

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 96

FIRST SESSION OF THE FORTIETH PARLIAMENT

WEDNESDAY, 31 OCTOBER 2018

1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

2. Papers

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

By the Clerk –

Auditor General, Office of the – Opinion on Ministerial Notifications, Report 6, October 2018–2019 (1987).

Waste Authority – Annual Report 2017–2018 (1988).

3. Notice of Motion

4. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Emergency Services on a joint training exercise conducted by the Volunteer Marine Rescue Service, the State Emergency Service and the Western Australia Police.

The Minister for Heritage on the 2019 Western Australian Heritage Awards.

The Attorney General on Sunday bail matters at the Children's Court.

The Minister for Mines and Petroleum on the Resources Sector Awards for Excellence.

The Minister for Youth on the Ellenbrook Youth Services Centre.

The Minister for Housing on the Housing Industry Association's Perth Housing Awards.

5. Precedence of Private Members' Business

The Leader of the House, pursuant to notice, moved,

That so much of the Standing Orders be suspended as is necessary to enable Private Members' Business to have priority from 4.00 pm to 8.00 pm on Wednesday, 31 October 2018.

Question put and passed.

6. Parliamentary Budget Officer Bill 2018

Dr M.D. Nahan, pursuant to notice, moved,

That a bill for “An Act to –

- provide for policy costing and advisory services for members of Parliament; and
- provide for the appointment and functions of a Parliamentary Budget Officer; and
- establish a Parliamentary Budget Office; and
- provide for related matters; and
- make consequential amendments to other Acts.”

be introduced and read a first time.

Question put and passed.

Dr M.D. Nahan presented an explanatory memorandum and bill read a first time.

Ordered, That the second reading of the bill be made an Order of the Day for a later stage of the sitting.

7. Criminal Code Amendment (Child Marriage) Bill 2018

The Attorney General, pursuant to notice, moved,

That a bill for “An Act to amend *The Criminal Code*.” be introduced and read a first time.

Question put and passed.

The Attorney General presented an explanatory memorandum and bill read a first time.

The Attorney General moved, That the bill be now read a second time.

Ms L. Mettam moved, That the debate be adjourned.

Question put and passed.

8. Appropriation (Recurrent 2017–18) Supplementary Bill 2018

The Treasurer, pursuant to notice, moved,

That a bill for “An Act to appropriate out of the Consolidated Account a sum for recurrent payments made during the year ended 30 June 2018 under the authority of the *Financial Management Act 2006*.” be introduced and read a first time.

Question put and passed.

The Treasurer presented an explanatory memorandum and bill read a first time.

The Treasurer moved, That the bill be now read a second time.

Ms L. Mettam moved, That the debate be adjourned.

Question put and passed.

9. Appropriation (Capital 2017–18) Supplementary Bill 2018

The Treasurer, pursuant to notice, moved,

That a bill for “An Act to appropriate out of the Consolidated Account a sum for capital payments made during the year ended 30 June 2018 under the authority of the *Financial Management Act 2006*.” be introduced and read a first time.

Question put and passed.

The Treasurer presented an explanatory memorandum and bill read a first time.

The Treasurer moved, That the bill be now read a second time.

Ms L. Mettam moved, That the debate be adjourned.

Question put and passed.

10. Betting Tax Bill 2018**Betting Tax Assessment Bill 2018**

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

Cognate Debate

Leave was granted to debate the Betting Tax Assessment Bill 2018 in conjunction with the Betting Tax Bill 2018.

Debate resumed.

Question put and passed.

Betting Tax Bill 2018 read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 4 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Finance moved, That the bill be now read a third time.

Question put and passed.

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

11. Betting Tax Assessment Bill 2018

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

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 5 agreed to.

Clause 6.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

12. Questions

Questions without Notice were taken.

Paper

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

By the Minister for Culture and the Arts –

Culture and the Arts, Minister for – Correspondence from the Minister for Culture and the Arts’ Office relating to Picabar (1990).

Questions on Notice Nos 4351 to 4360 were asked.

Questions on Notice Nos 3454, 3471, 3551, 3625, 3912, 3917, 3938, 3990, 4007, 4017, 4018, 4058, 4079 to 4084, 4086, 4089, 4094 and 4095 were answered.

