for Planning: To move –

Page 47, after line 20 – To insert:

“

64A. Schedule 7 amended

After Schedule 7 clause 13(3) insert:

- (4) Requiring the preparation and approval of documents ancillary to the carrying out of a scheme.

”

Ordered, That the consideration in detail of the bill be made an Order of the Day for the next sitting of the Assembly.

12. Revenue Laws Amendment Bill 2010

The Order of the Day for the third reading of the bill having been read, the Treasurer moved, That the bill be now read a third time.

Debate ensued.

Question put.

The Assembly divided.

Ayes (28)

Mr P. Abetz
Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr J.J.M. Bowler
Mr G.M. Castrilli
Mr V.A. Catania
Dr E. Constable
Mr M.J. Cowper
Mr J.H.D. Day

Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mrs L.M. Harvey
Mr A.P. Jacob
Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr W.R. Marmion
Mr P.T. Miles

Ms A.R. Mitchell
Dr M.D. Nahan
Mr C.C. Porter
Mr D.T. Redman
Mr A.J. Simpson
Mr M.W. Sutherland
Mr T.K. Waldron
Mr J.E. McGrath (*Teller*)

Noes (24)

Ms L.L. Baker
Mr R.H. Cook
Ms J.M. Freeman
Mr J.N. Hyde
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan
Mr M. McGowan

Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Mr E.S. Ripper
Mrs M.H. Roberts
Ms R. Saffioti

Mr T.G. Stephens
Mr C.J. Tallentire
Mr P.C. Tinley
Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Mr B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Question thus passed.

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

13. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 11.16 p.m. until Wednesday, 5 May 2010 at 12.00 noon.

Members present during any part of the day's proceedings – All the members except Mrs C.A. Martin.

PETER J. McHUGH
Clerk of the Legislative Assembly

HON. GRANT WOODHAMS
Speaker of the Legislative Assembly