

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 97

FIRST SESSION OF THE FORTIETH PARLIAMENT

THURSDAY, 1 NOVEMBER 2018

1. Meeting of Assembly

The Assembly met at 9.00 am pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

2. Petition

Picabar – Mr A. Krsticevic presented a petition from 365 persons requesting that the Legislative Assembly call on the Premier and the Minister for Culture and the Arts to reverse the eviction of Picabar and grant it long-term tenure at the venue (P. 112).

3. Papers

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

By the Clerk –

Australian Health Practitioner Regulation Agency – Annual Report 2017–2018 (1991).

Corruption and Crime Commission – Review of an Arrest Incident by Western Australian Police at Hamilton Hill (1992).

National Health Practitioner Ombudsman and Privacy Commissioner – Annual Report 2017–2018 (1993).

4. Notice of Motion Lapsed

The Speaker advised that Private Members' Business Notice of Motion No. 1 had lapsed and, unless the member indicated otherwise, would be removed from the Notice Paper.

5. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Culture and the Arts on the dedication of the commemorative ANZAC Bell.

The Minister for Veterans Issues on representing the Western Australian Government at the Armistice Day service at Villers-Bretonneux.

The Minister for Science on the importance of science, technology, engineering and maths education for girls.

The Minister for Planning on the decision to not proceed with the Metropolitan Region Scheme amendment to enable the Mangles Bay marina to be built at Point Peron.

6. Grievances

The Speaker called for grievances which were then made.

7. Public Accounts Committee

Dr A.D. Buti, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – Further Along the Path: The development and implementation of the Western Australian Bicycle Network Plan, Report No. 7 (1994).

Mr D.C. Nalder, Mrs L.M. O'Malley and Mr S.A. Millman spoke on the report.

8. Joint Standing Committee on Delegated Legislation – Membership

Mr D.R. Michael on behalf of the Leader of the House, pursuant to notice, moved,

- (1) That the member for Geraldton be discharged from the Joint Standing Committee on Delegated Legislation and the member for Kalgoorlie be appointed in his place; and
- (2) That the Legislative Council be acquainted accordingly.

Question put and passed.

9. Betting Tax Assessment Bill 2018

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

Debate ensued.

Question put and passed.

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

10. Strata Titles Amendment Bill 2018

The Order of the Day for the consideration in detail of Legislative Council Message No. 58 was read.

The Message was 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.

CONSIDERATION IN DETAIL

The Minister for Planning moved, That amendment Nos 1 to 8 be agreed to.

Questions put and passed.

The Minister for Planning moved, That amendment No. 9 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 10 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 11 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 12 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 13 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 14 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 15 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 16 be agreed to.

Question put and passed.

The Minister for Planning moved, That amendment No. 17 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

11. Reserves (Tjuntjuntjara Community) Bill 2018

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

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

Debate ensued.

Question put and passed.

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

12. Gender Reassignment Amendment Bill 2018

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

Debate resumed.

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

13. Members' Statements

The Acting Speaker called for members' statements which were then made.

14. Questions

Questions without Notice were taken.

Questions on Notice Nos 4361 to 4364 were asked.

15. Additional Information

The Attorney General provided additional information relating to Question without Notice No. 834 from Ms M.M. Quirk.

16. Suspension of Standing Orders

Mr Z.R.F. Kirkup, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

That this House condemns the Minister for Corrective Services for allowing corruption to flourish in our State's prisons through his mismanagement and calls on the Premier to introduce a Department of Premier and Cabinet led taskforce to address this highly concerning situation.

The Leader of the House moved, To add to the motion –

“

, subject to the debate being limited to 15 minutes for government members and 15 minutes for non-government members.

”

Amendment put and passed.

On the question, That the motion, as amended, be agreed to,

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, declared the motion, as amended, to be carried with the concurrence of an absolute majority of the whole number of members of the House.

17. Minister for Corrective Services

Mr Z.R.F. Kirkup, pursuant to the foregoing motion, moved,

That this House condemns the Minister for Corrective Services for allowing corruption to flourish in our State's prisons through his mismanagement and calls on the Premier to introduce a Department of Premier and Cabinet led taskforce to address this highly concerning situation.

Debate ensued.

Question put.

The Assembly divided.

Ayes (16)

Mr I.C. Blayney
 Ms M.J. Davies
 Mrs L.M. Harvey
 Mrs A.K. Hayden
 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
 Dr M.D. Nahan

Mr D.C. Nalder
 Mr D.T. Redman
 Mr P.J. Rundle
 Ms L. Mettam (*Teller*)

Noes (36)

Ms L.L. Baker
 Dr A.D. Buti
 Mr J.N. Carey
 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 D.J. Kelly

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.

18. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 4 be resumed.

19. Gender Reassignment Amendment Bill 2018

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

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

20. Economics and Industry Standing Committee– Terms of Reference

The Acting Speaker advised members that he had received advice that the Economics and Industry Standing Committee, advising that the Committee had resolved to inquire into the regulation of short-stay accommodation in Western Australia. The Committee will report by 27 June 2019.

21. Local Government Amendment (Suspension and Dismissal) Bill 2018

Message No. 59 dated 1 November 2018 from the Legislative Council was reported agreeing to the bill without amendment.

22. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 4.39 pm until Tuesday, 6 November 2018 at 2.00 pm.

Members present during any part of the day's proceedings – All the members except Mr V.A. Catania, Ms J. Farrer, Mr J.E. McGrath, Mr P. Papalia and Mr R.R. Whitby.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. PETER WATSON
Speaker of the Legislative Assembly