Paper tabled by the Minister for Police –

Question on Notice No. 4007 – List of Western Australian Police stations hours of operation (1989).

13. Matter of Public Interest – Select Committee into Asset Management at Rottnest Island

The Speaker informed the Assembly that he was in receipt of a notice from Dr M.D. Nahan that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Dr M.D. Nahan moved,

That this House establish a Select Committee into Asset Management at Rottnest Island to identify all potential safety risks and to develop a bipartisan approach to long-term asset investment and management to protect tourists and the people of Western Australia.

Debate ensued.

Question put.

The Assembly divided.

Ayes (16)

Mr I.C. Blayney
Mrs L.M. Harvey
Dr D.J. Honey
Mr P.A. Katsambanis
Mr Z.R.F. Kirkup
Mr A. Krsticevic

Mr S.K. L'Estrange
Mr R.S. Love
Mr W.R. Marmion
Mr J.E. McGrath
Dr M.D. Nahan
Mr D.C. Nalder

Mr K.M. O'Donnell
Mr D.T. Redman
Mr P.J. Rundle
Ms L. Mettam (*Teller*)

Noes (34)

Ms L.L. Baker
Dr A.D. Buti
Mrs R.M.J. Clarke
Mr R.H. Cook
Mr M.J. Folkard
Ms J.M. Freeman
Ms E.L. Hamilton
Mr T.J. Healy
Mr M. Hughes
Mr W.J. Johnston
Mr F.M. Logan
Mr M. McGowan

Ms S.F. McGurk
Mr K.J.J. Michel
Mr S.A. Millman
Mr Y. Mubarakai
Mr M.P. Murray
Mrs L.M. O'Malley
Mr S.J. Price
Mr D.T. Punch
Mr J.R. Quigley
Ms M.M. Quirk
Mrs M.H. Roberts
Ms C.M. Rowe

Ms R. Saffioti
Ms A. Sanderson
Ms J.J. Shaw
Mrs J.M.C. Stojkovski
Mr C.J. Tallentire
Mr D.A. Templeman
Mr P.C. Tinley
Ms S.E. Winton
Mr B.S. Wyatt
Mr D.R. Michael (*Teller*)

Question thus negatived.

14. Variation to the Order of Business

Ordered, That Private Members' Business Order of the Day for the second reading of the Parliamentary Budget Officer Bill 2018 and Private Members' Business Notice of Motion No. 22 be next considered.

15. Parliamentary Budget Officer Bill 2018

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

Dr M.D. Nahan moved, That the bill be now read a second time.

Mr D.R. Michael moved, That the debate be adjourned.

Question put and passed.

16. Trust in the McGowan Government

Dr M.D. Nahan, pursuant to notice, moved,

That this House confirms the McGowan Government cannot be trusted because of its lack of accountability, broken promises, new taxes and failure to deliver on gold standard transparency.

Debate ensued.

Debate interrupted by the Chair (Mr T.J. Healy speaking) and adjourned until a later stage of the sitting.

17. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 2 be resumed.

18. Betting Tax Assessment Bill 2018

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Clauses 6 to 35 agreed to.

New Clause 35A.

The Minister for Finance moved,

Page 25, after line 10 — To insert:

“

35A. Section 68 amended

In section 68(3) delete “section 107A(2).” and insert:

sections 107A(2) and 107B(3).

”.

New clause agreed to.

New Clause 35B.

The Minister for Finance moved,

Page 25, after line 10 — To insert:

“

35B. Section 77 amended

In section 77(2)(da) delete “section 107A(2); and” and insert:

sections 107A(2) and 107B(3); and

”.

New clause agreed to.

Clauses 36 and 37 agreed to.

New Clause 37A.

The Minister for Finance moved,
Page 25, after line 21 — To insert:

“

37A. Section 107B inserted

After section 107A insert:

107B. Allocation and distribution of proportion of funds from betting tax

- (1) Each month the Treasurer must pay to RWWA an amount equal to 30% of the amount of betting tax imposed by the *Betting Tax Act 2018* section 4 that was credited to the Consolidated Account in the previous month.
- (2) Payments under subsection (1) must be —
 - (a) charged to the Consolidated Account which is appropriated accordingly; and
 - (b) credited to an account (the *betting tax account*) maintained under section 88 for the sole purpose of dealing with those payments under this section.
- (3) The funds in the betting tax account must be paid or credited by RWWA, in such amounts as it determines, to —
 - (a) thoroughbred racing clubs registered with RWWA; and
 - (b) harness racing clubs registered with RWWA; and
 - (c) greyhound racing clubs registered with RWWA.

”.

Speaker's Statement – Reporting of Governor's Message

The Speaker advised members that the Minister for Finance had moved an amendment to the bill, that if passed, would change the bill from one that does not require a Governor's message under section 46(8) of the *Constitution Acts Amendment Act 1899*, to a bill that requires a Governor's message. Accordingly, the Speaker advised that he would now report to the House Governor's message No. 27.

Message from the Governor

Message No. 27 from His Excellency the Governor was reported recommending that appropriations be made for the purposes of the Betting Tax Assessment Bill 2018.

New clause agreed to.

Clauses 38 to 74 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

19. Strata Titles Amendment Bill 2018

Message No. 58 dated 31 October 2018 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the Strata Titles Amendment Bill 2018 subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Strata Titles Amendment Bill 2018

No. 1

Clause 83, page 134, lines 6 and 7 — To delete the lines and insert:

- (7) When a strata title for a lot in a freehold scheme comes into existence it confers on the owner of the lot —

No. 2

Clause 83, page 134, lines 21 and 22 — To delete the lines and insert:

- (8) When a strata title for a lot in a leasehold scheme comes into existence it confers on the owner of the lot, subject to Part 4 Division 5 —

No. 3

Clause 83, page 166, lines 13 and 14 — To delete “its function of managing and controlling” and insert:

section 91(1)(c) in relation to

No. 4

Clause 83, page 217, line 21 — To delete “monitoring” and insert:

enforcing

No. 5

Clause 83, page 225, line 17 — To insert before “14 days’ notice”:

for a resolution passed other than at a general meeting,

No. 6

Clause 83, page 263, lines 23 to 28 — To delete the lines and insert:

- (i) provide, in accordance with the regulations, details of proposed arrangements for obtaining independent advice or representation referred to in section 190; and

No. 7

Clause 83, page 264, line 5 — To delete “section 175” and insert:

section 174

No. 8

Clause 83, page 265, lines 1 to 7 — To delete the lines and insert:

- (2) The *Planning and Development Act 2005* applies to the application subject to —
 - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a strata titles scheme; and
 - (b) any other appropriate modifications.

No. 9

Clause 83, page 266, after line 22 — To insert:

178A. Reference of full proposal to independent advocate

- (1) In this section —
independent advocate means a person to whom a full proposal is referred under subsection (2).
- (2) A strata company to which a full proposal is submitted under section 178 must refer the proposal for review and assessment to a person who —
 - (a) is independent of the strata company and the proponent of the termination proposal; and
 - (b) satisfies any requirements of the regulations regarding experience or qualifications.
- (3) The independent advocate must, in accordance with the regulations —
 - (a) review the full proposal; and
 - (b) provide the strata company with an independent assessment of the full proposal; and
 - (c) at a time and place arranged with the strata company, make a presentation of its assessment open to the persons mentioned in section 178(4)(a), conducted so as to take account of the needs of any of those persons who have sensory or mobility disabilities.
- (4) The independent advocate must, in accordance with the regulations —
 - (a) endeavour to identify any owners of lots for whom arrangements for fuller or more extensive advice or representation are to be made under regulations made under section 190(1)(b); and
 - (b) advise those owners of their entitlements under regulations made under section 190; and
 - (c) if requested by those owners, refer them to independent providers of the advice or representation which they are to obtain; and

- (d) if requested by those owners, assist them in obtaining benefits under the trust referred to in section 190(2).
- (5) In any proceedings before the Tribunal under Part 13 in which there is a dispute about whether an owner of a lot in the strata titles scheme is entitled to fuller or more extensive advice or representation under regulations made under section 190(1)(b) or is entitled to benefit under a trust referred to in section 190(2), the independent advocate may, in accordance with the regulations, represent the owner in the proceedings.
- (6) The regulations may prescribe how a person's independence is to be determined for the purposes of subsection (2)(a).
- (7) The strata company —
 - (a) must pay the remuneration of, and reimburse the expenses incurred by, the independent advocate; and
 - (b) may charge fees under section 189 to cover the cost of paying those fees and reimbursing those expenses.

No. 10

Clause 83, page 270, lines 10 to 12 — To delete the lines and insert:

- (4) The regulations must prescribe matters relating to the determination of the market value of a lot for a termination valuation report, including a valuation methodology that takes account of —
 - (a) relevant recent sales history; and
 - (b) the highest and best use of the lot; and
 - (c) the value attributable to the owner's interest in the common property of the strata titles scheme.

No. 11

Clause 83, page 273, line 26 — To delete the words “the independent person must”.

No. 12

Clause 83, page 275, lines 23 to 27 — To delete the lines and insert:

- (b) if all or part of the parcel of the strata titles scheme is or is included in a retirement village within the meaning of the *Retirement Villages Act 1992* — serve notice of the application on the Commissioner within the meaning of that Act; and

No. 13

Clause 83, page 281, after line 29 — To insert:

- (17A) If the Tribunal orders a person under subsection (17)(c) to take steps for the discharge, withdrawal or removal of an estate, interest or right the Tribunal may order the proponent or the owner of a lot in the strata titles scheme to make a

payment to that person in respect of the discharge, withdrawal or removal of the estate, interest or right.

- (17B) If the whole or part of the parcel of a strata titles scheme is subject to a residential tenancy agreement within the meaning given in the *Residential Tenancies Act 1987* section 3, the Tribunal may order that on the termination of the strata titles scheme —
- (a) the tenant and the lessor must terminate the residential tenancy agreement under that Act; and
 - (b) the premises subject to the residential tenancy agreement are taken for the purposes of section 69 of that Act to cease to be lawfully usable as a residence; and
 - (c) if the tenant is given notice of termination under section 69 of that Act, then despite section 69(2) of that Act the period of notice must be not less than a period specified by the Tribunal; and
 - (d) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the residential tenancy agreement in respect of the termination of the residential tenancy agreement.
- (17C) If the whole or part of the parcel of a strata titles scheme is subject to a retail shop lease within the meaning given in the *Commercial Tenancy (Retail Shops) Agreements Act 1985* section 3(1), then despite anything in that Act the Tribunal may order that —
- (a) the retail shop lease is terminated on the termination of the strata titles scheme; and
 - (b) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the retail shop lease in respect of the termination of the retail shop lease.
- (17D) If the whole or part of the parcel of a strata titles scheme is subject to a lease or licence not referred to in subsection (17B) or (17C), the Tribunal may, subject to any other written law, order that —
- (a) the lease or licence is terminated on the termination of the strata titles scheme; and
 - (b) the proponent or the owner of a lot in the scheme is to make a payment to the lessee or licensee in respect of the termination of the lease or licence.

No.14

Clause 83, page 282, line 26 — To delete the line and insert:

appropriate modifications.

No.15

Clause 83, page 286, lines 5 to 17 — To delete the lines and insert:

- (1) The regulations —
 - (a) must require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the strata titles scheme proposed to

be terminated to obtain independent advice or representation in connection with the proposal; and

- (b) must specify arrangements for obtaining fuller or more extensive advice or representation for a class or classes of owner identified in or under the regulations as vulnerable, having regard to —
 - (i) age, illness, trauma, disability or other factors that may impair the ability of an owner to consider and make an informed decision in relation to a termination proposal; or
 - (ii) financial disadvantage which would significantly impair the ability of the owner to bear the cost of obtaining appropriate professional advice in relation to a termination proposal.
- (2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.
- (3) The regulations may specify terms of a trust referred to in subsection (2).

No. 16

Clause 83, page 287, lines 1 to 8 — To delete the lines and insert:

- (2) The *Planning and Development Act 2005* applies to the required approval subject to —
 - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a strata titles scheme; and
 - (b) any other appropriate modifications.

No. 17

Clause 166, page 385, lines 20 to 23 — To delete the lines.

Ordered, That consideration in detail of Legislative Council Message No. 58 be made an Order of the Day for the next sitting of the Assembly.

20. Adjournment

Mr D.R. Michael moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 8.58 pm until Thursday, 1 November 2018 at 9.00 am.

Members present during any part of the day's proceedings – All the members except Ms M.J. Davies, Ms J. Farrer, Mrs A.K. Hayden and Mr P. Papalia.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. PETER WATSON
Speaker of the Legislative Assembly